

Bill and

Bill

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Banking Companies Act, 1949."

The motion was adopted.

Shri T. T. Krishnamachari: I introduce the Bill.

FINANCE (NO. 2) BILL AND
FINANCE (No. 3) BILL—contd.

Mr. Speaker: The House will now take further consideration of the following motions moved by Shri T. T. Krishnamachari on the 5th December, 1956:

(1) "That the Bill to increase or modify the rates of duty on certain goods imported into India and to impose duties of excise on certain goods produced or manufactured in India and to increase the stamp duty on bills of exchange, be taken into consideration."

(2) "That the Bill further to amend the Indian Income-tax Act, 1922, for the purpose of imposing a tax on capital gains and for certain other purposes and to prescribe the rate of super-tax on companies for the financial year 1957-58, be taken into consideration."

Discussion on both the Bills will continue. Time allotted is 8 hours 30 minutes. Time taken 13 minutes. Balance available 8 hours 17 minutes.

The hon. Minister.

The Minister of Finance and Iron and Steel (Shri T. T. Krishnamachari): I have finished my speech.

Shri Tulsidas (Mehsana—West): Before we proceed with the consideration of this Bill, I would like to refer particularly to my motion with regard to referring this Bill to the Select Committee.

Mr. Speaker: Which one? We have not yet come to that Bill. It is the third Bill.

Shri Tulsidas: Yes. We are taking up both the Bills together.

Shri N. C. Chatterjee (Hooghly): That was decided.

Shri Tulsidas: I would like to raise, if I may use the phrase, a point of order or a point of clarification.

Mr. Speaker: Has he given notice of the motion?

Shri Tulsidas: Yes, I have given notice, and I am moving the motion to refer the Bill to a Select Committee.

Mr. Speaker: Let him make the formal motion.

Shri Tulsidas: I beg to move:

"That the Bill referred to a Select Committee consisting of Pandit Thakur Das Bhargava, Shri Tek Chand, Shri G. L. Bansal, Shri R. R. Morarka, Shri T. S. Avinashilingam Chettiar, Shri C. D. Pande, Shrimati Tarkeshwari Sinha, Dr. Ram Subhag Singh, Shri Fulsinhji B. Dabhi, Shri Jhulan Sinha, Shri H. C. Heda, Shri Bhagwat Jha 'Azad', Shri Shree Narayan Das, Shri A. M. Thomas, Shri C. C. Shah, Shri K. S. Raghavachari, Shri B. Ramachandra Reddi, Shri N. C. Chatterjee, Shri Frank Anthony, Shri T. T. Krishnamachari, and the Mover, with instructions to report by the 17th December, 1956."

This is in respect of Finance (No. 3) Bill.

Shri T. T. Krishnamachari: I wonder if the hon. Member realises that the House rises on the 21st and the Bill should go to the other House also.

Shri N. C. Chatterjee: You can accelerate the date if you want.

Shri Tulsidas: I am only mentioning this because I would like to have your guidance in this matter. I am appealing to you as the custodian of the rights and privileges of this

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House as well as of the proprieties relating to parliamentary procedure to give your considered opinion as to whether it is at all proper for the Government to rush this measure with undue haste by the quick procedure of a Finance Bill even though it contains substantial amendments to the Income-tax Law. The hon. Finance Minister has already said in his speech that most of the measures under Finance (No. 3) Bill are of a permanent character, and they are being brought in under the Finance Bill. All the provisions of the Bill except those proposing an increase in the rate of super-tax on dividends (clause 8) are of a substantial nature, which are intended to make permanent changes in the existing statute law, and if enacted, will have far-reaching effects. As such, they should be considered carefully. The proper thing to do is to adopt these provisions by a separate amending Act. The least that should be done is to refer the Bill to a Select Committee which can be directed to return the Bill within a week in order to save time.

The Bill is obviously carelessly drafted, especially clause 3. As I said before, the provisions in respect of compulsory deposits of corporate reserves have nothing to do with raising of revenues, and as such cannot be reasonably included in the Finance Bill. Moreover, since the provisions are applicable to the next revenue year of 1957-58, it involves a constitutional issue in my opinion. Is this House competent to lay down now the new taxes to be collected for the year 1957-58? Can we commit our successors, whoever they may be, with a fait accompli in respect of a revenue year that is within their purview? I think this event is unique in the history of our country. Never has a Government of this country proposed taxes in November or December of a year which are applicable to a revenue year beginning with April of the next year.

