

COMMITTEE ON PETITIONS

FIRST REPORT

(SECOND LOK SABHA)

(Presented on the 10th September, 1957)



सत्यमेव जयते

LOK SABHA SECRETARIAT

NEW DELHI

September, 1957

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PERSONNEL OF THE COMMITTEE ON PETITIONS

1. Shri Upendranath Barman—*Chairman*.
2. Pandit Jwala Prasad Jyotishi.
3. Shrimati Uma Nehru.
4. Pandit Dwarka Nath Tiwary.
5. Shrimati Sucheta Kripalani.
6. Shri M. K. M. Abdul Salam.
7. Shri Jiyalal Mandal.
8. Shri K. G. Wodeyar.
9. Shri Nanubhai Nichhabhai Patel.
10. Shri Pendekanti Venkatasubbaiah.
11. Chaudhary Pratap Singh Daulta.
12. Shri D. R. Chavan.
13. Shri Nath Pai.
14. Shri Ram Chandra Majhi.
15. Shri Arjun Singh Bhadauria.

SECRETARIAT

1. Shri S. L. Shakhder—*Joint Secretary*.
2. Shri Avtar Singh Rikhy—*Deputy Secretary*.
3. Shri A. L. Rai—*Under Secretary*.

REPORT

I, the Chairman of the Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this their First Report.

2. The Committee was nominated by the Speaker on the 5th June, 1957.

3. The first sitting of the Committee was inaugurated by the Speaker on the 22nd July, 1957.

4. The Committee at their sittings held on the 22nd, 23rd and 26th July; 8th, 9th, 24th and 27th August; and 7th and 9th September, 1957 considered the following petitions:—

- (i) Petition from Shri C. Kesaviah Naidu, Chittoor District, Andhra State, regarding the Press and Registration of Books Act, 1867, the Delivery of Books (Public Libraries) Act, 1954; and amendment of the Indian Post Office Rules. (Petition No. 1—Appendix I).
- (ii) Petition from Shri C. Kesaviah Naidu, Chittoor District, Andhra State, praying for grant of rail concessions at single fare for double journey to child students and their escorts appearing for competitive examinations for award of merit scholarships in public schools and to candidates appearing at competitive examinations held by the Union Public Service Commission. (Petition No. 2—Appendix II).
- (iii) Petition from Shri C. Kesaviah Naidu, Chittoor District, Andhra State, relating to amendment of the Indian Railways Act and rules framed thereunder for reservation of berths and seats in III Class compartments on Mail and Express Trains. (Petition No. 3—Appendix III).
- (iv) Petition from Shri C. Kesaviah Naidu, Chittoor District, Andhra State, suggesting amendment of the Indian Post Office Rules so that petitions to State Legislatures might be allowed to be sent by post at book-packet rates. (Petition No. 4—Appendix IV).
- (v) Petition from Shri C. P. Agrawal, Kaimganj, U.P., relating to increased levy of excise duty on other-than-flue-cured variety of unmanufactured tobacco proposed in the Finance (No. 2) Bill, 1957. (Petition No. 5—Appendix V).

- (vi) Petition from Shri C. P. Agrawal, Kaimganj, U.P., suggesting substantial amendment of the Central Excises and Salt Act, 1944, for separation of legislative and judicial powers from the Executive, vested in Government under the Act. (Petition No. 6—Appendix VI).
- (vii) Petition from Shri C. Kesaviah Naidu, Chittoor District, Andhra State, suggesting further extension of the scope of the Resolution moved by Shri Bibhuti Mishra in Lok Sabha on the 19th July, 1957, regarding discontinuance of grant of scholarships to students on community basis. (Petition No. 7—Appendix VII).
- (viii) Petition from Shri Satyendra Nath Nundy, Calcutta, regarding increase in excise duty on air-cured *hookah* tobacco proposed in the Finance (No. 2) Bill, 1957. (Petition No. 8—Appendix VIII).
- (ix) Petition from Shri B. C. Guha, Calcutta, regarding increase in excise duty on air-cured *hookah* tobacco proposed in the Finance (No. 2) Bill, 1957. (Petition No. 9—Appendix IX).
- (x) Petition from Shri C. P. Agrawal, Kaimganj, U.P., regarding increase in excise duty on other-than-flue-cured varieties of *hookah* tobacco, proposed in the Finance (No. 2) Bill, 1957. (Petition No. 10—Appendix X).

3. The Committee considered on the 22nd July and 27th August, 1957, Petition No. 1 (Appendix I), which was presented to Lok Sabha by Shri T. N. Viswanatha Reddy, M.P., on the 13th May, 1957.

The petitioner had made the following suggestions:—

- (i) Publishers should be enabled to send to the Registrar of Books and to the National Public Libraries, books free of postage by registered post acknowledgment due.
- (ii) National Public Libraries should acknowledge the receipt of books within one week of their receipt on a prescribed form indicating classification etc.
- (iii) Publishers should be compelled to quote the price on each book.

The Committee considered in this connection the comments of the Ministries of Transport and Communications and of Education which, *inter alia*, pointed out that—

- (i) Apart from financial loss to Government, if the concession at (i) above was granted, there would be administrative difficulties in checking up whether the despatch of books

was made under the provisions of the said Acts or in compliance with a regular order for other books placed on the publishers by the Libraries etc.;

- (ii) National Public Libraries generally acknowledged receipt of books within two days of their receipt; it was neither practical nor necessary to intimate the classification of books to publishers; and that Indian National Bibliography was being prepared which would contain all the information; and
- (iii) A publisher could not be forced to indicate the price of a book on the book itself against his will.

The Committee feel that, in view of the above considerations, no further action is necessary on the petition.

4. The Committee considered on the 22nd July, 1957, Petition No. 2 (Appendix II), which was presented to Lok Sabha by Dr. M. V. Gangadhara Siva, M.P., on the 31st May, 1957.

The Committee also perused the comments of the Ministry of Railways on the suggestion made by the petitioner for grant of rail concessions at single fare for double journey to:—

- (i) Students, and their escorts, appearing at competitive examinations conducted by the Ministry of Education for award of Merit Scholarships in Public Schools; and
- (ii) Candidates appearing at competitive examinations conducted by U.P.S.C.

