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LOK SABHA

**JOINT COMMITTEE ON THE INDIAN
ELECTRICITY (AMENDMENT)
BILL, 1958**

EVIDENCE



**LOK SABHA SECRETARIAT
NEW DELHI**

February, 1959

Price / Re. 0'35 nP.

WITNESSES EXAMINED

Wednesday, the 21st January, 1959

the Federation of Electricity Undertakings of India, Bombay

Witnesses:

1. N. C. Javeri

2. K. M. Chinnappa

3. R. P. Aiyer.

JOINT COMMITTEE ON THE INDIAN ELECTRICITY (AMENDMENT) BILL,
1958

Minutes of Evidence taken before the Joint Committee on the Indian Electricity
(Amendment) Bill, 1958

Wednesday, the 21st January, 1959 at 14.30 hours.

PRESENT

Sardar Hukam Singh—*Chairman.*

MEMBERS

Lok Sabha

Shri Vinayak Rao K. Koratkar
Shri Maneklal Maganlal Gandhi
Shri Shree Narayan Das
Shri Shivram Rango Rane
Shri K. R. Sambandam
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Sardar Darshan Singh Pheruman
Shri Braj Bihari Sharma
Shri N. M. Lingam

Shri Bibudhendra Misra
Shri B. C. Najundaiya
Shri Rama Bahadur Sinha
Shri K. L. Narasimham
Shri Devendra Prasad Singh
Shri Jaswant Singh
Hafiz Mohammed Ibrahim.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri N. S. Vasant, *O.S.D., Ministry of Irrigation and Power.*

SECRETARIAT

Shri A. L. Rai, *Under Secretary.*

WITNESSES EXAMINED

The Federation of Electricity Undertakings of India, Bombay

1. Shri N. C. Javeri
2. Shri K. M. Chinnappa

3. Shri R. P. Aiyer.

(witnesses were called in and they took their seats)

Chairman: Now, we shall proceed. Most of the Members must have read your comments on the Indian Electricity (Amendment) Bill, 1958. But even then the Committee would like that you might state your case in brief bringing out specific points that you want to stress. These are the comments upon various clauses. They will certainly be considered by the Committee as well as by the House. But here we will proceed in a business-like manner. In the evidence you might indicate specifically the points on which particular emphasis you want to lay. When you have done that, then the Members would like to ask certain questions.

Shri R. P. Aiyer: May I proceed clause-wise?

Chairman: It is not necessary that you should proceed clause-wise. You might take your own course. Anything that you might think is more important you can take up first.

Shri R. P. Aiyer: Then I would proceed on the basis of priority we attach to the various points.

The main problem which we would like to emphasize, in the first instance, relates to the provisions contained in clause 7(a). It is provided that as soon as either one or the other provision is adopted, the Undertaking shall be handed over to the purchasing authority pending determination of the compensation and payment of purchase price. We have already indicated in the Memorandum that this problem is for the present vague under the present law. Here, of course, we have also to consider, as already cited in the Memorandum, some of the existing State laws. In the Punjab we have got one formula and in Bombay also we have got specific State law in its application to that particular State. But as far as this Bill is concerned, the main point here is that so long as we are in business we continue to earn, what is called, the reasonable

return under the Electricity Supply Act. But once we cease to be in business, there is no specific provision contemplated under the Bill by which the investor would get anything at all. The direct result of this will be that one section of the community, i.e. consumers, will take a direct benefit against another section of the community, namely, the investors. The problem could be elaborated on another aspect. Just like in any transaction you pay the money and take the delivery of the goods, the same course should be adopted here also. Our case is different unlike other industries where some sort of capital could be accumulated as we operate purely on very limited returns. It would be rather hard for the licensee whose undertaking is taken over to be left without any resources, until such time as the compensation or the purchase price is paid to him. We, therefore, suggest three courses:

- (1) Simultaneous with the notice of revocation or the exercise of the option by the purchasing authority the law might well provide for arbitration proceedings so as to determine the purchase price and payment thereof to the licensee at the time the purchasing authority concerned takes over the undertaking. If possible, the proceedings could be completed.
- (2). If it is not, the arbitrators may be obliged to make an interim award on what they consider would be reasonable portion of the ultimate price.
- (3) The payment of the interest, as we have suggested, at the standard rate may be made to the licensee.

The second point on which I attach great importance is the emergency provisions made in clause 15, section 22(a) and (b). I will deal both of them together. This, in short aims to provide for essential supplies being

maintained under any circumstances. If it is the intention of the farmers that in times of power shortage, the equitable distribution should take place, then of course there is no quarrel about it. In fact, as we have already directly or indirectly cited in the Memorandum, we have got almost in all States, more or less, a permanent legislation in that respect. Under these laws, the State Governments are given powers by which they can call upon a licensee to do certain things or not to do certain things and these Laws for the present are working, more or less, satisfactorily. The advisory committees have been appointed by respective State Governments and to that extent consultative machinery is provided. So from this context the main objection to these provisions here is this, that there is nothing at least at this stage as to how and in what manner implementation of these sections would take place.

Of course, the Committee might well say, this is a matter in which the provisions are to be executed by the States and there is nothing to prevent a consultative machinery being established. Nevertheless, I regard that some of the provisions are a duplication of the provisions in the State Laws. Here, again, in a concurrent subject like Electricity there is the possibility of some sort of a conflict. I hope these aspects of the problem would be taken into consideration by the Committee.

As we have taken up the memo, we would plead at this stage that there is really no need for emergency powers and provisions as far as this industry is concerned.

Chairman: I could not follow. You state that some of the provisions are a duplication of the provisions in the State laws?

Shri R. P. Aiyer: In some respects.

This legislation has been under consultation for the last 4 or 5 years

There were Advisory Boards and they made various suggestions. We were fully taken into confidence about the intention of the law. This came on the last date. We only knew of it when the Bill was laid on the Table of Parliament. To a certain extent, I should say this came as a sort of a bolt from the blue so far as we are concerned. That is why we have taken somewhat strong views so far as this question is concerned. In view of the pressing foreign exchange position, power shortages are likely to continue. If these provisions are made mainly with a view to ensure equitable distribution, that object is still achieved by the State laws already. If you go through the clauses, you will see they go beyond what was contemplated by the draft legislation. There are no safeguards. For instance, let us take a public sector undertaking which manufactures insulators in Mysore. It is owned by the State. It is on a par with any other undertaking which functions on a commercial basis. What is there to prevent the Mysore Government from giving preference to a Government factory and not to the other one.

Even if these provisions are to be implemented, subject to my earlier submission that they are not really necessary, it is necessary to have some safeguard. I would suggest that the application of these provisions should be limited to very essential cases like defence establishments, sewage pumping and things like that.

