

Shri T. T. Krishnamachari: Madhya Pradesh levies 6 pies in the rupee. Madras has a multi-point tax of 6 per cent on the first sale. Malabar, an area in Kerala, has the same tax as Madras, but in other parts of Kerala it is a multi-point tax of two Naye paise in the rupee. Bombay levies two point levy (sales tax or purchase tax and general sales tax) of 6 pies in the rupee. In Bihar it is 6 pies in the rupee, Assam 6 pies in the rupee and Andhra levies one anna three pies for every rupee in the turn over, and it has now been made into 8 Naye-Paise in the rupee at the point of first sale in the State.

So, there are variations and when we bring everything together we have to give a weighted average, and we have come to this particular figure.

The hon Member from Delhi raised a point about ready-made clothing. That is processed clothing and that would be subject to some kind of sales tax. Even a tailor who stitches clothes will be charged sales tax, but on cloth, of course, there will be no sales tax.

So far as floating stocks are concerned, I appreciate his difficulty. I am told the matter is having examination and some kind of relief is under contemplation.

Shri L. Achaw Singh: I want to know one thing from the hon Minister regarding sales tax now being levied in the Union territories; whether the sales tax in the Union Territories will be removed or it will be continued.

Shri T. T. Krishnamachari: There is no chance of levying anything in the near future. Where is the staff even if we want to levy?

Mr. Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

RE: LAYING OF REPORT OF COMMISSIONER FOR SCHEDULED CASTES AND SCHEDULED TRIBES ON RIOTS IN RAMANATHAPURAM

Mr. Speaker: The House will now take up the next item.

Shri B. C. Kamble (Kopergaon): Sir, what about your ruling with regard to giving information about Ramanathapuram.

The Minister of State in the Ministry of Home Affairs (Shri Datar): Sir, may I point out the position? Yesterday a suggestion was made by Members opposite that the reports submitted by the Commissioner for Scheduled Castes and Scheduled Tribes should be placed on the Table of the House. May I point out here certain difficulties which would arise if all the reports that we receive from our officers are going to be placed on the Table of the House? They are naturally reports of a confidential character, and unless an officer knows that these reports have to be treated confidentially we might not get an independent assessment from our officers.

In this particular case the matter is further complicated by the fact that so far as this Ramnad affair is concerned it is a matter within the State jurisdiction. All that happened there, right or wrong, concerns the State Government, and we come into the picture only in a very remote or indirect manner. What we do is this. Even in respect of Scheduled Castes, Scheduled Tribes and other communities the responsibility is the responsibility of the State Governments. We only make certain grants for purposes of certain welfare and other schemes; beyond that the Centre does not come into the picture at all.

Therefore, may I make it clear to you that even though the question relates to Scheduled Castes or to criminal tribes or other communities in respect of whom grants are made by the Centre, the question does not necessarily come within the orbit of

[Shri Datar]

the Central Government or of the Parliament merely because such grants are made. On these grounds, Sir,—you are aware and I need not quote the rules under which it is open to us to claim privilege so far as these reports are concerned—I submit that this report, being a matter between an officer of the Government and the Government itself, should not be asked to be placed on the Table of the House.

Shri B. S. Murthy (Kakinada—Reserved-Sch. Castes): Sir, I raised the point of order yesterday I want to know whether the officer had gone on a special mission to report something confidentially or he had gone there as a Commissioner of Scheduled Castes and Scheduled Tribes, whose duty it is to go wherever he wants to go and find the welfare of the Scheduled Castes, give a report to the President, which report comes to the Parliament for discussion annually

Even if it is a question touching law and order, I think the Scheduled Castes Commissioner has a right to report to the President as well as to this House, because as far as it touches the welfare of the Scheduled Castes it is not a private thing meant to be confined to the archives of the Ministers and the higher officials.

Another point is, there is some connection with election as far as the riots are concerned though it is more or less only a social and economic affair. Therefore, election being a subject it has to be dealt with both by the Centre as well as by the State. I do not think there is anything which will be confidential in this that should not be given to the Members of this august House. Therefore, I contend still that the report is a property of the public and as such it should be placed on the Table of the House.