The Committee are not in favour of grant of these concessions to candidates appearing at examinations held by the Union Public Service Commission or to escorts of children mentioned at (i) above. They, however, recommend that the rail concessions suggested may be granted to children appearing at examinations for award of Merit Scholarships in Public Schools, whose parents have an income not exceeding Rs. 100 per month.

5. The Committee considered on the 22nd July, 1957, Petition No. 5 (Appendix V) which was reported to Lok Sabha by the Secretary on the 18th July, 1957.

The petitioner had put forth arguments against the increase in levy of excise duty on other-than-flue-cured variety of unmanufactured tobacco, proposed in the Finance (No. 2) Bill, 1957. As the Bill was pending before the House, the Committee directed the circulation of the petition *in extenso* under Rule 307.

The petition was accordingly circulated on the 22nd July, 1957.

6. The Committee considered on the 23rd July, 1957, Petition No. 3 (Appendix III) which was presented to Lok Sabha by Dr. M. V. Gangadhara Siva, M.P., on the 31st May, 1957.

The petitioner had made certain suggestions for reservation of seats and berths and for prevention of unauthorised sale of III Class accommodation on Mail and Express trains. The Committee perused the comments of the Ministry of Railways on the suggestions made in the petition and noted that:

- (i) The III Class sleeping berths could also be reserved on most of the trains ten days in advance both from train starting stations and certain intermediate stations;
- (ii) *en route*, the special travelling ticket examiner travelling on sleeper coaches was authorised to allot vacant sleeping berths to passengers on payment of prescribed charges; and
- (iii) the Ministry were experimenting with two-tier III class sleeping cars which would provide sleeping accommodation on the upper berths and would be kept folded and locked in position during day-time or when not required at night. This would eliminate the possibility of unauthorised sale of accommodation on upper berths.

The Committee, however, desire to draw the attention of the Ministry to the necessity for strict enforcement of the measures to prevent unauthorised sale of III Class seats and berths on trains.

7. The Committee considered on the 23rd July, 1957, Petition No. 4 (Appendix IV) which was presented to Lok Sabha by Dr. M. V. Gangadhara Siva, M.P., on the 31st May, 1957.

The petitioner had suggested grant of postal concessions for transmission of petitions to State Legislatures by book-post at book packet rates.

The Committee noted that a similar suggestion made by the same petitioner in his Petition No. 61 presented to First Lok Sabha regarding sending of petitions to Lok Sabha, which was recommended by the Committee on Petitions, First Lok Sabha, in their Tenth Report for implementation, was still under consideration of Government.

The Committee, however, are of the view that the position of Parliament as a sovereign body is different from that of State Legislatures and as such the Committee do not favour the suggestions made in the petition.

8. The Committee considered on the 23rd July and the 7th September, 1957, Petition No. 6 (Appendix VI) which was reported to Lok Sabha by the Secretary on the 18th July, 1957.

The petitioner had suggested separation of Legislative and Judicial powers vested in Government under the Central Excises and Salt Act, 1944, and had put forth arguments contending that very wide powers and discretion had been vested in the Executive who acted in an arbitrary manner and did not give opportunity to the public for getting redress against the decisions of the Executive.

The Committee perused, in this connection, the comments of the Ministry of Finance (Central Board of Revenue) and noted that—

- (i) the Executive dealt with only minor offences relating to excisable goods and that in departmental enquiries, there were adequate safeguards for the rights of the individuals;
- (ii) that offences under Section 9 of the Act were adjudged only by Courts of Law;
- (iii) rule-making powers conferred on the Executive under the Act were subject to scrutiny and modification by Parliament;
- (iv) due publicity was given to the orders issued under the rules by Press notes, notifications, display on notice boards etc.; and
- (v) Government had accepted in principle the recommendations of the Taxation Enquiry Commission by setting up an independent Committee of two Officers (one drawn from the Ministry of Finance and the other from the Ministry of Law) to look into revision applications against orders in appeal passed by the Central Board of Revenue.

The Committee feel that no further action is necessary on the petition.

9. The Committee considered on the 26th July, 1957, Petition No. 7 (Appendix VII) which was reported to Lok Sabha by the Secretary on the 24th July, 1957.

The petitioner had suggested further extension of the scope of Shri Bibhuti Misra's Resolution, (moved in Lok Sabha on the 19th July, 1957), which proposed discontinuance of grant of scholarships to students on community basis, by making it applicable to educational half-fee-concessions also.

As the Resolution was pending before the House, the Committee directed the circulation of the petition *in extenso* under Rule 307.

The petition was accordingly circulated on the 26th July, 1957.

10. The Committee considered on the 24th August, 1957, petitions Nos. 8 and 9 (Appendices VIII and IX) which were reported to Lok Sabha by the Secretary on the 23rd August, 1957.

The petitioners in each of these two petitions had pleaded against increase in Central Excise duty on air-cured *hookah* tobacco from As. 0-6-0 to As. 0-8-0 per lb. as proposed in the Finance (No. 2) Bill, 1957 and had put forth arguments against the increase.

As the Bill in question was pending before the House, the Committee directed that both the petitions might be circulated *in extenso* under Rule 307.

The petitions were accordingly circulated on the 24th August, 1957.

11. The Committee also considered on the 24th August, 1957, Petition No. 10 (Appendix X) which was reported to Lok Sabha by the Secretary on the 24th August, 1957.

The petitioner had put forth detailed arguments against the increase in excise duty on other-than-flue-cured varieties of *hookah* tobacco proposed in the Finance (No. 2) Bill, 1957. His contention was that such unmanufactured tobacco was unfairly subjected to heavy taxation; that duty on goods should be proportionate to their market price; and taxation should be based on "capacity and use" and not on "physical form".

As the petition related to a Bill pending before the House, the Committee directed circulation of the petition *in extenso* under Rule 307.

The petition was accordingly circulated on the 24th August, 1957.

12. At their sitting held on the 23rd July, 1957, the Committee also noted that the recommendations of the Committee on Petitions, First Lok Sabha, in their Twelfth Report on Petition No. 71, had been implemented in full by the Ministry of Railways (*vide* Appendix XI).

13. The Committee also considered, during their sittings, 204 representations, letters and telegrams addressed by various individuals, associations etc. to the House, the Speaker or to the Chairman of the Committee, which were inadmissible as petitions.

UPENDRA NATH BARMAN,

Chairman,

Committee on Petitions.