We have no precedent to guide us and this is an important constitutional issue and it should be decided carefully by a Select Committee. A similar point has been raised by me in last April, when Shri C. D. Deshmukh, was the then Finance Minister and you were the Speaker. I am quoting your own observations when I raised this particular point:

"The hon. Finance Minister referred to this matter in his speech which he delivered just now. He referred to this matter pointedly. A Finance Bill is intended to raise taxes which would subsist only for that year. The main object is to provide funds for the expenditure which had been voted by the House. That is the simple object of the Bill. Therefore, it is reasonable to say that other provisions relating to statutes, which are of a more permanent character, ought not to be clubbed with it but discussed on the floor of the House in a more leisurely manner. Linking them with this gives an appearance of emergency and, therefore, such kind of thought cannot be bestowed upon this. Though it is not technically incorrect to include a number of Acts for the purpose of amendment in a simple Bill of this kind—as a matter of fact, the Post Office Act is amended, the Excise Duties Act is amended, the Customs Act is amended, and various Acts can be amended in a simple Bill—the object is all for the purpose of raising funds to meet the expenditure which has been voted. Amendments of a far-reaching character must be considered a little more leisurely."

I had raised the point and then you had mentioned at that time:

"Shri Tulsidas appealed to my being in charge of these rules and regulation of the House. When did he discover it? Only now? As soon as he wrote to the Finance Minister, he could have easily

told me. This is a matter of detailed consideration. I am under the impression that this can be done only in the next year; it could not be done this year. These things ought not to be clubbed."

In view of these remarks and in view of the point that I have just made that these proposals under the Finance Bill No. 3 are to take effect in the year 1957-58 and are not to take effect from now on, is it fair for this House to hurry up with this matter in a manner as it has been done here, and without giving proper thought to the different amending clauses to the main statute?

The other point is, as I mentioned. I do not know whether it is constitutionally correct or not when you have several times said that we should have very healthy conventions in the House. Now, is it fair for the next Parliament to be faced with a fait accompli from now on? We do not know what the set-up of this House will be after the next election; we do not know whether the present ruling party will be in power; we do not know whether the present Finance Minister will be here. I would like to know whether it is fair for this House to commit the next Parliament to these things. The Finance Bill is something where we normally provide for expenditure for the current year but in this Bill we are asked to vote for the next year's expenditure; we are going to pass something which in my opinion is very improper and against the healthy conventions which we should follow. To you as the custodian of the rights and privileges of this House, I request to take a positive action since you have expressed your own views in the matter and I suggest that the matter be referred to a Select Committee.

Shri N. C. Chatterjee: Mr. Speaker, my stand is somewhat different from that of Shri Tulsidas. I am supporting this motion for reference to the Select Committee on different grounds. Some years ago, as you know the then Finance Minister, Mr. Liaquat Ali Khan

had thrown a bomb-shell in the shape of a proposal for Capital Gains.

Shri Gadgil (Poona Central): It was a damp squib.

Shri N. C. Chatterjee: My hon. friend says it became a damp squib from the very beginning. I hope the present Finance Minister does not mean it to be a damp squib; it is meant to be an atom bomb. At least the private sector thinks like that. If they had done it to get at only the big bosses of Capital, I would not mind it, but I am afraid, there is a good deal of force in the criticism made that these present tax measures would lead to a contraction of economic activity in the country. The cumulative effect of Shri Krishnamachari's proposals would leave the private sector high and dry in the matter of obtaining funds for necessary development and expansion. I doubt how far his proposals are in conformity with the announcement made by the Prime Minister, who made it perfectly clear that the private sector should be allowed to play its part unimpeded, that they should be given a fair play, but this additional taxation on dividend and Capital Gains Tax runs counter to it.

Shri Gadgil: May I ask whether the point of order raised by my hon. friend Shri Tulsidas is to be discussed now or the main speech is being delivered?

Shri N. C. Chatterjee: I am speaking on that amendment, on Shri Tulsidas' amendment.