Another fear which the industry has got is, there is the possibility of these emergency provisions being used to buttress the recalcitrant local authorities. The industry has been facing quite a difficult problem in their trading relations with a local authorities. Recently, I think you must have read in the newspapers about the Nagpur Municipality case where due to bills remaining unpaid for a considerable time, the licensee

gave notice of disconnection. The matter is *sub judice* before the court and I will not go into the merits. We have got an instance in Khandesh where a municipality resorted to kerosene lighting to put pressure on the undertaking and it had to go into liquidation. In Gadag, as much as Rs. 90,000 is outstanding from the municipality, and still, no equitable arrangement has been arrived at although frequent contacts have been made with the local Self Government Minister. This question of the emergency powers being used even for buttressing these municipalities is a possibility under the scheme because it is for the State Government to see what is the correct method. I would suggest that these emergency provisions are not necessary. If they are considered necessary, there should be some safeguards. The safeguards should be that they should be limited to essential establishments like defence establishments, etc.

Secondly, price should be outside the scope of the section. Price is now a matter which is covered fully by the Electricity Supply Act which relates the charges to a reasonable return an undertaking is entitled to earn. It is quite possible that these provisions would hurt not merely the licensees, but also the State Electricity Boards which are coming more and more into the picture. They would also be affected. I will not labour this point too much, because, as you have indicated, we do not like these provisions. If you consider they are essential, I would plead with you again that the damage should be limited or the application should be limited to very essential establishments. Price should be taken out of it.

Another very important innovation which we would suggest is that no licensee should be called upon to undertake the burden of supply in an area outside his licensed area without the normal commercial and economic

considerations being applied to such supply. That is a point on which I would like to emphasise.

The third point is, of course, a new suggestion which is outside the scope of the Bill or outside the scope of the provisions contemplated originally in the Bill. This relates to our suggestion on page 7 of our memorandum. This has reference to section 7A of the Act, clause 7 of the Bill. The point here arises out of a difficulty created by the enactment of the Electricity Supply Act. The problem has been under discussion with the relevant Ministry and the Central Board of Revenue. It has not been able to be solved not because of want of goodwill. Goodwill, there has been in plenty. But the very complexity of the problem has so far defied solution. Having failed to get this problem resolved in the context of the Electricity Supply Act, we consider that at least the basic difficulty arising out of that problem could now be solved by introducing an appropriate provision in this Bill. I will just highlight in very simple layman's terms what exactly the problem is.

Under the Electricity Supply Act, the depreciation which an Electricity supply undertaking could write off or permit to be written off is circumscribed by the seventh schedule of the Act which fixes the life of the assets. This is mostly on a straight line basis. In some cases, of course, there is the compound interest method. Under the Income Tax Act....

Chairman: The witness has already stated that it is outside the scope of the Bill. Does he want us to make any provision now?

Shri R. P. Aiyer: We are making our suggestion which the Committee might consider.

Chairman: Does he believe that we can introduce such a provision?

Shri R. P. Aiyer: That is what we consider.

Shri Braj Raj Singh: It will be for you, Mr. Chairman, to consider.

Chairman: I am trying to find out whether he believes that such a provision can be put in at this stage.

Shri R. P. Aiyer: That is what we consider could be done although it is outside the original scope.

Chairman: That relates to taxation.

Shri R. P. Aiyer: Not necessarily. What we are saying is this. This would be the proper stage to attempt a solution of the problem. If the Committee considers it is relevant, I will expand it.

Chairman: You may do it. There is no harm.

Shri R. P. Aiyer: The problem arises out of the disparity in the depreciation as between the Income Tax Act and the Electricity Supply Act. In other words, under the Electricity Supply Act, there is a straight depreciation. Under the Income Tax Act, by virtue of accelerated depreciation allowed, it works at a faster pace. The difference between the two is not available to the undertaking as a benefit. We could not pass on the tax to the consumer. The result is, at a later stage when the tax comes in, we do not find the money. There is no reserve created here as in other industries.

When the question is taken up, it is attempted to be pointed out to us, yours is a dynamic industry, when the tax hits, to that extent adjustment could be made at that stage, it will go on *ad infinitum* and so there is no problem. Theoretically, yes. But, it would be true only if our life is indefinite. Unlike other industries which continue to be in existence or go into liquidation, we are governed by a specific provision in the licence that at an appointed time, somebody else will take it over. At that stage when we are paid compensation, the difference between the depreciated book

cost and the actual purchase price which we receive would be taxed. In Section 10 (2) (vii) of the Income Tax Act, there is a balancing charge. Apart from the normal profit, we will be obliged to meet out of the purchase price a deferred tax liability. What we say is, that that money would also contain a segment of the deferred tax liability for which other industries would have a reserve. We will not be able to absorb that in a reserve or pass it on to the consumer in the future as we will be no longer in business. As an assessee we will continue to be faced with that liability. What we suggest is that the tax is an item of expenditure and is a liability on the consumer whether it be a licensee operated system or State operated. If at the time an undertaking is acquired, it is established that the liability is there, that liability may also be added to the purchase price. Even then, it is not going to be full relief because tax on that will have to be paid and it is almost an impossible task to cover that. At least we say, one portion should be covered. The State Electricity Boards can capitalise it and slowly recover it in smaller instalments from the consumer. The question would be how to determine it. As a practical proposition, we would suggest, if the Committee would consider it reasonable, that a statutory authority may be prescribed to determine at the time when the option is exercised and compensation is paid, whether beyond the normal component of tax under Section 10 (2) (vii) there is an element by way of deferred tax liability. The Central Electricity authority may do so, the State Government may do so or the Income-tax authorities. That is a matter of detail for the Government to consider. We submit that if this problem is solved at this stage by this method, the stability of the industry would be considerably improved and one obstacle in the way of raising development capital would be removed. This is a real plea which

we are making and I suggest that the Committee may consider this.

Shri Shraddhakar Supakar: This matter relates to Income-tax. Can we consider an amendment here?

Chairman: I took that point earlier. He says that this may be taken into consideration and added to the compensation that is proposed to be paid, and that there will be no reserve which can absorb that. This is his plea so far as I have been able to understand it.

Shri R. P. Aiyer: That is right. We suggest that whether there is a liability or not can be determined by a statutory authority. We say it is an important point.