NEW DELHI;

The 9th September, 1957.

APPENDIX I

Petition No. 1

To

Lok Sabha,
New Delhi.

The humble petition of Shri C. Kesaviah Naidu
sheweth

1. Under the Press and Registration of Books Act (Act XXV of 1867) the printer (in effect, it is the publisher) should deliver to the Registrar of Books of the State, two copies of every publication, one to be retained in the Registrar's office and the other to be transmitted to the Parliament Library, New Delhi. Again under the Delivery of Books (Public Libraries) Act (XXVII of 1954), publishers should send, at their own expense, one copy each of their publications direct to four public libraries specified by the Government of India. Thus a publisher should send 6 sample copies to 5 different addresses. As the books are sent in the public interest, it would be fair on the part of Government to allow the publishers to send them free of postage for onward transmission to: (a) the Registrar of Books, and to (b) the Public Libraries specified.

2. If the publisher sends the book and if the authorities do not keep it in its proper place and make it available to the public, then the whole Act becomes a dead letter and all its objects are defeated (a) with financial loss to the publisher (i) on the cost of production of the book; and (ii) postage etc., and (b) without benefit to the country at large.

3. Mere acknowledgement of the Book by the Library Authorities does not bring the book to its place in the Library. Therefore, it is necessary to ensure that the Library Authority acknowledges the book within a week in the following manner:—

“The book (name) by
(name of author) is classified
under (subject). Its number is.....”

4. Such an acknowledgement will give satisfaction to the publisher (for the trouble he has taken to produce it and to send it) and will be beneficial to the public at large.

5. Under "Book Review" several books are reviewed and their prices are not quoted. Much time is unnecessarily spent on correspondence between the publisher and the reader to know the cost etc., of the books,

and accordingly your petitioner prays:

(1) That the Indian Post Office Rules may be suitably amended so that the publisher can send the Books free of postage by registered post acknowledgement due to: (a) the Registrar of Books of the State, and (b) the four Public Libraries;

(2) That the above authorities acknowledge the books within a week of the date of receipt of the book(s) to the publisher in the form suggested above; and

(3) That, under the Press and Registration of Books Act (Act XXV of 1867) and the rules framed thereunder, the publisher may be compelled to quote the price on each book,

and your petitioner as in duty bound will ever pray.

Name of Petitioner	Full Address	Signature
C. Kesaviah Naidu.	Member, District Planning & * Development (Chandragiri) Bheemavaram Village Post, Chittoor District, Andhra State.	Sd/- C. Kesaviah Naidu.
Countersigned By	T. N. VISWANATHA REDDY, M.P.	

APPENDIX II

Petition No. 2

To

Lok Sabha,
New Delhi.

The humble petition of Shri C. Kesaviah Naidu

sheweth

Yearly, the Ministry of Education, Government of India are holding competitive examinations for children between the ages of 5 and 12 to award Merit Scholarships in public schools. In this connection, the children have to be escorted by their parents or guardians to the examination or interview centres, which are only eleven throughout India, and are far away from the native places of the children.

In certain States, there are no centres and the students have to go a long distance to appear for an examination or an interview in some other State.

It is not proper to increase the number of centres from the administrative point of view nor to summon people from long distances. Therefore it is highly essential to give railway concession return tickets at single fare for the double journey for the child and the escort.

2. The Union Public Service Commission is holding several competitive examinations and interviews of the candidates at limited number of centres, which are at long distances from the native places of the candidates. Several poor candidates are not able to appear for the same on account of heavy expenditure on travel to the distant centres fixed by the Government of India. The petitioner understands that some candidates did not apply at all and some, having applied, did not appear for the examination due to heavy expenditure on travel.

Hence it is highly essential to give railway concession return tickets at single fare for double journey from the candidate's nearest railway station (or any other railway station, which he chooses) to the examination or interview centre and back, recognising it as a concession in the pamphlet, "Railway Travel Concessions" published

by the General Secretary, Indian Railways Conference Association, New Delhi,

and accordingly your petitioner prays :

(1) That railway concessions at single fares for double journeys be granted to students, appearing for competitive examinations and interviews held by the Ministry of Education, Government of India, and their escorts from their nearest railway stations to the examination centres and back ;

(2) That railway concessions at single fares for double journeys may be granted to candidates appearing for competitive examinations held by the Union Public Service Commission from their nearest railway station to the examination or interview centres and back; and

(3) That the above two concessions may be printed in the pamphlet "Railway Travel Concessions" published by the General Secretary, Indian Railways Conference Association, New Delhi, as a standard concession,

and your petitioner as in duty bound will ever pray.

Name of Petitioner	Full Address	Signature
C. Kesaviah Naidu	Member, District Planning & Development Committee, Bheemavaram Village, Chandragiri Post, Chittoor District, Andhra State.	Sd/- C. Kesaviah Naidu.

Countersigned
By

}

Dr. M. V. GANGADHARA
SIVA, M.P.

APPENDIX III

Petition No. 3

To

Lok Sabha,
New Delhi.

The humble petition of Shri C. Kesaviah Naidu

sheweth

In Madras, Bangalore, Bombay, Calcutta and Delhi, a brisk trade is going on in third-class accommodation. As the train is brought to the platform, generally about an hour ahead of the scheduled time of departure, some persons (including licensed porters and gentlemen with platform tickets) take up position at vantage points on the platform and enter the third-class compartments while the train steams in, and "reserve" seats by spreading clothing etc. on the benches. After this operation, they "sell" the seats to *bona fide* passengers at their own prices—the price of a seat varying from Re. 1/- upwards and for sleeping accommodation on the loft from Rs. 3/-.

As limited third-class seats are reserved in Express and Mail trains for which tickets are sold 3 days in advance and as no sleeping accommodation is made available by the daily mail and Express trains, the passengers are forced to take to illegal means to pay something to the porters and others and reserve sleeping accommodation on the loft from Rs. 3/- onwards according to the mutual understanding and bargain.

In the daily Mail and Express trains, few third class seats are reserved. When the porters are informed of the real numbers they get into those particular compartments and spread their bedding on the lofts above those seats and take Rs. 2/- or Rs. 3/- from the passengers concerned, when other passengers are in search of the very same compartments and are also equally anxious to spread their bedding in preference to other co-passengers.