Shri Gadgil: It has not been formally placed before the House.

Shri N. C. Chatterjee: He has moved his amendment.

Mr. Speaker: I shall place it before the House.

Amendment moved:

"That the Bill be referred to a Select Committee consisting of Pandit Thakur Das Bhargava, Shri Tek Chand, Shri G. L. Bansal, Shri R. R. Morarka, Shri T. S. Avinashilangam Chettiar, Shri C.

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D. Pande, Shrimati Tarkeshwari Sinha, Dr. Ram Subbag Singh, Shri Fulsinhji B. Dabhi, Shri Jhulan Sinha, Shri H. C. Heda, Shri Bhagwat Jha 'Azad', Shri Shree Narayan Das, Shri A. M. Thomas, Shri C. C. Shah, Shri K. S. Raghavachari, Shri B. Ramachandra Reddi, Shri N. C. Chatterjee, Shri Frank Anthony, Shri T. T. Krishnamachari, and the Mover with instructions to report by the 17th December, 1956."

I take it that Shri Kilachand has spoken with respect to this and not with respect to the Bills.

Shri Tukidas: I have only spoken on this motion, Sir.

Shri Gadgil: On a point of order, I may say that he has raised a point of order that the main Income-tax Act should have been amended instead of seeking an amendment to the Income-tax Act in the Finance Bill. I think that that was under discussion.

Mr. Speaker: I have put it to the House. He is entitled to speak; he has reserved his speech on both his motion on the Select Committee and also on the Bills before the House.

I thought he would address himself on the point of order, that the two things should be clubbed together in this Bill.

Shri Raghavachari (Penukonda): With your permission, may I say this: After hearing the submissions on the point of order and after your decision, the next stages might follow. That would be proper.

Shri N. C. Chatterjee: You may remember that when we were discussing one of the Constitution Amendment Bills—I think it was 1 or 2 clauses—the Business Advisory Committee unanimously recommended that no important bill like that should be placed before the House without going through the Select Committee and it was made perfectly clear by you from the Chair that that was only the exception and the general rule

shall be that an important measure which brought in fundamental changes either in the Constitution or in the general set up should not be placed before the House without going through the Select Committee. I am supporting this motion because I think there is a good deal of force in the observation that when taxation proposals like this...

Shri T. T. Krishnamachari: Is he supporting the motion and not speaking on the point of order?

Shri Sinhasan Singh (Gorakhpur Distt.—South): Is the hon. Member supporting the point of order as well as the motion for the Select Committee?

Mr. Speaker: He is making the argument for the motion.

Shri N. C. Chatterjee: The two really overlap. The submissions made in respect of the point of order is this, that a Bill of this kind which introduces not merely fiscal changes of a very serious magnitude but will have very serious repercussions on the whole private sector is one that should be discussed in a Select Committee. Supposing there are a few gaps to be made up or we required certain detailed information, it may not be proper in a House like this to discuss it, or say how far foreign trade has been affected or how much it will improve by a certain action. There may be many details which should be discussed only in a Select Committee. In a Select Committee, many things can be put across the Table, and as a result of discussion we may possibly arrive at some kind of adjustment. This is very necessary, especially when Government are demanding, as you know, that the reserves, accumulations and profits above a certain percentage should be made over to the Reserve Bank—including current year's profits.

Mr. Speaker: What has the hon. Member to say on the point of order? The House is anxious to know whether he has anything to contribute regarding this point.

The Finance (No. 3) Bill consists of two portions. In one portion, the rate of tax is fixed, as also the manner in which it ought to be collected, by way of an amendment to the Income-tax Act. Now, the Income-tax Act is a procedural Act. The Finance Act is an Act which imposes the tax or fixes the rate.

I understood the hon. Member Shri Tulsidas to raise two points. Firstly, the Finance (No. 3) Bill is far in advance of the Demands for Grants which have to be voted upon by Parliament. If the taxes are meant to be there generally and for all time, then this may possibly be introduced at any particular time, and the rate may be fixed for all time. But annually the rates are fixed. The rates contemplated here are also intended only for the coming year, that is, 1957-58 and not for all time to come. Is it at all right that such a Bill as the Finance (No. 3) Bill ought to be brought forward now, before the Demands for Grants are granted tentatively or otherwise? That was his first point.