Then, we submit that the words 'or otherwise' in the new Section 4A (clause 6 of the BILL) should be deleted. We have strong objection to these words. These words may mean anything. This goes against the fundamental principle of somebody who is not directly concerned suggesting some amendments. The point is this. The licence is granted by the State Government after due process of law. It is advertised, comments are invited and ultimately an agreed draft is taken as the basis and licence is issued. The question is, if it is to be subsequently amended, how shall it be done. The words 'or otherwise' are vague. Anybody who is not directly concerned in the area of supply might, for some personal reasons, say, I suggest this amendment. It is not that it may be accepted by the State Government. That is a different matter; but an element of uncertainty will be introduced, which we consider is not very fair. For, you give me a licence, and I accept that licence, and on the basis of that, I am raising finance from so many people; once that money is paid out, afterwards, due to some extraneous con-

sideration, if you suggest some amendment, that is not proper; it may be accepted or it may not be accepted.

It is a vague term now, and it may mean anything. This point has been fully discussed in our memorandum. But we suggest that that should in no way interfere with the intention of the clause as it is drafted.

Shri D. C. Sharma: So, you say that those words should be deleted?

Shri R. P. Aiyer: Yes.

Shri Shraddhakar Supakar: Instead of the words 'or otherwise', could we not put in the words 'or by the consumer', because the consumer is as much interested in the electricity supply as the licensee?

Chairman: Let us hear him first. Then, we can ask questions.

Shri R. P. Aiyer: The problems which we consider in terms of priority have been stated here. The debates in Parliament have raised a number of points, and I do not know whether you would wish me to go over them, or you would like me to leave it to you to ask questions.

Chairman: You may say something about the additional note that you have sent.

Shri R. P. Aiyer: There, two points have been highlighted. One is in connection with the revenue guarantee of 15 per cent, and the other one is in relation to the market value versus the depreciated book cost. The memorandum has considerably explained what our point of view is. But, here again, the depreciation aspect has not been fully dealt with in our memorandum.

In regard to this depreciated book cost, there is an element of what is called a premium on efficiency and a

premium on inefficiency involved in this. Let us take an example. Suppose you fix it as the depreciated book cost. What would happen would be that as soon as the notice of exercising the option is given to the licensee, and there is a two-year period given—of course, it is a little higher in the new Bill—what the licensee would do is this. He may think 'Why should I look after my machinery? I am going to get in any case the depreciated book cost without regard to the efficiency of my machines. So, I shall just run them down.' So, ultimately, the system which is taken over will suffer.

On the other hand, if the fair market value is there, which is fair, or in other words, which is what a willing buyer will pay to a willing seller, there is nothing vague about it; the value would be arrived at according to the condition of the machine at any point of time; so, up to the last point when they would be handed over to the purchasing authority, the licensee will look after the machinery with due care. That is one aspect that we have not highlighted because we thought that this might be put across the desk.

Here again, there arises a fundamental problem of a charter being given by the State to the licensee, on the basis of which the investment has been made, and it certainly would be wrong to modify it at this stage, at least, as far as the existing licensees are concerned. Of course, this merely amplifies the problem we have posed.

Regarding the revenue guarantee of 15 per cent, there seems to be some sort of misconception about it, for, it may well be asked why when the Electricity Supply Act talks about 6 per cent, there should be 15 per cent mentioned here. That 6 per cent has got to be understood in a different context. That is the pure return, after taking into account all working expenses. This 15 per cent is pure gross. The figures quoted in some

of the reports may be different, but according to us, if you take the reasonable return, the tax element, the depreciation element, the commission for agents and so many other factors concerned, you will find that a gross of as much as 40 per cent would be necessary to yield that 6 per cent pure return. But, here again, we agree we have got to move with the times.

Shri P. R. Patel: So, the gross should be 40 per cent according to you?

Chairman: He means to say that if Parliament wants to assure 15 per cent, then there ought to be a gross figure of 40 per cent.....

Shri R. P. Aiyer: The Act does not give us 15 per cent.

Chairman: You were going to explain it because perhaps there might be some misconception. Really, this is the gross?

Shri R. P. Aiyer: This 15 per cent is not a correct thing related to the other 6 per cent. The point made was this. Whereas the Electricity Supply Act provides for a return of 6 per cent, why should 15 per cent be mentioned here? This 15 per cent is gross.

Chairman: The expenditure on other things, such as establishment costs etc. are to be taken out.

Shri R. P. Aiyer: Even now, it is 6 per cent. It is very much low. Another point we have got to make here is that in all established undertakings, the general policy is to apply what is called the rule-of-thumb formula. The existing law does not stipulate any particular percentage. It simply says 'a reasonable return', which anybody concerned would consider reasonable. Already, the law itself provides for the necessary safeguards to see that it is reasonable. Suppose you make a requisition for supply, and I give you an estimate, and you consider

that it is not reasonable, you can go to the electrical inspector who will adjudicate upon it. Subsequently, the State Government is there to say whether it is reasonable or not. So, there is nothing unreasonable about it even as it is.

If you reduce it, then this problem would arise. If a power system is in the happy position of going beyond the statutory return, its policy is always to go in for an economic expansion, so that the extra money could be absorbed in that. So, the general policy of the industry at large is to go in for expansion within the limits economically possible. Of course, we have got to abide by the discipline of the market; that is, of course, unavoidable, in any case where we have got to depend upon the investors' money. That is the only point.

This 15 per cent is really too low. I would again plead that at a time when resources are short in the country, there is no point in just working out on doctrinaire considerations. The record of most of the licensees, as against some of the charges occasionally made, is somewhat creditable, and I should say, even good. The present position may well be left as it is, and there is no need to interfere with that. That would be our submission.

Shri Brij Behari Sharma: So, 15 per cent mentioned here is unnecessary, according to your estimate?

Shri R. P. Aiyer: We ourselves did not ask for that. That, in fact, covers the important point that we would like to emphasise.

Now, if there is any other point on which you would like to have elucidation, we are prepared to answer.

Shri P. R. Patel: You say that the gross revenue return should be guaranteed at 40 per cent.

Shri R. P. Aiyer: We did not say that should be guaranteed.....

Shri P. R. Patel: You say that if it is 15 per cent gross revenue, you will be getting much less, and you would not be inclined to have expansion; or you will be suffering loss. If that be the case, I would like to ask certain questions. 15 per cent for six or seven years would come to about a hundred per cent. In other words, a company that invests money gets back whatever it has invested in about six or seven years. So, how do you say that 15 per cent is less?

Shri R. P. Aiyer: The point I have made was not at all that.

Chairman: What I understood him to mean was that under the Electricity Supply Act, only a return of 6 per cent was allowed. Apparently, this looked very odd that 15 per cent return was being allowed here. Why should they get 15 per cent, when that Act gives only 6 per cent? He meant to say that this gross return of 15 per cent would not even work out to that 6 per cent that is allowed under the present Act by way of the actual profits that they should receive. It would be even less than that.