Several Hon. Members rose—

Mr. Speaker: Order, order. One after the other will rise in his seat,

and I shall call the hon. Members one after the other to enable them to make their viewpoints. The hon. Minister may note down their points and once for all give a reply. Thereafter, I shall say what I have got to say.

Shri Jaipal Singh (Ranchi West—Reserved—Sch. Tribes): I find that the issues are being confused. As far as the Constitution is concerned, there is no question whatever, whether something is within the realm of the State or of the Centre or of both. Under the Constitution, the Special Officer can report even beyond the jurisdiction of the Union. That is very clear. It is not merely a question of the scheduled areas. For example, once you accept the question of safeguards of the minorities, they can be outside the scheduled areas. Once we accept the question of the economic or other interests of certain sections of the Indian community that are privileged under the Constitution, there is no way of excluding from the purview of the Special Officer any of the rights of the States.

The Special Officer, in other words, so long as he confines himself to the four corners of his duties which say that he should report to the President, his report must, under the Constitution, be submitted to Parliament. In the Constitution there is no question of any private report, any secret enquiries or an official report. It is a report. The President directs him; in this particular case the President has directed him, and he has submitted his report. So, there has not to be, and there must not be, a subtle distinction of a report being made only for the Treasury Benches and not for this House. Let us be very clear on that. Let us not confuse the issue.

The Special Officer is, I think, the only one officer in this country who, under the Constitution, can report against everybody, even against the Governors if they are not doing their

juries, against the States if they are not fulfilling the directive principles of the Constitution, and so on. It is *ad infinitum*, if I may say so. Let us not get confused over that question.

I am not thinking of the Ramanathapuram report or anything like that. I am only suggesting, if I may humbly suggest to you and to the Treasury Benches, that they must not draw this subtle distinction between what is for them only and what is for the rest of the world. Here is a report, a report submitted under the direction of the President, under the authority of the Constitution. In the Constitution it is very clear that it must be laid on the Table of the House. Now, I can agree with my hon. friends there when they say, "as the President may direct". It need not necessarily be laid on the Table of the House today.

Mr. Speaker: What is the point? Elaborate arguments are not necessary. The hon. Member says that under article 338 of the Constitution, the President is competent to ask the Special Officer to make the report and the report ought to be placed on the Table of the House. This is apart from any confidential communication between the Government on the one side and its own officers on the other. The Special Officer is a statutory authority and under the statutory provisions makes a report. Any new point?

Shri Jaipal Singh: The other thing is this. The main excuse, namely, of something being a State subject, does not hold ground.

Shri B. C. Kamble: I would like to submit three or four points, on the point of order that I am raising. The first point is, at whose instance. . .

Shri B. S. Murthy: Is it another point of order on my point of order, or is it a different one?

Mr. Speaker: Let him say what he wants to say. Every minute that we are spending on these matters takes

away so much time from the discussion on this subject.

Shri B. C. Kamble: The first point is, at whose instance this Special Officer, namely, the Commissioner for the Scheduled Castes and Scheduled Tribes, had gone there, to those places, to collect the information, whether he went there at his own instance or at the instance of the Home Ministry or at the instance of the President. Now, if he had gone at his own instance, then, under what provisions of law he is exactly intended to report? If his office has been constituted under article 338, the point is whether he is intended to act under the provisions of article 338.

Mr. Speaker: Assuming that he goes there to witness a cricket match between Members of Parliament on the one side and the President's XI on the other, and makes a report, is he called upon to do so?

Shri B. C. Kamble: Let him say so.

Shri Jaipal Singh: The Special Officer can do so—anything—including the watching of a cricket match.

Mr. Speaker: If he goes on his own,—it may be right or wrong—how does it affect us?

Shri Jaipal Singh: He can have no private right.

Shri B. C. Kamble: My submission is this. If the Commissioner goes at his own instance, then, this report cannot be a secret report as separate from the relevant provisions of article 338.

My second point is that any report that is to be made by the Commissioner has got to be submitted to the President and not to the Home Ministry, and it is for the President to decide whether that report is secret or not secret.