4. The petitioner understands that the Railways want to appoint some more passenger-guides to teach the passengers as to (a) how

to keep their luggage and (b) sit and so on, which they may or may not hear and even after hearing, they may or may not head or adopt.

If the lofts in the daily Mail/Express trains in the long-distance 300 miles and over carriages, are treated as upper berths and, if reservation for sleeping accommodation is done 10 days in advance, even from intermediate stations (as done in Janata Express Trains) with (a) a seat number from either end of the bench and (b) a berth above it, then the question of appointing passenger-guides does not arise as the bulky luggage which is not required on the journey will naturally, by force of circumstances, go to the luggage-vans and that which is required on the journey will go under the benches.

5. Whenever upper berths fall vacant at intermediate stations, they might be reserved by the Travelling Ticket Examiners for passengers joining at intermediate stations or travelling in the same train in the general compartments by issue of Excess Fare Tickets.

6. The same kind of reservation may be made in the long-distance through carriages specially set apart for the convenience of passengers at Rs. 2/- per seat on either end of the bench and the upper berth as several passengers get up at intermediate stations also.

7. These two kinds of reservations will get some revenue to the railways. The passengers also will get comfortable accommodation, which will act as a strong measure to eradicate the exploitation in third-class accommodation,

and according your petitioner prays:

(1) That the Indian Railways Act and the rules framed thereunder may be amended suitably to reserve: (a) one seat on either end of the bench, and (b) a berth above it 10 days in advance in Mail and Express Trains in 300 miles and over in third class compartments even from intermediate stations at Rs. 3/- per night or part of the night;

(2) That, whenever upper berths fall vacant at intermediate stations, they may be reserved by the Travelling Ticket Examiners for passengers joining at intermediate stations or travelling in the same train in general compartments at Rs. 3/- per night or part of it by issuing Excess Fare Tickets; and

(3) That reservation of a seat on either end of the bench and of a berth above it may be made available even from intermediate stations 10 days in advance on payment of Rs. 2/- in third-class in

**Mall and Express trains in the through carriages specially set apart for the convenience of the long distance passengers,
and your petitioner as in duty bound will ever pray.**

Name of Petitioner	Full Address	Signature
C. Kesaviah Naidu.	Member, District Planning & Development Committee, Bheemavaram Village, Chandragiri Post, Chittoor District, Andhra State.	Sd/- C. Kesaviah Naidu.

Countersigned }
By } Dr. M. V. GANGADHARA
SIVA, M.P.

APPENDIX IV

Petition No. 4

To

Lok Sabha,

New Delhi.

The humble petition of Shri C. Kesaviah Naidu

sheweth

The petitioner feels that the public has a right to approach the State Legislative Assembly direct or through the members for redress of their grievances.

Hence, petitions addressed to a State Legislative Assembly or those sent to the members for presentation to a State Legislative Assembly may be allowed to be sent by post at book packet rates on the model of petitions sent to Lok Sabha as recommended in the Tenth Report of the Committee on Petitions presented on the 13th September, 1956,

and accordingly your petitioner prays that the Indian Post Office Rules may be amended suitably to send petitions to a State Legislative Assembly direct or to the members for presentation to a State Legislative Assembly by post at book packet rates,

and your petitioner as in duty bound will ever pray.

Name of Petitioner	Full Address	Signature
C. Kesaviah Naidu.	Member, District Planning & Development Committee, Bheemavaram Village, Chandragiri Post, Chittoor District, Andhra State.	Sd/- C. Kesaviah Naidu.

Countersigned }
By } Dr. M. V. GANGADHARA
SIVA, M.P.

APPENDIX V

Petition No. 5

To

Lok Sabha,
New Delhi.

The humble petition of Shri C. P. Agrawal
sheweth

Under sub-clause (f) of clause 13 of the Finance (No. 2) Bill of 1957, now pending before Lok Sabha, certain amendments have been proposed to increase excise duty on 'other-than-flue cured' variety of unmanufactured tobacco under sub-items 1(4), 1(5) & 1(6) of Item 9 in the First Schedule to the Central Excises and Salt Act, 1944.

2. In principle, the proposed amendments are discriminatory, and even faulty and, consequently, their enforcement with immediate effect under the Provisional Collection of Taxes Act, 1931, has been causing great hardship to the teeming millions all over the country.

3. The Hooka trade is made to ruin at the hands of cigarette and *bidi*, the so-called indigenous industries which undoubtedly have substantial *alien* interest, and consequently, there is concentration of economic power in the hands of a few at a great risk to the people at large, leaving the consumers at the mercy of the few.

4. The basic principle to raise excise on this article is to classify different varieties according to their utility to ensure equity and to give satisfaction to all concerned. This is the only practical solution to fetch due revenue on the maximum quantity with the guarantee of a fair return to the producer.

5. The two varieties—flue-cured and other-than-flue-cured—of the unmanufactured tobacco, are to be classified according to the respective use to which they are put, i.e. (a) cigarette and pipe, (b) *bidi*, (c) cigar and etc., and (d) *hooka* and chewing; and the burden of taxation may be equitably distributed according to their respective capacity with lowest rates for *hooka* and chewing and highest for cigarette and pipe in the ratio of at least 1:5, if not 1:8 as was provided in the original tobacco tariff in 1943.

6. In case Re. 1/- per lb. is considered the reasonable rate for cigarettes, rate for hooka and chewing should not exceed in any case 20 naye paise, i.e. 1/5th the rate of cigarettes.

7. This may be done with no other aim and object than to save the rural economy on which the prosperity of the country lies,

and accordingly your petitioner prays that :

(a) Government may increase duty for each variety to have extra revenue for the implementation of the Plan, but this may be done without changing the basic principle of equity and fairness; and

(b) the tobacco tariff may kindly be revised fixing rates of excise duty for different varieties of tobacco according to their respective capacity to achieve equity and fairness on the one hand, and on the other, to give a fair return to the grower,

and your petitioner as in duty bound will ever pray.

Name of Petitioner	Full Address	Signature with Date
C. P. Agrawal	Hon. Secretary, Tobacco Merchants Association, Kaimganj, (Farrukhabad), Uttar Pradesh.	Sd/- C. P. Agrawal, 12-6-1957.

APPENDIX VI

Petition No. 6

To

Lok Sabha,
New Delhi.