Shri R. P. Aiyer: That was all the point. That is correct.

Shri P. R. Patel: So, you will be satisfied with 15 per cent....

Shri R. P. Aiyer: The point here is this. I was actually present in the Gallery myself during the debate. One of the points made was whereas the Electricity Supply Act gives only 6 per cent return to the industry, why 15 per cent should be mentioned here. So, I am just clearing the misconception here. We have to allow for certain normal working expenditure even on a governmental basis. Let us take, for instance, the interest charges, the operating expenses, the depreciation, maintenance and repairs charges and so on. Then, there are transmission losses, distribution losses etc. If we take into account whatever is normally regarded as the pro-

per expenditure, even then this 15 per cent will work out to a very small figure; according to us, it may not even come to 3 per cent, let alone that 6 per cent.

Chairman: Some hon. Member during the discussion in Parliament has referred to it and said that it is a high percentage. So, he is answering that question and trying to remove the impression that has been wrongly formed. It may not even come to 6 per cent. That is his point.

Shri R. P. Aiyer: I am not talking about the merits or otherwise of that, but I am only clearing that misconception.

Shri P. R. Patel: I would like to know one thing from you. This energy is also used for irrigation, and we require now more production in agriculture. At present, the rates for supply of electricity differ from place to place; in some places, it is 2 annas per unit, in some other places, it is 1½ annas and so on. So, would you suggest something whereby we may have one rate, one standard rate, and whatever loss there may be offset by the money gained from the energy supplied to domestic and lighting purposes.

Shri R. P. Aiyer: Your question postulates something like the postal rate. The postal rate is common and one uniform figure all over the country, because there is only one authority involved. If, on the same lines, you have one electricity authority for the whole country,—that is a probability—then you can think of that idea. But as it is, you have to understand it in a certain different context. The rates for supply will be determined on the basis of the mode of generation. If it is hydel power, certainly, so many other factors will be involved, such as how much is for irrigation, how much is for flood control, how much for navigation and so on. If it is thermal generation, the cost of coal will be there.

We have to take into account the distance from the colliery. If it is a diesel power generator, the cost of the fuel involved comes in. Before the war, the price was Rs. 60; today it is Rs. 290. It is not our fault, if we are not able to give it to you at the old rate. So, the question of postal rate for electricity supply industry is rather too premature at this stage in our country—that is my personal view—unless of course there is one system throughout, taken by and large. That is a different matter. That again would mean that one section of the community subsidises some other section. Whether that is a better way or the Finance department should have a method of levying a tax, is a matter of policy for the authorities to decide.

Chairman: That would be a matter of policy for the Committee or Parliament to decide. Questions may be asked of the witness about the case he has made or the facts he has stated.

Shri P. R. Patel: He referred to the purchase price. I would like to bring to his notice the figure under the tenancy law so far as the purchase price given to agriculturists is concerned. In the light of that policy of Government, how can witness oppose it?

Shri R. P. Aiyer: Here again the question is rather too much depending upon certain policies. Land policy is something different from industrial policy. If I remember correctly, when the Fourth Amendment was moved and the Industrial Policy Resolution was adopted, we were bracketed with mining and other industries. At that stage, we had occasion to submit a memorandum to Parliament. Fortunately we were exempted from that rather difficult situation. In our case, we are not a stagnant industry like, for instance, agriculture, which, for the present, is stagnant because you impinge on certain very delicate things—land holdings, economic holdings, antediluvian methods of

agriculture and so on. As far as we are concerned we are not static. We are dynamic industry. If you see the records of the private or corporate sector, there is an investment of Rs. 115 crores today which will expand at the rate of Rs. 15 crores every year. So the question is whether you should introduce a disturbing or discouraging factor in an industry where we cannot even get what we put into it, after service to the consumer, at the rate of even 6 per cent. When you give a licence, it is not a matter between A and B; it is between the State and a person. On the basis of what has been promised, we have expanded. If there is a breaking of the plighted word by the State itself, that would rather not be creditable. What we are getting is not at all much.

Shri Bibudhendra Misra: You have said that compensation has to be determined and paid before the undertaking is handed over.

Shri R. P. Aiyer: An attempt should be made in that direction.

Shri Bibudhendra Misra: That leads also to section 7.

Chairman: We need not argue that with the witness.

Shri Bibudhendra Misra: I am simply pointing out what is in the clause. There may be cases where the price is settled before the undertaking is taken over.

Shri R. P. Aiyer: It is my mutual agreement.

Shri Bibudhendra Misra: It is only when mutual agreement is not possible that there is reference to arbitration and then the Arbitration Act applies.

Shri R. P. Aiyer: We have past experience of this. What happens is this. The State Electricity Board, which is the designated purchasing

authority, has the right to give notice to the licensee that on a particular date, by virtue of such and such provision, the licence shall be taken over. There the matter ends. Then what is the position? We are going to be faced with a situation of having to hand over the undertaking on that particular date on the order of the State Government to somebody. Of course, compensation will be paid according to the law. But when? As and when determined by arbitration proceedings. In any case in the case of the bigger undertakings like, for instance, Calcutta Electric or Tata Hydro-Electric which have far-flung assets, having regard to the existing conditions, it will certainly take time. What we were suggesting was that along with the notice the State Government should also start arbitration proceedings so that some sort of understanding may be reached.

Shri Bibudhendra Misra: Arbitration comes in only when there is a difference of opinion. But your contention is that along with the notice—12 months or 15 months or whatever it is—an arbitration proceedings should also start. How is it consistent when there has to be arbitration only on differences of opinion or disputes arising.

Shri R. P. Aiyer: On the fair market value, there is always bound to be difference of opinion.

Shri Bibudhendra Misra: So you assume that there will be difference of opinion.

Shri R. P. Aiyer: Human nature being what it is; it is so.

Chairman: The seller would like to have more and the buyer would like to give less.

Shri Bibudhendra Misra: If you want the amount to be paid before

the undertaking is handed over, please refer to the proviso:

"Provided that any such debt, mortgage or similar obligation shall attach to the purchase money in substitution for the undertaking."

So if there is a debt or mortgage, how is the Government or the Electricity Board to clear it?

Shri R. P. Aiyer: That problem does not arise. Mortgage does not attach to a generator or transmission line.

Shri Bibudhendra Misra: So you assume that it can be realised after the undertaking is taken over.

Shri R. P. Aiyer: I was saying that there is no need for it. The owner will pay out of the purchase money if there is anything to be paid. The purchasing authority pays the compensation. The BEST was taken over. Recently, Mhow was taken over. In no case, has it resulted in litigation. Arbitration itself presupposes that there would be no litigation. Otherwise, why should there be arbitration?