His second point was this. In fact, on a prior occasion, this matter was brought to the notice of the House. Is it all desirable that along with bringing forward some financial provisions, merely because there are financial provisions and some other Acts relating to finance are amended, advantage could be taken of this opportunity to make amendments to some other Acts which are not immediately consequential and on which attention will have to be specially bestowed independently and leisurely?

These are the two points that Shri Tulsidas has raised. What has the hon. Member to say on these? If he has nothing, then I shall hear the Minister of Finance.

Shri N. C. Chatterjee: I am emphasising the second aspect. There are so many drastic amendments which are sought to be made, and which may not be necessary, for, we do not know exactly what would be the financial

requirements next year, what would be the budget, whether it will be necessary to put the whole thing on this footing, and so on.

Therefore, I am submitting that there is a good deal of force in the second point made by Shri Tulsidas. That is also in consonance with the trend of the debate and also your ruling or observations last time. You had stated that this kind of a thorough overhaul of a statute, which will have repercussions for years to come should not be done in this way, by being linked to a financial proposal and rushed through as a money Bill. I would submit that that is a very important point, and for that reason, this Bill should not be rushed through in this manner. If the Minister desires, we may accelerate the work in the Select Committee, and we can even finish it in two days or three days. But it is vital that this should be discussed thoroughly, and possibly, if it comes through a Select Committee, it may be amended so as to restrict its operation to the immediate necessity of the next few months of this year. But there should not be this kind of budget, and such far-reaching consequences on other substantive statutes should not be linked together in this manner and forced upon the House.

Shri Gadgil: Two points have been raised by Shri Tulsidas; firstly, the procedure under which these taxation proposals have been embodied in this Bill, is not legally correct, and secondly, it has not that mark of propriety which it should have.

Shri Tulsidas: I am sorry my hon. friend has not understood the point. My point was that amendments to the Income-tax Act have been made in this Bill, which is not proper.

Shri Gadgil: So far as the first point is concerned, the normal procedure with respect to a Finance Bill is that it seeks to amend several Acts under which taxes are levied. That has been the normal procedure and the normal course. Whether it be the Income-tax Act, or the Sea Customs

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Act, or the Central Excises and Salt Act, every budget proposal and the consequential financial proposals thereto as embodied in the Finance Bill have been of this nature.

Now, the second point is about propriety, that is, whether the House that may succeed this House should be bound down by this House. I think every generation has a right to bind down, morally, legally and constitutionally, the succeeding generation. Now, what is the meaning of the Five Year Plans? Have you not bound down to a reasonable extent the future generations and the generations that will be in this Legislature? If they do not like, certainly they have the right to reverse these things, amend them or modify them or do whatever they like.

Shri Kamath (Hoshangabad): Repudiate them.

Shri Gadgil: Then, the question is whether there are substantial changes proposed in this Bill. I do not agree with my friend when he says that it goes far too much. My grievance is that it does not go far enough. But leave aside my individual view. If there is really a substantial change, then the only remedy or the only way of meeting this situation is to give a little more time for discussion.

The remedy suggested by Shri Tulsidas is that it be referred to a Select Committee, so that the whole Bill can be thoroughly discussed there. So far as the desirability of having a Select Committee, is concerned, that is a matter for the Finance Minister to agree or not to agree to. So far as I am concerned, I find that the views are so stratified that in the Select Committee what can possibly be done is merely some change from the point of view of administrative convenience in the implementation of the provisions of the Bill that may ultimately be enacted, but on the radical and principal aspect of the matter, there is not likely to be any change. So, I think

that it is not necessary to refer it to a Select Committee. The concessions which have already been promised, and whatever is administratively necessary for the private enterprise to function within the framework of the Plan, will certainly be made available by Government.

Thirdly, there is another factor which is far more important than all these. Are we living in normal times? We are all complaining that the inflationary pressure has risen, that the economic situation is worsening and so on. When that is the case, are not Government justified in bringing forward something like an emergency measure? From that point of view, Government are perfectly justified; from the point of view of expediency and principle also, they are justified in bringing forward the present Bills which embody—may be, according to some—far-reaching financial proposals. But there is no illegality in this, and I do not think it can be called improper in any constitutional sense of the word.

