

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

**The Capital of Issuance
(Continuance of Control) Bill**

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

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

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

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

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

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LEGISLATIVE ASSEMBLY

REPORT OF THE SELECT COMMITTEE ON THE CAPITAL ISSUES (CONTINUANCE OF CONTROL) BILL, 1947

We, the undersigned members of the Select Committee to which the Bill to provide for the continuance of control over issues of capital was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Clause 1, sub clause (3).—We consider five years to be too long a period for continuance of control over capital issues and have reduced it to three years.

Clause 3.—Although we understand that in practice the Government's reasons for refusing consent or recognition to an issue of capital are communicated to the applicant, we consider it desirable to impose a statutory obligation in this respect as in sub-clause (5), which we have added to this clause.

Clause 11.—In this clause, which is new, we have proposed that the Central Government should constitute an Advisory Committee consisting of not more than five members to advise Government as regards the administration of the Act.

Clause 13.—The maximum penalty of imprisonment for two years appears to us to be unduly heavy and we have reduced it to one year.

Clause 16.—This formal re-draft of old clause 15 is necessitated by the promulgation of the Capital Issues (Continuance of Control) Ordinance, 1947 (No. V of 1947) which came into force on the 25th March 1947, and will expire as soon as this Bill becomes law.

2. The Bill was published in Part V of the *Gazette of India*, dated the 22nd March, 1947.

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

J. N. MANDAL
LIAQUAT ALI KHAN
MOHAMMAD YAMIN KHAN
GEOFFREY W. TYSON
N. V. GADGIL
M. ANANTHASAYANAM AYYANGAR
*THAKUR DAS BHARGAVA

NEW DELHI ;

The 7th April, 1947. }

MINUTE OF DISSENT

I regret I cannot reconcile myself to the proposition that State subjects should not be allowed to purchase shares of companies of British India and *vice versa* unless consent or recognition for the particular purpose is accorded by the Central Government. This sort of discrimination between State and British India people is undesirable and will not be in the interest of future industrialisation of India as a whole. I can understand that in the interests of well-balanced investments in industries Government may keep powers to itself to give consent for issue of capital. In my humble opinion this circumstance does not necessitate the embargo on the flow of capital from States to British India and *vice versa*.

I am further not convinced that there should not be different punishments for different offences and there should be a uniform punishment for all offences whether major or minor.

I also consider that the law should not cast its net too wide and try to rope in persons who may have nothing to do with particular offences enumerated in the Bill without proving any act or omission on their part.

The placing of burden on the accused without any overriding necessity or justification for such a course is also against the sound principles of jurisprudence.

Moreover the provision relating to immunity of public servants is quite unnecessary as the protection by ordinary law of the land is enough and no case has been made out for greater protection.

THAKUR DAS BHARGAVA.

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

(Words *sidelined* or *underlined* indicate the amendments suggested by the Committee.)

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BILL

to provide for the continuance of control over issues of capital.

WHEREAS it is expedient to provide for the continuance of control over issues of capital;

It is hereby enacted as follows :—

1. (1) This Act may be called the Capital Issues (Continuance of Control) Act, 1947. Short title, extent and duration

(2) It extends to the whole of British India, and applies also to British subjects and servants of the Crown in any part of India and to British subjects who are domiciled in any part of India wherever they may be.

(3) It shall cease to have effect on the first day of April, 1950.

2. In this Act,

Definitions

(a) "issue of capital" means the issuing of any securities whether for cash or otherwise ;

(b) "securities" means any of the following instruments issued, or to be issued, by or for the benefit of a company, whether incorporated in British India or not, namely :—

(i) shares, stocks and bonds ;

(ii) debentures ;

(iii) other instruments creating a charge or lien on the assets of the company ; and

(iv) instruments acknowledging loan to or indebtedness of the company and guaranteed by a third party or entered into jointly with a third party.

2. (1) No company incorporated in British India shall, except with the consent of the Central Government, make an issue of capital outside British India. Control over issues of capital

(2) No company, whether incorporated in British India or not, shall except with the consent of the Central Government,—

(a) make an issue of capital in British India ;

(b) make in British India any public offer of securities for sale ;

(c) renew or postpone the date of maturity or repayment of any security maturing for payment in British India.

(3) The Central Government may on application make an order according recognition to an issue of capital made or to be made outside British India by a company not incorporated in British India.