The humble petition of Shri C. P. Agrawal
sheweth

The Central Excises and Salt Act (No. I of 1944) requires to be revised substantially to remove certain anomalies for the reasons enumerated below:—

I. *Reforms in Central Excises and Salt Act (I of 1944)*

India is now a welfare State. Certain laws which held good during the British regime are no longer valid and legal, and no effect can be given to them. The Central Excises and Salt Act (No. 1 of 1944) is one such Act, which requires substantial amendments. The Act as it stands reflects the old spirit of dependence, and hence, it has no place under the present set-up. The Constitution of India guarantees justice, liberty, equality and fraternity to all its citizens. In Part IV of the Constitution, under 'Directive Principles of State Policy', there is provision for the State to abstain from prejudicial and oppressive actions and also for separation of the Judiciary from the Executive (Article 50).

2. Consequently the Act requires substantial changes in respect of its provisions relating to:—

- (a) judicial functions,
- (b) delegated legislation, and
- (c) executive orders.

II. *Judicial Functions :*

3. The Statute empowers the Executive and its certain Officers with administrative and judicial functions (Cf. Sections 33, 35, and 36 read with Section 14 of the Act) without giving the minimum protection for the rights of the individual, and leaving full scope for an abuse of power by the Executive. In addition to this, one cannot even claim to have reasonable notice of the case to meet the charge

and also for an opportunity of being heard in his defence. The case file is confidential to him and an opportunity for inspection of records is not available to him.

Executive power and Law are in one sense opposite poles. One pole represents the idea of arbitrary power unrestrained by any rule of conduct, the other represents the idea of a social system in which power is limited by a maximum of effective checks and guarantees. The conception of Law as a check upon arbitrary power is an age-long conception—a conception as old as political theory itself.

4. The doctrine of judicial review which has always been defended with fervent approval by great lawyers in the country and elsewhere is also not given place in the Statute. There is hardly any other Statute in which there is such provision for the exercise of the substantial powers by the Executive, as it is in the present case. The public is at the mercy of the Executive whose discretion is absolute.

It is a well-recognised principle that where discretion is absolute, man has always suffered and this is what is actually happening. The principle of checks and balances is a healthy one. An official, who is accountable, will act more prudently. A citizen, who can appeal to a body independent of controversy, has protection against passion, irrational conduct, and incompetency of an official.

III. *Delegated Legislation :*

5. Certain important powers of legislative character have been delegated to the Executive by the Statute, which normally cannot be discharged by any other authority except the Legislature. Normally the Executive is given the rule-making powers to carry into effect the purposes of the Statute, and not to lay down the Law in excess of the powers conferred. What is to be taxed, and how it is to be taxed, and if taxed, to what extent and under what condition and circumstances; what is to be exempted, how it is to be exempted, and to what extent—these are to be determined logically by the Legislature itself and by nobody else.

The representatives of the people are required to exercise wide discretion and sound judgment, having due regard for the purposes and needs of the Executive and Judicial departments, the ability of the tax-payers to respond and the general public welfare. It follows as a self-evident proposition that a representative Legislature must exercise its own judgment.

IV. *Executive Orders :*

6. There is provision under Section 37(2) (xx) of the Act to issue orders. These orders are not normally published and are also not

accessible to the public. Normally these orders are issued by the Central Board of Revenue or the Collector of Central Excise, but other Officers are not prohibited from issuing such orders, as is actually happening. The subordinate staff is in duty bound to obey these orders even at the risk of disregarding the Statute, which has comparatively less value for them. The scope of these orders is very wide and they themselves lay down a law of their own. It is surprising that while these orders are applied to the public, it is very seldom that any public notice is given to them of such orders.

Due to the above reasons, the actual working of the Statute is very unhappy and the procedure which is followed is unsatisfactory. The State may be satisfied by having a substantial revenue, but actually it is lowering the morale of the people at large.

V. Conclusions :

7. The Constitution of India lays down the Parliamentary form of Government. The doctrine of separation of powers has been well-recognised and the formulation of legislative policy or of the general principles of law is an essential function of the Legislature and cannot be assumed by another organ, say, the Executive.

8. Wherever the right of making and enforcing the law is vested in the same man or one and the same body of men, there can be no public liberty. Again there is no public liberty if the judicial power is not separated from the legislative and executive powers. If it is combined with the legislative power, the life and liberty of the subject would be exposed to arbitrary control, for the judge would then be the legislator. If it is combined with the executive, the judge might behave with violence and oppression. There would be an end of everything if the same person or the same body is to exercise these three powers—Legislative, Executive and Judicial,

and accordingly your petitioner prays that the Central Excises and Salt Act 1944, might be suitably amended so that :

(a) the accumulation of all powers : Legislative, Executive and Judiciary—under the Act in one authority might be properly separated with a view to end the public dissatisfaction regarding the operation of the Act; and

(b) in Executive Orders, there might be proper limitation as and when and how and, under what circumstances, and by whom, this power is to be exercised keeping the fundamental idea in view that such order may not curtail the rights of the individual on the one

hand, and on the other it may not offend one's self respect and good name,

and your petitioner as in duty bound will ever pray.

Name of Petitioner	Full Address	Signature with Date
C. P. Agrawal.	Hon. Secretary, The Tobacco Merchants' Association, Kaimgarj, District Farrukhabad, Uttar Pradesh.	Sd/- C. P. Agarwal, 20-6-1957.

APPENDIX VII

Petition No. 7

To

Lok Sabha,
New Delhi.

The humble petition of Shri C. Kesaviah Naidu
sheweth

The following letter of the petitioner which appeared in the **Press** on the 16th February, 1952, (5 years back) under the caption "Educational Concessions" is self-explanatory:

"According to the Madras Educational Rules, certain castes are allowed the half-fee-concession, but other castes are denied the same on the ground that they are educationally forward etc. The half-fee-concession should be granted to the students mainly on the basis of the poverty of the parents judged by their income. Because certain castes are given the half-fee-concession, other castes claim to be backward and they succeed in getting concession.

In England, a man employed at a far-off place on a poor salary wanted to write a letter to his sister once a month. As he was too poor to purchase a card, he used to write a Not-paid-letter once a month and the sister used to understand that her brother was all right. When one Member of Parliament came to know of it, he raised the matter in Parliament and helped to bring down the cost of the post card to be within the easy reach of the poor."