Shri Dasappa (Bangalore) rose—

Mr. Speaker: I shall give him a chance. Why should he be in a hurry?

Shri Dasappa: On a point of order.

Mr. Speaker: No. When there is a point of order, there cannot be a point of order on the same point of order. What is this impatience about?

Shri Dasappa: I am not impatient.

Mr. Speaker: The hon. Members have unfortunately developed a tendency to make this not a Parliament. I am really sorry. Even to start with, I said that I shall call every Member one after the other to make his points. If the hon. Member has got something to contribute, I shall certainly call upon him.

Shri Thimmaiah (Kolar—Reserved-Sch. Castes): May I submit. . .

Mr. Speaker: No. He may not. (*Laughter*). It is improper. The hon. Members laugh. I would ask the hon. Members not to make this a laughing house. The hon. Members must be serious. There are occasions when we can indulge in humour. But it is not as if we are going on talking and anybody who comes here goes away with an impression that this is not a Parliament at all. Shri B. C. Kamble will continue.

Shri B. C. Kamble: The point is that the Commissioner has to submit a report to the President, and it will not be proper for the Home Ministry to say that the report is confidential. That is another point.

The third point is this. Under the Constitution, Part XVI has been designated as "Special Provisions relating to certain classes". Now, these are special provisions, that is to say, special treatment has been given under these provisions. My submission is this. All the matters that have been referred to now, as coming under the jurisdiction of this section or the other, will not be tenable in view of

the treatment that is given in the Constitution, under the provisions I referred to now.

Fourthly, I would like to say that the Constituent Assembly had given a solemn pledge that so far as the protection of minority rights is concerned, that will be the duty of the Union. Therefore, with all these points in view, I would like to submit this. Whatever portion of the report can be placed on the Table of the House, at least that portion can be placed on the Table.

Shri Easwara Iyer (Trivandrum): I beg to submit one point in this connection. Article 338 of the Constitution envisages the appointment of a Special Officer for investigating into all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes. So, I would submit that the provisions are wide enough to include all investigations into the safeguards, so that if there is anything affecting the Scheduled Castes and Scheduled Tribes relating to their position in any State in the Indian Union, I would say that it is a matter coming within the ambit of an enquiry by the Special Officer. It shall be the duty of the Special Officer to report on the matter and the report cannot be claimed to be confidential. The House is entitled to know it under the provisions of the Constitution.

Shri Dasappa: I rose on a point of order with regard to this simple question that the motion before the House now is to discuss the reports for the years 1955-56 and 1956-57.

Shri Surendranath Dwivedy (Kendrapara): There is no motion before the House.

Mr. Speaker: Probably the hon. Member was not here yesterday.

Shri Dasappa: I was here.

Mr. Speaker: Yesterday the question was put regarding the report submitted by the Special Officer relating

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to Ramanathapuram riots. In answer to the question, the hon. Deputy Minister said that the report has been sent to the President. The question raised thereafter was whether it ought to be placed on the Table of the House. They wanted it to be placed on the Table. Some points were urged on both sides and I said, I will consider that matter.

Further, last time when hon. Members wanted a special day or special allocation of time separately for discussing the Ramanathapuram incident, I said that they might be able to discuss it along with the discussion on the reports of the Scheduled Castes and Scheduled Tribes Commissioner. They want that this report on the Ramanathapuram riots under the rules ought to be made available to the Members of Parliament. They would like to know first-hand what exactly the Special Officer has said relating to that matter, so that it will enable them to have a good and proper discussion. It does not arise out of this. It arises out of the fact that in answer to a question on this matter yesterday, I said I would look into the matter and I reserved my judgment. Secondly, it is relevant in so far as those incidents affect the conditions of the Scheduled Castes and Scheduled Tribes, having regard to their peculiar position and the particular safeguards that are necessary to avoid any such difficulties in future. These are the points. Therefore, I do not think there is any point of order.

Shri Dasappa: Since you have ruled that Ramanathapuram incident can be discussed here in this connection, I have nothing more to say.