Shri Bibudhendra Misra: By the time the undertaking is over, you say that the arbitration should be complete.

Chairman: Witness has not said that arbitration should be complete before the undertaking is taken over. What he says that simultaneously arbitration may also proceed. Meanwhile some interim relief may be given.

Shri Bibudhendra Misra: It is in the memorandum where they say that it would be complete.

Chairman: It may be there, but they have stated their position in evidence.

Shri Bibudhendra Misra: In view of section 52 of the Act to the effect that any party may apply for arbitration proceedings if there is a dispute regarding purchase money, it is open to you to apply for arbitration and then the provisions of the Arbitration Act

will follow. So how is a special provision necessary?

Shri R. P. Aiyer: We are only making our suggestions in the light of our experience in the past. What happens is that till the last date of taking over, nothing happens. We have got instances. Recently in a case, the Minister was pleased to award an amount of Rs. 50,000 because he found that it was very much more expensive. When you are trying to analyse it meticulously against the vagueness of the 1910 Act, I was only going one more step forward. We are now trying to fill in the gap; at this time, let us fill a little more.

Shri Bibudhendra Misra: My point is that there is no gap in view of section 52, unless you want to have suspicion as the basis.

Shri R. P. Aiyer: What I want to make out is that what an undertaking does rarely gets a proper response.

Shri Shree Narayan Das: Shri Aiyer has raised an objection to the words 'or otherwise' in the proposed section 4A. I would like to know whether he thinks that after the licence is granted, there may not be necessity in the public interest for amending the provisions of the licence.

Shri R. P. Aiyer: I did not say that.

Shri Shree Narayan Das: You have said that the power of amending the licence is given to Government in cases other than those of application made by the licensee, and that that power may be misused. You have said in your memorandum on page 2:

"The words 'or otherwise' in the proposed section 4A are fraught with serious consequences. It is quite conceivable that an application for variation of a licence might well be made by parties other than the licensee so as to embarrass the latter".

I would like to ask whether after granting the licence there may not be any opportunity for others to consider

whether the provisions made in the licence are to be amended in the public interest. Is that right only to be given to the licensee only or to the Government and other persons also who may feel the need for it?

Shri R. P. Aiyer: This problem has to be understood in another context altogether. The draft licence is a document which is not a document containing any sort of provisions. This is a general clause and the model of this has already been laid down in the Indian Electricity Rules. This was formulated by the Central Water and Power Commission (Power Wing) and has again been scrutinised by the Central Electricity Board. By and large, anybody who goes into the electricity business knows in the broad perspective as to what are the provisions. Today, X, Y and Z may join together and float a company. They know what are the conditions which will be imposed on them. Would it be reasonable to say that somebody who may not have the mechanism or the knowledge would suggest some further changes? That I think is rather stretching the matter too far.

Chairman: It is stated that no such amendment shall be made except with the consent of the licensee unless such consent has, in the opinion of the State Government, been unreasonably withheld.

Shri R. P. Aiyer: I am glad you have pointed it out. Here is a subjective test and not an objective test. Who is to do that?

Chairman: Why not you allow the Government to

Shri R. P. Aiyer: I am not suspecting the motive of the Government. In this business we are maintaining very close relationship with the Government. It is very necessary. We take pride in that. We try to build it up. But here, this is purely a subjective test. When it arises the question of law and the related matters, I would like it to be objective.

Chairman: Even when the application is made by the licensee himself do you leave it to the Government to decide what it thinks proper? Whether you make an application or not the Government may feel some alteration to be made. That will be covered by the term 'or otherwise'. Without the application of the licensee the Government should have the power to look into those conditions.

Shri R. P. Aiyer: What is wrong with the existing provision in the existing law? We have not had any difficulty in this respect?

Shri Shree Narayan Das: If the Government feels that there is some necessity, what is the harm if the Government comes forward with some suggestions.

Chairman: The point of Shri Shree Narayan Das is that if it is to be done only at the instance of the licensee, it would always be to the advantage of the licensee and not to the advantage of the Government or the consumer.

Shri R. P. Aiyer: What changes are visualised? It is quite possible that you have to go beyond a particular limit. This may put a new obligation on the licensee. It is quite possible.

Chairman: Your argument is that when there is agreement between two parties and they are private parties, say, A and B.....

Shri R. P. Aiyer:....and the Government.

Chairman: When there are private parties, A and B, then there is no harm if any change is brought about. They can always be brought about by the consent of the parties.

Shri R. P. Aiyer: It is correct.

Chairman: What difference will it make here? If any alteration is to be made, why should it be made only at the instance of the licensee and not

at the instance of the Government which wants to make some alteration?

Shri R. P. Aiyer: Normally we would not have said this at all. Here we find that even a small disadvantage is tending to add up to our difficulties. Already everybody is saying 'I won't touch electricity business' etc. It is in that context that I said that. Any new burden or any new additional disadvantage added to this industry would endanger the prospects of their further development. It is in this context that I made my submission.

Chairman: Suppose Government wants to lighten your burden. Should Government be allowed to do that or not? According to you the Government should not have the authority even to give you small benefits if it considers that they are called for.

Shri R. P. Aiyer: How to find it out? Generally we are in contact with them. Here somebody might introduce some change which is not envisaged.

Shri Shree Narayan Das: Every individual could make a suggestion.

Chairman: I would like you not to take it further. We will give deep consideration when we sit together.

Shri Shree Narayan Das: In clause 22A, it is stated as follows under sub-section (1):

"The State Government may, if in its opinion it is necessary in the public interest so to do, direct any licensee to supply, in preference to any other consumer, energy required by (a) any establishment belonging to, or under the control of the Central Government or the State overnment..".

I would like to say that Government, as it is constituted at present, is going to take over a large number of undertakings in the public sector in the interests of the Country. If there is

provision giving some preference to some other enterprises either controlled by the Central Government or by the State Government, what harm would it make?

Shri R. P. Aiyer: I am not dilating upon the principles of Government policy. The only point that I would stress is this. You are not now talking about emergency provisions. Under emergency provisions, you may say that these things are intended for meeting certain circumstances. If it is the intention of Government only to ensure equitable distribution of power where shortage exists, well, I say, we are not objecting to that. Whether Government business must get a preference or not is a matter for the lawmakers and for the Government and we are not the only persons concerned in that. That is an important matter. What we say is this. In the matter of price, the very principle of public utility is that there should be no undue preference. The circumstance should be the electrical circumstance and no other. You have got a specific clause under the Railway Act in this regard. You may be a privileged person and I may be an under-privileged person; but we should both pay the same fare.