2. Likewise, I request the members to amend the rules suitably so that all the deserving poor students, without distinction of caste, creed or colour are made eligible for the half-fee-concession on the basis of the income of the parents,

and accordingly your petitioner prays:

That the Resolution tabled by Shri Bibhuti Mishra, M.P. regarding discontinuance of the grant of scholarships to students on com-

munity basis may be further improved to apply the same to "Educational half-fee-concessions" also,

and your petitioner as in duty bound will ever pray.

Name of Petitioner	Address	Signature with date
C. Kesaviah Naidu.	Member, District Planning and Development Committee, Bheemavaram Village, Chandragiri Post, Chittoor District, Andhra State.	Sd/-C. Kesaviah Naidu, 8-7-1957.

APPENDIX VIII

Petition No. 8

To

Lok Sabha,
New Delhi.

The humble petition of Shri Satyendra Nath Nundy sheweth

According to the Finance (No. 2) Bill of 1957, the rate of Central Excise duty on air-cured *hookah* tobacco has been raised from As. -6|- per lb. to As. -8|- or 0-50 n.p. per lb.

2. The petitioner, being engaged and experienced in *hookah* tobacco trade in growing areas and also in the Calcutta Market, desires to draw attention of Lok Sabha to the following facts to solve the difficulties experienced by the trade:

Hookah Tobacco is a cash crop, on which several lakhs of people, chiefly cultivators, traders and consumers are depending. This is especially so in North Bengal.

3. In 1943-44, Central Excise duty was imposed on *Hookah* Tobacco at the rate of anna -1|- per lb. It was increased to As. -3|- per lb. in 1944-45, to As. -4|- per lb. in 1948-49 and to As. -6|- per lb. in 1951-52.

4. The increase of Central Excise duty on low-priced air-cured *hookah* tobacco is in total disregard of the fact that the taxation of air-cured *hookah* tobacco, though a very insignificant item of revenue in the group of tobacco taxation, means taxation of the poor people, who cannot afford to have the luxury of purchasing expensive cigarettes or even *bidis*.

5. Secondly, the gradual increase of the Central Excise duty on the tobacco decreases the consumption of the same by which the cultivator and trader have been adversely affected. By the increase of the duty, some varieties of low-priced air-cured tobacco (*hookah*) such as *Bispat*, *Jati* etc. have lost their local as well as foreign market.

6. Lastly, Central Excise Duty on the *chur* tobacco, which has been accumulated by way of processing the air-cured *hookah* tobacco, will be levied @ Re. 1|- per lb. until it is pounded to 1|16" size.

These cutting *churs* of cured *hookah* tobacco are not separately prepared and processed with the *intention* of using them in *bidis*. These *churs* are not *capable* of being used in *bidis*. These *churs* are cured in whole-leaf form and only cut to get the original bunches of leaves in decent and marketable form. *Churs* are being sold at a very low price as compared to the price of these leaves.

If the Central Excise duty on these *churs* becomes double of that levied on the original leaves, they will be of no use and will become unmarketable. As a consequence of the wastage of *churs*, prices of the air-cured leaves tobacco will rise by which neither the cultivators nor the traders will be benefited. On the other hand, the consumers have to pay more.

Besides, the revenue derived by Government from this variety of tobacco will fall due to low consumption and unpopularity of these varieties of tobacco. As this is a decentralised trade, this will cause an adverse effect on the whole society,

and accordingly your petitioner prays that the above facts may kindly be considered and a decision taken favourable to the trade when the Finance (No. 2) Bill, 1957, comes up for discussion in the Lok Sabha,

and your petitioner as in duty bound will ever pray.

Name of petitioner	Full Address	Signature with date
Satyendra Nath Nundy.	Director, Surendra Nath Nundy (Private) Ltd., Tobacco Merchant, 45A, Advashradhya Ghat Road, Calcutta (West Bengal)	Sd/- Satyendra Nath Nundy, 15th July, 1957.

APPENDIX IX

Petition No. 9

To

Lok Sabha,

New Delhi.

The humble petition of Shri B. C. Guha
sheweth

The petitioner desires to place the following facts for consideration of the Lok Sabha when the Finance (No. 2) Bill, 1957, comes up for consideration:—

1. At a General Meeting of the West Bengal Tobacco Dealers' Association held at its office on the 15th June, 1957, it was unanimously decided to protest to the Government of India against the increase of Central Excise Duty on other-than-flue-cured tobacco proposed in the Bill referred to above.

2. According to the Bill, the rates of Central Excise Duty on air-cured hookah tobacco have been raised from As. -6|- to As. -8|- or 50 naye paise per lb. In 1943-44, Central Excise Duty was imposed on this hookah Tobacco @ Anna -1|- per lb. It was increased to As. -3|- per lb. in 1944-45, to As. -4|- per lb. in 1948-49 and to As. -6|- per lb. in 1951-52.

3. The increase of Central Excise Duty on low-priced air-cured hookah tobacco is in total disregard of the fact that the taxation on the air-cured hookah tobacco though a very insignificant item of revenue in the group of Tobacco Taxation, means taxation of the poor people (i.e. agriculturists, *mazdurs*, fishermen and similar others), who cannot afford the luxury of purchasing the expensive cigarettes or even *bidis*.

4. The gradual increase of Central Excise Duty on the air-cured hookah tobacco decreases the consumption of the same by which the cultivation and the trade are adversely affected. Though the revenue income is the main object of imposition of the increased Central Excise Duty, it only has an adverse effect on the trade.

5. By the increase of Central Excise Duty on some varieties of low-priced air-cured Hookah Tobacco, such as *Bispath* (Sand leaves),

Jati, Choor (Accumulated flakes) etc., these have lost their local as well as foreign market. Formerly, these varieties had wide demands in foreign countries, which could have earned a lot of foreign currency. Due to higher rate of duty on low-priced tobacco, the cost of tobacco has been increased considerably by which neither the cultivators nor the consumers have been benefited. For this reason only, the cultivators have reduced to the minimum the cultivation of these crops. In some cases, Central Excise Duty amounts even to three to four times the cost of tobacco. As an instance, *Bispath* is selling @ Rs. 10|- per md. on which Central Excise Duty has to be paid @ As. -|8|- per lb. or Rs. 41·16 n.p. per md.