Shri Braj Raj Singh (Ferozabad): I have only one thing to point out. The hon. Home Minister said that the officer who had given the report was just subordinate to the Home Ministry. That is not the correct position. Article 338 says that a Special Officer shall be appointed by the President. It is a statutory office, which is created by

the President himself. So, the Special Officer—in this case, the Commissioner for Scheduled Castes and Scheduled Tribes—is not subordinate to the Home Minister. It is not for him to submit his report to the Home Ministry, but through the Home Ministry to the President. Whatever reports are submitted by him with regard to the matters affecting the Scheduled Castes and Scheduled Tribes are to be placed on the Table of the House and discussed by the Parliament.

Shri Naushir Bharucha: There is a special procedure laid down here which must be followed strictly. The Home Ministry does not come in at all. It is wrong on the part of the Special Officer even to send the report to the President through the Home Ministry, because a special procedure has been provided that the report has to be made to the President. It must go directly to the President.

Mr. Speaker: Therefore, does the hon. Member contend that since the report has gone to the President through the Home Ministry, it is no report at all?

Shri Naushir Bharucha (East Khandedh): That is not the point. A wrong procedure is being followed by the Home Ministry. It has no business to intervene itself between the report and the President. The Home Ministry cannot take the report while it is in transit and sit tight on it and say that they will not release it. There is a special procedure. A direct relationship is established between the Special Officer and the President. What business has the Home Ministry to come into the picture?

Shri C. K. Nair (Outer Delhi): What the Minister submitted was that this is an entirely State subject and has nothing to do with the Union Government. I beg to differ from him for this reason that this office is a special office created by the Constitution itself and as such he has the freedom to report on any matter that is hap-

[Shri C. K. Nair].

pening in any part of the country and as such it must be placed on the Table of the House. We must have access to that, because he is enjoying a unique position in the Constitution and as such he is supposed to be the custodian of the welfare of the Scheduled Castes and Scheduled Tribes federation, I am sorry, of the Scheduled Castes and Scheduled Tribes. I think he is enjoying the privilege which was enjoyed by the tribunal under the Roman Constitution regarding the welfare of the Plebians. In the same way, he is enjoying a unique position and therefore, this report must be open to examination by the public and therefore, by Parliament.

Shri Datar: In reply to Shri Dasappa's question, you have made one position quite clear. The report that is now under consideration is not a report referred to in article 338 of the Constitution, because a report under article 338 has to be submitted once a year and that has to be placed on the Table of the House.

Secondly, under article 338, sub-clause (2), it has been very clearly stated:

"It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes . . . and report to the President upon the working of the safeguards."

Here in this case, under the circumstances, it is clear that so far as this particular report is concerned, it is not an annual report. We have got here for consideration and debate two reports, one for 1955-56 and the other for 1956-57, up to 1st April, 1957. As you rightly pointed out, the question of the Ramanathapuram affair can crop up and you had suggested rightly that it might be taken up during the course of the discussion on the two reports of the Scheduled Castes and Scheduled Tribes Commissioner. Only thus, and not under article 338, this

question of the report submitted by the Special Officer in respect of the Ramanathapuram riots comes into the picture.

Under the circumstances, I would point out that this is an ordinary matter, apart from anything covered by article 338. So, it is perfectly open to Government to rely upon a rule of this House, rule 368, where it is stated that this rule shall not apply to any documents which are stated by the Minister to be of such a nature that their production would be inconsistent with public interest. So, the matter entirely rests with us, so far as this particular question is concerned.

In answer to Mr Murthy, he raised the question whether the officer went there in the course of routine tours or under a special direction. I want to point out that he went there on a special direction and not in the course of.

Shri Naushir Bharucha: Whose direction?

Shri Datar: At the instance of the Home Ministry. Let my hon friends understand it clearly that the President acts only through the various Ministries. It is not that the President acts himself. The President is a constitutional President and he acts through all the Ministries.

Shri K. U. Parmar (Ahmedabad—Reserved—Sch Castes): May I know whether the Commissioner is under the Home Ministry or under the President?

Shri Datar: Administratively under the Home Ministry, under the Government of India. Let it be understood very clearly.