For these reasons, I think there is no point of order worth consideration.

Shri Ramachandra Reddi (Nellore): During this year, we have been faced with a number of Finance Bills. So, the procedure that has been laid down in rule 238 has to be considered closely. Rule 238(1) which deals with Finance Bills lays down:

"In this rule 'Finance Bill' means, the Bill ordinarily introduced in each year to give effect to the financial proposals of the Government of India for the next following financial year and includes a Bill to give effect to supplementary financial proposals for any period."

Ordinarily, there should be only one Finance Bill, and that should be introduced before the new year commences. But in this year, we have been faced with more than one Finance Bill. In fact, the Bill to amend

the Central Excises and Salt Act, which was introduced in the last session, was more or less a Finance Bill. I would request you to refer to sub-rule (2) of rule 238 which lays down the procedure to be adopted with regard to Finance Bills. I would like to know whether the Chair is prepared to follow the method of allotment of time suggested in this sub-rule.

Mr. Speaker: Which rule is the hon. Member referring to?

Shri Ramachandra Reddi: I am referring to rule 238. In sub-rules (2), (3), (4) and (5) of this rule, a particular procedure has been laid down with regard to the Finance Bills. I want to know whether the Chair is bound down by these rules or whether it is going to waive these rules and attach no importance to these things. I am interested in knowing this, especially in view of the fact that Finance (No. 3) Bill makes certain proposals to be effective from 1st April 1957, which clearly shows that there is no urgency about this matter, and another session of Parliament, if it meets at all, might be able to take up this matter. Or if a new Parliament is elected by that time, it must be appropriate to that Parliament to take up any financial question like this. In this view, I think the matter has to be deeply considered by you, as to whether the method in which these financial Bills are ushered into this Parliament is correct and whether proposals necessary for 1957-58 should be taken up so early as now.

Shri Raghavachari: I am addressing myself only to the point of order raised. This is Finance Bill No. 2 and Finance Bill No. 3. Therefore, it must strictly conform to the procedure and practice laid down for consideration of Finance Bills.

First and foremost, a Finance Bill gets some emergency, because the Finance Minister feels that the next year's budget as approved cannot be balanced without fresh taxation. Therefore, there is some emergency

about the matter. These proposals do not relate to the next year but to future years too. That is one objection.

Secondly, you will find that under the special procedure and practice that we have, when a Finance Bill is being considered, all things under the sun, all kinds of criticism about matters in all constituencies—in fact, all details—can be relevantly submitted. Now under this Finance Bill, we cannot naturally be permitted to go over the whole grievances that we have in respect of every constituency and every little item therein. The procedure that is usually adopted with respect to a Finance Bill in its consideration involves a general right to submit all the grievances that the taxpayers will ultimately have to face so that it can be decided whether the taxation is necessary or unnecessary.

Then again, this Bill is, no doubt, in the nature of raising some funds. But as Shri Tulsidas pointed out, it is not only raising funds, it is also compelling the deposits to be made; that portion of it will certainly not be raising funds for budgeting. It may be raising funds for investment; that is another matter. Compulsory investment cannot be a matter within the scope of a Finance Bill.

Then the provision for future years can certainly under no circumstances be said to be part of the Finance Bill. Therefore, to clothe this Bill with emergency by calling it a Finance Bill and therefore dragging along with it all these special considerations is not to be accepted, particularly when the present Bill contemplates to amend, add to or modify permanent laws like the Income-tax Act.

I am not questioning, as Shri Gadgil was justifying the emergency, the extraordinary powers of this parliament. Nobody disputes them. He may bring forward a general, ordinary Bill. The emergency might justify its introduction, consideration and passing. But what we are concerned with here is whether at the end of the year a Bill can be proceeded with to raise funds and permanently alter and modify the

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permanent laws, under the name of a Finance Bill with special procedure associated with Finance Bills. That is the point.

Therefore, as you have already pointed out last time when a similar matter came up, it is most appropriate that a Finance Bill must confine itself only to taxation for the current financial year and not be permitted to take up general legislation for future taxation.