6. According to the Bill, Central Excise Duty on the *choor* tobacco, which has been accumulated by way of processing the air-cured hookah Tobacco will be levied @ Re. 1|- per lb. These cutting *choors* of air-cured *hookah* tobacco (i.e. *Matihar, Jati, Bilati, Bispath*, etc.) are not separately prepared and processed with the intention of using these in *Bidis*. These *choors* are not even capable of being used in *Bidis*. *Choor*s are cured in whole-leaf form and only cut to get the original bunches of leaves in decent and marketable form. *Choor*s, being by-product of the leaves, are sold at a very low price in comparison with the price of leaves.

If the Central Excise Duty on these *choors* becomes double that of the original leaves, it will be of no use, and will become unmarketable. As a consequence of the wastage of *choors*, revenue derived by Government will fall on the one hand and, on the other, prices of these *Hookah* tobacco leaves will rise due to such wastage of by-products by which neither the cultivators nor the consumers will be benefited.

7. Hookah tobacco is a cash crop on which several lakhs of people in Bengal, chiefly cultivators, traders and consumers, are depending. As this is a decentralised industry, the proposed duty will cause an adverse effect on the whole society,

and accordingly your petitioner prays:

- (a) That the increase in Excise duty on other-than-flue-cured tobacco, as proposed in the Bill cited above, may kindly be re-considered in the light of the above facts;
- (b) That this primitive industry of West Bengal may not be ruined by the proposed enhanced duty; and

(c) That the facts mentioned above may kindly be favourably considered and decision taken to the benefit of the trade, and your petitioner as in duty bound will ever pray.

Name of Petitioner	Full Address	Signature and date
B. C. Guha	Secretary, West Bengal Tobacco Dealers' Association, 51/3, Strand Road, Calcutta, West Bengal.	Sd/- B. C. Guha 26-7-1957.

APPENDIX X

Petition No. 10

To

~~The~~ Lok Sabha,

New Delhi.

The humble Petition of ^{Shri} C. P. Agrawal

sheweth

1. That the petitioner submitted a petition relating to increase in Central Excise duty on *hookah* tobacco proposed in the Finance (No. 2) Bill of 1957, which has been reported to Lok Sabha as Petition No. 5.

2. *Species*:—Botanically two types of tobacco viz. *Nicotiana Tobaccum* and *Nicotiana Rustica* are grown all over India—*N. Tobaccum* to the extent of 84% is grown in South India and the *Rustica* to the extent of 80% in North India, and Uttar Pradesh shares 48% of its produce having the highest yield. (pages 18, 19, 233, Table 8: Page 15-Marketing Report).

3. *Curing*:—Different methods of curing are adopted for the different types of tobacco produced in India. The principal methods of curing are:—

1. Flue curing

2. Non-flue curing

- (a) Rack Curing—Sun Curing
- (b) Ground Curing
- (c) Pit Curing

Flue-curing is applied in the case of cigarette, sun-curing in case of *bidi* and ground and pit curing in the case of *hookah* and chewing tobacco.

4. *Quality and Characteristic*:—Tobacco is used in different ways and certain definite quality characteristics are sought in the raw and cured tobacco which constitute the various forms in which it is consumed. The main factor which associates is smoking quality-strength, burning character, ash, aroma or flavour. In the first instance, the tobacco is judged on the physical characteristic of the cured leaf e.g. colour, texture, size of leaf and freedom from blemish. (Page 20-Marketing Report).

5. *USES*:—*Nicotiana Tobaccum* is used in cigarette and *bidi* and ^{only} on a little quantity of inferior quality (unfit for Cigarette and *bidi*)

is used in *hookah* and chewing. *Nicotiana Rustica* is exclusively used in *hookah* and chewing and due to its being coarse, raw, inferior, defective in burning quality as well as unfit in taste, colour and other considerations, it is unfit for cigarette and *bidi*.

As already stated, curing differs from type to type, curing changes the characteristic of tobacco and consequently, the same tobacco, under different methods of curing is used for different purposes. In ground or pit curing, whole-leaf is cured and water is sprinkled to make the leaf flexible and consequently, apart from being botanically different in type, the tobacco so obtained under this process of curing is found unfit for *bidi* and cigarette. *Bidi* tobacco is a non-irrigated crop while *hookah* and chewing is an irrigated crop and this factor determines the burning quality of tobacco. *Bidi* tobacco is sun-cured and is not cured in whole leaf form but its leaves are plucked and, whenever it is cured in whole leaf, through some ignorance it becomes unfit for *bidi* as the *bidi* characteristics in that tobacco are lost.

All these factors establish that there is a lot of difference from the very beginning to the end and—grown in different soils under different climatic conditions in different seasons, period of growing differs, yield differs, curing differs, colour, burning strength and economic value, *Nicotiana* contents etc. etc. differ between cigarette, *bidi* and *hookah* tobacco.

6. **PRICE** :—Economic values of *bidi* and cigarette tobacco are comparatively much higher than that of *hookah* which is consumed by the common people of the rural area. Prices of *bidi* and cigarette tobacco ranges from three to five times and in certain cases even more from that of *hookah* tobacco.

7. **Taxation**:—In 1943, tobacco was subjected to Central Excise duty which was amended from time to time. Comparative tables of duty per lb. in different years is given below:

Year	Hookah	<i>Bidi</i>	Cigarette	Ratio
1943	1 anna	5 annas	8 annas	1:6:8
1944	3 annas	9 annas	9 annas	1:3:3
1948	4 annas	12 annas	9 annas	4:12:9
1951	6 annas	14 annas	9 annas	6:14:9
1957	Re. 1/- & 8 as.*	Re. 1/- & 8 as.*	12 annas	4:4:3

*Part tobacco becomes liable for assessment at Re. 1/- per lb. and part tobacco at Rs. 50 Np. per lb.

The above table shows that incidence of taxation has fallen high on *hookah* tobacco in comparison to *bidi* and cigarette and consequently its consumption is decreasing while production is increasing and the consumption of *bidi* and Cigarette is going up. Table No. 1 at page 291, Chap. V. Vol. II of Taxation Enquiry Commission Report shows that consumption of *hookah* tobacco has gone down from 181 million lbs. to 119 million lbs. while consumption of *bidi* tobacco has gone up from 54 million lbs. to 117 million lbs. by 1953-54. The proposed enhancement of duty from 6 as. to Re. 1|- per lb. on *hookah* tobacco has totally ruined the *hookah* tobacco industry and the manner in which the duty has been levied decreases the burden of taxation on *bidi* as well as on cigarette and their consumption is consequently bound to increase by leaps and bounds.