Shri Surendranath Dwivedy: Is he an officer of the Home Ministry?

Shri Datar: I would point out very clearly that the Home Ministry has everything to do with this particular

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officer. He is an officer of the Home Ministry..... (Interruptions).

Mr. Speaker: Hon. Members have had their say. Let him have his say and I am here to decide. Do you mean to say that if all the Members here lose temper, I am going to decide in their favour?

Shri Datar: So I was submitting that in view of the very clear directions that you were pleased to give in answer to Mr. Dasappa's question, the question boils down only to this. Here in this case we have a report of an officer of the Government of India with us. It is not a report which comes under article 338. Under these circumstances, it is perfectly open to us to point out that, so far as this report is concerned, we claim privilege and it has not in any way affected the rights that the hon. Members have in this respect. I would submit that this is a privileged document and we are entitled to claim privilege. The wording is rather absolute. Under the circumstances, I might be allowed to claim privilege under the proviso to rule 368.

Shri Jaipal Singh: May I seek a clarification?

Shri B. K. Galkwad (Nasik): On a point of information

Mr. Speaker: I am fully satisfied. I have heard both sides. Whatever has to be said in this House to impress upon me has been said. So far as this matter is concerned, shall I leave it to the hon. Members to decide it? Ultimately, there must be some end to it. I am satisfied with the arguments that I have heard. Hon. Members must remember that they have only one right. I have allowed them to exercise that right. Then they cannot go on interrupting the speeches of others. When some argument is being brought forward by an hon. Member, hon. Members cannot get up and go on interrupting him.

I have heard both sides of the case. This matter relates to placing some document on the Table of the House. The Commissioner's report to the President relating to the Ramanathapuram incidents was the subject-matter of a question day before yesterday and the hon. Deputy Minister, who was answering that question, said that that report had been sent to the President by the special officer. Now the House wants that that report ought to be placed on the Table of the House so that hon. Members may look into it for the purpose of enabling them to take part sufficiently in the debate relating to the Ramanathapuram incidents, for which also time has been allotted. It is also being discussed along with the Report of the Scheduled Castes Commissioner.

In this case they rely upon article 338 which states that the report of the special officer ought to be submitted to the President "and the President shall cause all such reports to be laid before each House of Parliament". It is a statutory obligation on the part of the President to lay it on the Table of the House. The President does not come here himself. He acts only through the Minister. So, to this House the Minister is a representative of the President. The President does not act independently. He acts only through the Minister, so far as this House is concerned.

The question of the Minister is whether he can claim privilege with respect to this matter. My attention has been drawn to rule 368, which relates only to reports or some State papers which the Ministers bring to this House and quote. If, during the course of that, any hon. Member wants it to be laid on the Table of the House, the hon. Minister can claim privilege. The rule reads:

"If a Minister quotes in the House a despatch or other State

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paper which has not been presented to the House, he shall lay the relevant paper on the Table:

Provided that this rule shall not apply to any documents which are stated by the Minister to be of such a nature that their production would be inconsistent with public interest;"

This is not a case where he, of his own accord, referred to it in this House, or wanted to rely upon it. It is open to the Minister in that case to lay it on the Table or not lay it and, if he so thinks, he can claim privilege. He need not quote or he can give some substance.

But this document, whether he refers to it or not, is a document under article 338, which the hon. Members on the opposite side say that they are entitled to ask to be placed on the Table of the House. Rule 368 does not, therefore, in terms apply here. The only point is whether this report is a report contemplated under article 338 of the Constitution. If the special officer in this particular case has gone there at the instance of the Home Minister to privately report to him, that is, the Home Minister, he can say, 'I will take time to consider the matter whether it comes under article 338 or not.'

It is common ground that this report has been presented to the President and the person who has presented the report is an officer who is appointed under article 338. Then the only point is whether it is an annual report. There is nothing in article 338 which says that it must be an annual report. The words used in article 338 are "and report to the President upon the working of those safeguards at such intervals as the President may direct". It does not say one year. It can be as often as the President directs. Whenever the President directs, he has to go.