Shri Shree Narayan Das: That is right.

Shri R. P. Aiyer: So, it is in that context that I pointed out that in the matter of public utility, the circumstance must be related to the electrical circumstance and nothing more.

Shri Shree Narayan Das: Have you any objection to sub-section 1(a)?

Shri R. P. Aiyer: Sub-section 1(a) of Section 22A should be amended as to limit the powers of control to public works such as of the nature of Defence, Telephones, Telegraphs, Aerodromes, Fire Service, Police, Water Works and Sewage Pumping,

where there are special circumstances which are existing.

Chairman: Any other hon. member?

Shri Shraddhakar Supakar: It is only the consumer who knows where the shoe pinches. It is only the consumer who knows the difficulty felt on account of certain agreements entered into between the licensee on the one hand and the State Government on the other. The consumers do not get proper services. He has to encounter with the difficulty of paying high rates and so on. Should we not approach the State Government to see that there should be certain changes in the terms of the license?

Chairman: I hope you have followed the hon. member's point. He says that once the agreement is entered into between the licensee and the Government, it is only at the instance of the consumer that it is going to be changed. There would be no section for the consumer.....

Shri Shraddhakar Supakar: No section for the consumer. The consumer's position is precarious. The pressure is low; the rate is high. They have no say in the matter.

Shri R. P. Aiyer: If there is any bottleneck in the present law, even revocation is possible. -You have to meet with the difficulties of foreign exchange etc. in certain instances. The law as it stands fully covers all those points. We give supply within a particular period of time subject to any control which the State Government imposes. If the State Government, X or Y, were to say that they have no power, it is their fault and it is not our fault. All these things are fully covered.

Shri Shraddhakar Supakar: Apart from foreign exchange difficulties, there are some cases where the licensees have no excuse to offer.

Chairman: We asked whether the witness would be satisfied if 'or otherwise', should be substituted by the word 'the consumer'. He says 'No'. He does not agree.

Shri Shraddhakar Supakar: With regard to section 22A, the amendment is necessary. The State Governments are also interested in these matters. The State Governments and the local authorities might of course default in the payment of their dues. Are you having adequate remedies to cover such instances? Apart from the question of default, what other objections have they represented?

Chairman: There was danger that the Government might declare any services as essential services and the licensee might be compelled to supply the power for those essential services. So, what he meant to say was that the Government or any other private party should be kept at par. If really there was some essential service, that should be restricted to services that are really essential and they should be specified beforehand and limited to those services only and this should not be left to the Government to notify or declare any services as essential services.

Shri Shraddhakar Supakar: In that case, may I know if it is possible for the witness to give an exhaustive list of essential services in the public sector and also in the private sector?

Shri R. P. Aiyer: One could attempt it. There were so many services, like, sewage, water supply, etc. which are very essential for the life of the community. The point which I wanted to make was this. We have a large number of instances where the local authorities are continuously in default. Some how or other there is a tenancy to find some loophole or some legal flaw and recently we had an instance of a big town like Nagpur where power had to be disconnected. The writ application is now before the Supreme Court.

That is why I suggested that you should circumscribe or limit these essential services to really essential services.

Chairman: You could see that certain services would not be essential at this moment by virtue of circumstances prevailing at the time.

Shri R. P. Aiyer: I will quote you one instance. In Bombay State some 15 years back the question of street lighting came up. There was a large amount of arrears. The District Magistrate had no hesitation in issuing an order under section 144 to the licensee and it was stopped completely. I think, there are already enough remedies under the law as it stands.

Chairman: Perhaps, it was done in the worst instance.

Shri R. P. Aiyer: Normally a good licensee by virtue of public relations will never face a situation of this kind at all. We are taking care of extra-ordinary circumstances.

Shri Braj Raj Singh: I am referring to clause 4(a) of the Bill. The witness has said that the words "or otherwise" be deleted. May I ask whether he would like the words "on the application of the licensee" also be deleted?

Chairman: The practical effect would be that the words "or otherwise" only would be left. I can assure you that he would not like it.

Shri D. C. Sharma: I want to know from the Secretary whether the clause 7(a) in which he wants to make far-reaching changes, has caused any hardship so far. Have there been any cases of hardship on account of the working of this clause?

Shri R. P. Aiyer: Yes, Sir, I can quote you an example of BOAC? In Bombay in which case even after five years some portion of the purchase price still remains outstanding.

Shri D. C. Sharma: I think, one example cannot invalidate most of the provisions of this clause. The clause as it stands is quite all right.

Shri R. P. Aiyer: The point is that hereafter there will be much many such cases.

Shri D. C. Sharma: You were talking about arbitration proceedings and you said that while arbitration proceedings are going on, some kind of interim compensation should be paid. Now, how do you arrive at that kind of formula that while the arbitration proceedings are going on, an interim compensation should be paid? Could you tell us as to how should it be paid and at what interval should it be paid?

Shri R. P. Aiyer: This is quite easy. What would happen is this that the licensee will claim a certain amount and possibly the purchasing authority will offer a certain amount. There may be disparity between the two.

Shri D. C. Sharma: Can you give us a formula for the interim payment of this compensation? Should it be 10 per cent or more?

Chairman: Whatever the purchasing authority is prepared to pay at that time, that should be paid straightway. The balance might be left pending.

Shri D. C. Sharma: So far as the clause 7 is concerned, I find that it has not worked any hardships so far.

As regards the emergency provisions, I think, the Secretary made some observations which were contradictory because if you introduce in an emergency provision some kind of a consultative machinery then that provision ceases to be an emergency provision. I want to know from the Secretary whether these emergency provisions have not worked well on the whole. Is it not his contention based upon a few instances which he has tried to magnify into a general rule?

Shri R. P. Aiyer: What I said was that if the emergency provision is related to power shortage, then there is no quarrel at all. But the Bill goes much beyond that. Whether there is power shortage or not, just because there may be dispute between an 'X' consumer and the Undertaking, that consumer might still be recalcitrant because of this emergency provision and we might continue to supply power to him. But if the emergency provision relates only to power shortage, then it is all right.

Shri D. C. Sharma: There is an unfounded sense of fear in your mind. I want to get from you the real state of affairs.

Shri R. P. Aiyer: The real state of affairs is that if these emergency provisions are used, then there is a danger of some of the undertakings being financially impinged.

Shri D. C. Sharma: In regard to a guarantee of 15 per cent, is it your contention that we should not talk in terms of gross revenue?

Chairman: This is not the contention. He feels that this is not so big as it appears on the face of it. Therefore, Members should not get frightened over this 15 per cent.