The Taxation Enquiry Commission held that there should be highest rate of duty on cheap varieties of Cigarette in comparison to *bidi* and further held that duty on *hookah* should be substantially low than that of duty on *bidi*. The Commission emphasised for the equitable distribution of burden of taxation among different classes of consumers and did not favour a flat rate on other-than-flue-cured tobacco (cigarette, *bidi* and *hookah* etc.) It was further held that there should be duty on goods proportionate to its price and not on form. The Commission laid stress on lower rate of duty on cheap varieties of tobacco which are commonly utilised in *hookah* consumption. After considering the matter in detail, the Commission was of the opinion to continue the present structure in respect of duty on unmanufactured tobacco. (*bidi*, cigarette and *hookah* tobacco etc.)

8. *Criterion of Duty*:—Till 1951, duty on different types of tobacco was levied on the criterion of their "particular use". In 1951 the criterion of "use" was substituted by the criterion of "capability of use" together with arbitrary powers to the Collector by the Executive to classify different types of tobacco under different classes for the purpose of assessment of duty. At present, it is stated by the Government that the criterion of "physical form" has been substituted in place of "capability and use", while in fact it is not correct as still duty is levied on use as the case is with cigarette. In addition to this, the tariff does not lay down any valid classification (different rates of duty on crushed and uncrushed tobacco) and levy of duty is not in accordance with the economic value of the particular types of goods which is the best principle and cannot be ignored. The tariff has paralysed the *hookah* trade at the hands of *bidi* and cigarette.

Tobacco is consumed after it is being crushed and when a certain type of tobacco is all in all unfit for *bidi* and cigarette, crushing

restriction on a particular size is improper and unjustified and is not to be enforced in the public interest at large.

Kaimganj is an important tobacco growing area of *N. rustica* type of tobacco. Our crop is irrigated and cured in whole-leaf form in ground and pit curing process and is exclusively consumed in *hookah* and chewing and cannot be used in *bidi* and cigarette. Our tobacco is coarse, raw, inferior in quality and has very little economic value and it is consumed after it is being crushed. This tobacco, on account of the aforesaid reasons, has very little potentiality of taxation and normally lowest rates of duty can be fetched on this tobacco. Since the proposed enhancement of duty from 6 as. to Re. 1/-, it has lost its economic value to a great extent and consequently the cultivator is forced to destroy his produce, there being no demand for the same for the reasons of the excessive duty. Government can collect the figures to actually know that a huge quantity of tobacco has been destroyed by the Departmental Officer. The proposed levy of duty is highly disproportionate to its price and against the very principle of taxation.

It is deplorable that, instead of reducing the duty on hookah tobacco for clearing the old stocks, duty has been arbitrarily raised from 6 As. to Re. 1/- per lb. thereby hitting the common man severely. There is no other such commodity on which there may be so much high duty in proportion to its price as is the case with hookah tobacco. Tea and Coffee belong to the same category which, undoubtedly used by middle class people in cities, are subjected to much lower rate of duty than that of hookah although the latter commodity is consumed by the common men in rural areas.

NOTE: The aforesaid contents are based on the authority of the following Government publications:—

- (a) Report of the Taxation Enquiry Commission 1953-54 (Vol. II Chap. V).
- (b) Report on the Marketing of Tobacco in India (Second Edition).
- (c) Report of the Select Committee on the Finance Bill, 1951 (Page 16),

and accordingly your petitioner prays:

- (a) for the early favourable consideration of the petition in the public interest; and

(b) that this supplementary petition may kindly be circulated amongst the Hon'ble Members of the House to enable them to know the real problem facing the common men under reference,

and your petitioner as in duty bound will ever pray.

Name of Petitioner	Full Address	Signature with date
C. P. Agrawal	Hony. Secretary, The Tobacco Merchants' Association, Kaimganj District Farukhabad, (Uttar Pradesh)	Sd/- C. P. Agrawal 22-8-1957.

APPENDIX XI

(Vide para 12 of the Report)

Statement showing action taken by the Ministry of Railways (Railway Board) in implementation of the recommendations on Petition No. 71 in the Twelfth Report of the Committee on Petitions, First Lok Sabha.

Recommendations on Petition No. 71 vide para 3 of the Twelfth Report of the Committee on Petitions, First Lok Sabha	Reply of the Railway Board indicating action taken.
1	2
(i) The trains should be made to keep timings.	Steps continue to be taken to ensure that trains keep to their timings, as far as feasible.
(ii) Boards showing destination of the trains should be placed on the carriages.	The principle is already accepted and being implemented inasmuch as indication boards are displayed on trains, showing destination; and such boards are also specially shown on Sectional carriages which do not proceed to the destination of the trains concerned.
(iii) Wearing of numerical badges by the travelling staff (Ticket Collectors, Train Ticket Examiners, etc.) should be enforced.	The suggestion has already been accepted and is being implemented.
(iv) Railway Stations wherever electric lines are very near should be electrified on programme basis.	This is being implemented.
(v) Coal engines and oil engines for pumping water should be replaced by electric pump sets wherever necessary.	This is being implemented.
(vi) Refreshment Stalls with zinc-sheet sheds may be converted into type-design cement blocks, wherever necessary.	The suggestion has been communicated to the railways for implementation, wherever feasible.
(vii) Specific rules for the reservation of III class berths, seats, compartments and carriages might be made for the benefit of the passengers entraining at intermediate stations.	This suggestion is being implemented fully in regard to Third class sleeping berths and to a limited extent in regard to seats. It is not possible to reserve compartments for passengers from intermediate stations. Carriages to be provided for parties from intermediate stations are subject to availability of stock, train room and other facilities at stations, for which special charges are levied. Rules for this are already provided in the Railway Time tables and Guides and the Indian Railways Conference Association Coaching Tariff.

1

2

(viii) At all the Booking offices and other Counters in the Railway Stations 'IN' and 'OUT' boards with Arrow marks may be put up to observe queue system. This suggestion is being implemented to the extent feasible.