(4) The Central Government may qualify any consent or recognition accorded by it under sub-section (2) or sub-section (3) with such conditions, whether for immediate or future fulfilment, as it may think fit to impose; and where a company acts in pursuance of such consent or recognition, it shall comply with the terms of any condition so imposed.

(5) Where an application for the consent or recognition of the Central Government under any of the provisions of this section is refused, the Central Government shall, upon the request of the applicant, communicate to him in writing the reasons for such refusal.

Control over prospectuses and other advertisements

4. No person shall issue in British India any prospectus or other document offering for subscription or publicly offering for sale any securities which does not include a statement that the consent or recognition, as the case may be, of the Central Government has been obtained to the issue or offer of the securities, and no person shall without the consent of the Central Government issue in British India any document publicly offering for sale any security issued with the consent or recognition of the Central Government if such issue was made by a private company or if the order according its consent or recognition contained a condition that the securities should be privately subscribed.

Purchase and sale of securities

5. (1) No person shall accept or give any consideration for any securities in respect of an issue of capital made or proposed to be made in British India or elsewhere unless the consent or recognition of the Central Government has been accorded to such issue of capital.

(2) No person shall sell or purchase or otherwise transfer or accept transfer of any securities issued by a company in respect of any issue of capital made after the 17th day of May 1943 in British India or elsewhere unless such issue has been made with the consent or recognition of the Central Government.

Power to exempt and to condone contraventions

6. (1) The Central Government may, by general order which shall be notified in the official Gazette, provide for the granting of exemption from all or any of the provisions of sections 3, 4 and 5.

(2) The Central Government may by order condone a contravention of any of the provisions of section 3 or section 4, and on the making of such order the provisions of this Act, shall have effect as if an exemption had been granted under sub-section (1) of this section in respect of the thing done or omitted to be done in contravention of section 3 or section 4, as the case may be.

Power to call for information

7. Any officer authorised in this behalf by the Central Government may, for the purpose of enquiring into the correctness of any statement made in an application for consent or recognition to an issue of capital or for the purpose of ascertaining whether or not the requirements of any condition attached to an order according such consent or recognition have been complied with, require any company, or any officer of a company, which has made such application or obtained such order to submit to him such accounts, books or other documents, or to furnish to him such information, as he may reasonably think necessary.

8. No person shall, when complying with any requisition under section 7 or when making any application for consent or recognition to an issue of capital, give any information or make any statement which he knows, or has reasonable cause to believe, to be false or not true in any material particular. **False statements.**

9. No person who obtains any information by virtue of this Act shall, otherwise than in connection with the execution of the provisions of this Act or of any order made in pursuance thereof, disclose that information to any other person except with the permission of the Central Government. **Prohibition against disclosing information.**

10. The Central Government may by order direct that any power or duty which by or under any of the preceding provisions of this Act is conferred or imposed upon the Central Government shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by any officer subordinate to that Government. **Power to delegate function.**

11. The Central Government shall, by notification in the official Gazette, constitute an Advisory Committee consisting of not more than five members, and may from time to time refer to it for advice any such matters arising out of the administration of this Act as the Central Government may think fit. **Committee to advise Government.**

12. The Central Government may by notification in the official Gazette make rules for carrying out the purposes of this Act. **Power to make rules.**

13. (1) Whoever contravenes, or attempts to contravene, any of the provisions of this Act or of any order made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine or with both. **Penalties.**

(2) If the person committing an offence punishable under this section is a company or other body corporate, every director, manager, secretary or other officer thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent its commission, be deemed to be guilty of such offence.

14. Where any person is prosecuted for contravening any provision of this Act or of any order made thereunder which prohibits him from doing an act without the consent or permission of any authority the burden of proving that he had the requisite consent or permission shall be on him. **Burden of proof in certain cases.**

15. No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Act or any rule or order made thereunder. **Protection of action taken under Act.**

16. (1) All orders made or deemed to be made under the provisions of the Capital Issues (Continuance of Control Ordinance, 1947) and in force immediately before the commencement of this Act shall continue to be in force and be deemed to be orders made under the corresponding provisions of this Act. **Continuance of existing orders and savings. V of 1947.**

(2) Section 6 of the General Clauses Act, 1897, shall apply upon the expiration of the said Ordinance as if it had then been repealed by this Act. **X of 1897.**