Shri D. C. Sharma: When we were talking of clause 7, the Secretary said something about the compensation to be paid to the licensee.

Shri R. P. Aiyer: What I said was that we should be paid compensation at the time of the handing over the undertaking apart from the normal profit component under the Income Tax Act. We feel that in many cases there will be a large element of deferred liability. Where such liability is established, the compensation must also be to the figure representing that liability.

Shri D. C. Sharma: Does a statutory authority like that exist in the case of any undertakings which could be taken over the Government?

Shri R. P. Aiyer: The point I am making is, under the Income Tax law, there is a balancing charge. When you sell an asset, the price if it includes a profit as between the actual price and the depreciated value, you have got to pay a tax. We are not like others. In our case what happens is, we are not able to recover it and pass it on to the consumer. At the time when you acquire, as we are not able to recover because we are no longer in business, that element should be taken along with the compensation. That could be determined by a statutory authority.

Shri K. T. K. Tangamani: I will deal with the points which you have elaborated. Regarding compensation, what is provided in this Amending Bill is fair market value of the undertaking subject to arbitration. If you are not agreeable to this, can you formulate the terms on which compensation has to be paid?

Shri R. P. Aiyer: I did not make that point.

Shri K. T. K. Tangamani: Do you agree with the provision that has been made?

Shri R. P. Aiyer: That is all right.

Shri K. T. K. Tangamani: What I would like to know is, would you like to take the book value subject to depreciation and other things to be fixed?

Shri R. P. Aiyer: We would not.

Shri K. T. K. Tangamani: As regards section 4A, you say that the words 'or otherwise' would take away the right of the licensee. The Chairman actually pointed out to a question by Shri Braj Raj Singh that it will only leave the power entirely in the hands of the State Government. If the words 'or otherwise' are deleted, that would not leave it in the hands of the licensees.

Shri R. P. Aiyer: No.

Shri K. T. K. Tangamani: Would you like the modification of the terms of the licence to be left in the hands of the licensee?

Chairman: What happens is, it is not the power that would be left in the hands of the assessee. The initiative to move the Government would be left with the licensee and not others.

Shri K. T. K. Tangamani: If the initiative alone is in the hands of the licensee, why do you have objection to the initiative being in the hands of X, Y, Z? The ultimate authority is the State Government.

Shri R. P. Aiyer: What I suggest is, an element of insecurity will be introduced. There are a large number of imponderable factors.

Shri K. T. K. Tangamani: The Chairman pointed out that where such alterations are made, they are made with the consent of the licensee, unless such consent has been obtained unreasonably.

Shri R. P. Aiyer: It is not so. If it purely subjective. If the Government is satisfied, nobody can question.

Chairman: That would always be the case.

Shri R. P. Aiyer: It is not so. If it is justiceable, we are happy.

Shri K. T. K. Tangamani: As regards emergency provisions, am I to take it that because of the experiences that you have had with certain municipalities and public undertakings, you do not want these powers to be given for priority to public undertakings?

Shri R. P. Aiyer: My main point is that price should be outside the scope of the Bill.

Shri K. T. K. Tangamani: You gave certain instances why you are opposing section 22A.

Shri R. P. Aiyer: I must make the position clear. Our main contention is that if these provisions are there to ensure equitable distribution of power, we have no objection. Already we are governed by a similar law. If you go beyond that, there is danger of an element of undue preference which is rather fatal to a public utility concern to be introduced.

Shri K. T. K. Tangamani: Don't you agree that in the present context of planning, certain priorities which would not have been priorities or even essential services in the past, have to be given?

Shri R. P. Aiyer: I would only give a small example. The Orissa State Government has introduced a clause in their agreement that any undertaking whose head office is in Orissa will alone get power. I am only pointing out this instance to show how ludicrous a situation can become sometimes. A purely industrial undertaking run by that State or anybody is an undertaking and the rate must be determined. If the Government wanted any undue preference, it is a matter of policy and it should be outside the scope of this clause.

Shri K. T. K. Tangamani: You said that 15 per cent is not so big as it is made out. Would you like 15 per cent to be reduced, or retained or raised?

Shri R. P. Aiyer: Our contention is, you may leave things as they are. At present, it specifies no percentage. It merely says, reasonable return. I have also indicated that our practice is a rule of thumb which never goes beyond 10 per cent. This can be left to the goodwill of the people. Our past record shows that you can trust us.

Shri K. T. K. Tangamani: Fifteen
Shri R. P. Aiyer: Much less.

Shri R. P. Aiyer: Much less:

Shri K. T. K. Tangamani: Suppose it is 6 per cent?

Shri R. P. Aiyer: Six per cent on what?

Shri K. T. K. Tangamani: Six per cent instead of 15 per cent.

Shri R. P. Aiyer: It becomes free service. No guarantee worth the name will be involved.

Shri K. T. K. Tangamani: How do you say 15 per cent is reasonable?

Shri R. P. Aiyer: I never made that point.

Chairman: Fifteen per cent of the expenditure. The establishment changes and running expenses are not taken account of. He meant gross return. You have suggested 6 per cent net return.

Shri K. T. K. Tangamani: Instead of 15 per cent, 6 per cent.

Chairman: Gross? The difficulty would be, it may not be possible to give the expenditure and other things for that particular item.

Shri R. P. Aiyer: Many undertakings function in a promotional capacity. When somebody requisitions supply, we do not insist. By and large, we consider what is the scope in the area, what will be the development potential. We do not note any formula. It should not be a drag on the general system. That is the endeavour.

Shri P. K. Vasudevan Nair: He said that in calculating the compensation, he is not agreeable to the formula of book value.

Shri R. P. Aiyer: Yes.

Shri P. K. Vasudevan Nair: Don't you think that in calculating the fair market value in fixing the compensation, the licensees will get a much higher price than they invested in the concern? When you calculate the market value, the value of land and all these things, ten years ago when the concern was started would have

been much less and now, it will be 10 or 15 times more. If we calculate the market value, it will be very much high.

Chairman: The hon. Deputy Minister has said in the Rajya Sabha that it cuts both ways.

Shri R. P. Aiyer: He made a point about land. Land is an infinitesimally small portion of the block in an Electricity supply undertaking.

Shri P. K. Vasudevan Nair: Whatever be the area, 10 years ago, the price was less and in any town today, it will be 15 times higher.

Shri R. P. Aiyer: Land is a very small component of the whole block. For instance, the only compound is there where the power station is situated. As the Deputy Minister rightly said and as the Chairman pointed out, five years back when the market price of equipment was high, we have put in and today when the bottom has been knocked out, you will get it for a song. As I myself pointed out earlier, there is the danger that you are putting a premium on inefficiency. I may run down my plant. If you give me incentive of a fair market value, I will keep it in condition.