Therefore, this is a case where the President directed him and he went and reported. So, strictly and literally, this is a report under article 338, and the President is bound to lay it on the Table of the House, through his Home Minister.

Shri Datar: It is the President that directs. The direction is not given by Parliament. The words are "as the President may direct" and not "as the Parliament may direct". The President may not direct in a particular case.

Mr. Speaker: That stage of the President directing the special officer to go and submit a report is over. Now the report has been sent by the special officer to the President. The further portion of the article reads "and the President shall cause all such reports to be laid before each House of Parliament"—through Mr. Datar, who is his agent (Laughter). So, he is bound to place this report on the Table of the House.

But one point has arisen in this matter. The special officer went to that place at a time when there was so much bad blood there. And I also understand that there are a number of cases pending against some persons, including one Member of Parliament. I do not want to involve other Members of Parliament.

I have looked into that report. It contains some extraneous portions which may affect cases which are pending and so, which ought not to be placed before the House. Those portions should be eliminated and only that portion which is very necessary for the purpose of our discussion, so far as the safeguards for Scheduled Castes and Scheduled Tribes are concerned, should be laid on the Table of the House.

When a man goes there, he sees many things and reports, not only on matters which are necessary under

article 338 of the Constitution, but on some other matters also. I am glad that Mr. Kamble, who is, I think, an advocate, saw through this and said that at least that portion of it which relates to the Scheduled Castes and Scheduled Tribes, which comes under article 338, ought to be placed on the Table or made available to the House.

I, therefore, give the privilege to the hon. Minister to score out or withhold that portion which I have seen, which does not relate to the cause of Scheduled Castes and Scheduled Tribes here, but entirely and absolutely relating to some cases of loot or arson on the part of X, Y or Z, against whom cases may be pending. Therefore, the hon. Minister will make this report available to the Members of Parliament, as early as possible. In the meanwhile the discussion may go on. The report may be despatched to the hon. Members today evening so that they may go through it before the discussion starts tomorrow.

Shri Jaipal Singh: I want clarification on a particular point. My hon. friend has brought a new picture into this argument. As far as the reporting is concerned, it has to be at such intervals as the President may direct. There is no dispute about that. Because of the technical language of the Constitution, some screening may be necessary. But I want to know whether the convention is going to be given a go by. When the report has been submitted to Parliament, is he running away from that practice?

Mr. Speaker: No.

Shri Jaipal Singh: The hon. Minister said that it is not necessary to present it every year. It is there in the Hansard. Because of the Ramanathapuram incident, which is really something ancillary to this debate, because some questions were asked yesterday, on the debate on this particular issue he hinted—I only wanted to be sure in my mind—he said that

“at such intervals” may be even every five years or every ten years.

Mr. Speaker: The hon. Member will kindly resume his seat. He is unnecessarily complicating the issue. Hon. Members ought not to invite the decision of the Chair on matters which do not arise immediately, whatever may be the observations of the hon. Minister. Now, he has placed the annual reports in this House. Both the annual reports are before the House. Whatever his remarks might be, if he refuses to place the annual report next time, we will address ourselves to it. It is not as if he can put it off merely because it is said at such intervals and present them not annually but every two years or three years. That matter does not arise. We need not unnecessarily complicate.

Shri Datar: We are following the practice of presenting the report every year. Let the hon. Member have no fear.

Mr. Speaker: In addition to the Ramanathapuram report.

REPORTS OF COMMISSIONER FOR SCHEDULED CASTES AND SCHEDULED TRIBES

The Deputy Minister of Home Affairs (Shrimati Alva): Sir, I move:

“That the Report of the Commissioner for Scheduled Castes and Scheduled Tribes for the year 1955 and 1956-57, be taken into consideration.”

The two Reports are before this House. In a way, it is a good thing to have both the reports discussed together. Might be, some hon. friends here do not agree with me. But, a close study of the two reports gives you more information and it serves our purpose, as to what we have been able to do and what we have been able to achieve.

This subject of Scheduled Castes and Scheduled Tribes is basically a socio-economic subject and it becomes