Shri P. K. Vasudevan Nair: Could you give me an idea of a typical licensee's position in the last 10 years, or 5 years, what profits were made, etc.?

Shri R. P. Aiyer: Profit means what? Do you mean dividend paid, gross profit, clear profit, income-tax profit; for the sake of clarification, I am asking.

Shri K. T. K. Tangamani: Is anybody working at a loss?

Shri R. P. Aiyer: If it is income-tax profit, in many cases, it will be a loss. I can give figures. I have not come prepared now. If you give me some time, I will give all the figures.

Shri N. M. Lingam: I still remain mystified about the 15 per cent in spite of the gallant efforts of Shri Aiyer to explain it. I would try to elicit an answer by giving concrete case. If the capital outlay on an electricity undertaking is Rs. 1 crore, if the cost of an extension is Rs. 1,000 to an applicant, would the concern insist that the applicant should guarantee 15 per cent of Rs. 1,000 for two years?

Shri R. P. Aiyer: If the facts are as stated, there is no question of insisting on it. We will simply lay on mere requisition. If the facts are as stated, with an investment of Rs. 1 crore, I will give ten connections.

Here is an undertaking with a station capacity of 2000 kw. Here is a requisition from a consumer who is about 6 miles away from a distribution main. He asks for a connection of 500 kw. What happens is this. He has got to add to his capacity immediately. He has got to lay down the distribution main. He has to acquire the necessary land. If he is satisfied that an industry is going to be established permanently, he will treat it as a promotional area. Suppose it happens, after two years he gives a guarantee and closes down. What is the situation? We apply only the normal commercial practice just as any board or as any government department does. The requisition is not treated lightheartedly. Certainly, there is a load survey of the areas, and we see what the prospects are; in fact, we look ten years ahead. Even when we lay the mains, we duly take care of any possible development. The 1910 Act has really stood the test of time, and I still would suggest that you may leave it as it is. I can assure you on behalf of many of our concerns that we shall do all we can to promote development.

Shri N. M. Lingam: That is expected of you. I am talking of an extreme case. But having regard to the climate for the expansion of electricity....

Shri R. P. Aiyer: May I complete what I wanted to say? To revert to the question of land, which was raised earlier by another hon. Member, an industrialist may get land cheap in a particular village, and he may set up his factory there; and I may be asked to lay a 20-mile cable. Then, what will happen? Simply because he gets land cheap there, why should I be asked to bear the entire burden for laying the cable? Would it not happen that way? I can cite many such instances in West Bengal, where an industrialist goes outside Calcutta town and sets up the industry in a far-off place. That would mean an uneconomic extension of the distribution lines; one individual will be benefiting out of the money of many persons. That is a problem which would arise. It is not, therefore, an extreme case; it has arisen, and it will still arise.

Shri N. M. Lingam: Do you envisage the possibility of such cases being there? Take, for instance, the case of extension.....

Shri R. P. Aiyer: As I have stated, we do not attach too serious an importance to this. Everyone of us really goes in for expansion by the rule-of-thumb formula, wherever there are possibilities of expansion. I only made the point because I felt that there was a little misconception about the 15 per cent and the 6 per cent.

Shri N. M. Lingam: That has been cleared. But would it not help the expansion of the industry, if too much insistence is not made on this?

Shri R. P. Aiyer: I am afraid not.

As I have pointed out already, where there are promotional possibilities, we do not make any insistence at all on this, and we do not attach sanctity to any percentage. But if the law is to provide for any percentage, it will be dangerous. If you leave it vague as it is, we shall certainly agree.

Shri N. M. Lingam: It should be left vague?

Shri R. P. Aiyer: No. The present Act simply says 'a reasonable return.' And the electrical inspector will decide which is the reasonable return.

Shri N. M. Lingam: We at any rate should know the nature of the circumstances which govern the fixation of this percentage, more precisely than the framers of the Act. So, it is not up to us to give a direction to the inspector by indicating what should be the guaranteed return for the first two years?

Shri R. P. Aiyer: I suggest that what actually would happen in that case would be that it would inhibit development, because it is quite possible that if the industry closes down in two years, the undertaking will go into an economic wreck by having invested all the money in that. But where there are promotional possibilities even five years hence, we ourselves would have done much better.

So, I do not think this question of promotional development is in any way related to any fixed percentage.

It is a question of the economic circumstance, the potentialities of the area and so on.

Shri D. C. Sharma: Just a little while ago, you were stressing the importance of specifying things clearly and precisely. But when you come to this, you say that it should be left vague.

Chairman: What he means is that so far as essential services are concerned, they should be specified.

Shri D. C. Sharma: He has said that everything should be specific.

Chairman: Not all matters, but only those essential things.

Shri R. P. Aiyer: Only those two emergency provisions.

Shri N. M. Lingam: In relation to compensation, why do you feel there is an element of uncertainty?

Shri R. P. Aiyer: If you allow the words 'or otherwise' to remain, then you would leave it to all and sundry to suggest changes, whereas when a charter has been granted by the State Government, moneys are invested on the basis of it, and it would not be fair later on to suggest changes in it.

Shri D. C. Sharma: But you had said that everything should be specific, there should be a specific formula.

Shri R. P. Aiyer: What I had suggested was this. Could not some procedure be adopted by which arbitration proceedings could also commence simultaneously with the acquisition proceedings? We are quite satisfied with the market value. If we are given a charter on that basis, we shall stick to that.

Shri N. M. Lingam: With regard to the compensation to be given, you seem to have endorsed in your memorandum a stray observation of the Deputy Minister of Irrigation and Power that the expression 'fair market value' would cut both ways and you want that provision should be made in this Bill.

Shri R. P. Aiyer: Yes.

Shri N. M. Lingam: But is it your case that you envisage a future where the fair market value will be lower than the depreciated value?

Shri R. P. Aiyer: It is possible. Suppose there was a diesel undertaking established at a time when diesel prices were very high; today, you can just get it for a song. Similarly if a nuclear power station comes up in Bombay, let us say, then the Trombay station becomes superfluous and redundant. What will be its market value. Who will take it? These are all inherent risks which we take. You give us an agreement, and we say we abide by it, and for God's sake, do not change it. That is our policy.

Chairman: Thank you for the very good enlightenment that we have got.

Shri R. P. Aiyer: Thank you for your patient hearing.

Chairman: We shall come to our own conclusions. We may or may not agree with you.

Shri R. P. Aiyer: That is your sovereign right. If you require any data etc. in the course of your deliberations, we shall be glad to send them to you.

(Witnesses then withdrew)