Pandit Thakur Das Bhargava: (Gurgaon): I will just respectfully call your attention to article 112 of the Constitution which runs thus:

"The President shall in respect of every financial year cause to be laid before both the Houses of Parliament a statement of the estimated receipts and expenditure of the Government of India for that year, in this Part referred to as the 'annual financial statement'."

Normally, the procedure is that, first of all, the House goes through the Demands for Grants and after that is done, the Finance Bill is passed. We find that in the Finance Bill always provision is made for the expenditure of the year. In this Bill, there is no reference at all to the demands or what demands will be in the next year, what is to happen so far as supplies are concerned and so on. Here we find that instead of one Finance Bill, there are three Finance Bills. This is the only year in which we have had more than one Finance Bill coming before the House. I do not know whether we will be justified in saying that these two Bills are really Finance Bills. So far as the nomenclature is concerned, they are certainly not annual financial statements.

You will kindly see that the heading given to these matters is "Procedure in financial matters". Then we have articles 112 to 119. The present question relates to the propriety of having provisions in this Bill which

are of a permanent character, the intention of which, at the same time, is to get money not for the next year but for the coming years. My submission is that nothing will be lost if this Bill is divided into several parts.

Suppose the hon. Finance Minister wants to get money from this House. There is nothing wrong in bringing forward another Bill for amending the Income-tax Act. At the same time, I am quite anxious that if an amendment of that nature is brought forward, an amendment of a permanent character, it ought to go to a Select Committee. The procedure that is now adopted is a wrong procedure. I understand that in previous years the convention was that every Bill of importance—what to speak of a Finance Bill which seeks to amend the Income-tax Act—should be referred to a Select Committee. It was in the Select Committee that it was fully discussed. Now, I find that Shri Gadgil says that this is a matter in which we can devote more time in the House. That means that he does not realise the difference between the deliberations in the Select Committee and more time being devoted in this House.

I am very anxious that all important Bills, irrespective of the other objection which my hon. friend has just now raised, should go to Select Committees so that the matter may be thoroughly thrashed out there; there is no question of acceptance of the Bill in this way. I know that the Government are hard up for time, because they want it to be passed in this House now. But nothing will be lost if three or four days are allowed for this Bill to be considered in the Select Committee and the needful being done.

Apart from this, I think there are certain provisions in this Bill which, as a matter of fact, ought not to go as an amendment to the Income-tax Act also. Measures relating to deposits etc. really form part of the provisions of the Indian Companies Act rather than of the Income-tax Act.

I should, therefore, think that in a matter of this nature, it would be better if the Bill was redrafted. Only such matters as ought to come within the purview of Finance Bills should remain in this Bill. Some of the proposals envisaged relate not to the coming year, but to some other years. That is another objection.

Realising that there are three or four objections to this Bill, which are really overlapping each other—one is not connected with the other—I would respectfully ask you to go through the subject-matter separately and give your ruling in respect of the three matters. The question whether it ought to be referred to a Select Committee is really quite different from these matters. That may be agitated again. But for these matters, a ruling may be given. Then we may discuss the question whether it ought to go to a Select Committee or not.

Shri T. S. A. Chettiar (Tiruppur): I am sure this House cannot accept the view that a Finance Bill cannot be introduced at any part of the year. Whenever there is need for larger expenditure, Government are entitled to come before this House with proposals for fresh taxation. Therefore, there is no point in saying that taxation Bills cannot be introduced now. Another matter I may make by way of suggestion. It will be a different House that will be sitting next year. Shri Kilachand asked—these were the words he used—whether this House is entitled to approve proposals for taxation relating to next year. I think the Congress Party and the Finance Minister must be congratulated. Here is a case where we are levying extra taxation when the elections are coming. In spite of the elections being before us, here is the Congress Party which has come forward with a taxation proposal. That itself is a claim for the *bona fides* of the Government that we are prepared to tell the people what we are out for.

13 hrs.

Pandit Thakur Das Bhargava: Who questioned the *bona fides* of the Gov-

ernment or of the Finance Minister?

Shri T. S. A. Chettiar: A suggestion was made that this House is not entitled to pass a legislation like this. There is one aspect to which I would like to mention in the points made by Shri Tulsidas Kilachand. There are two kinds of proposals in the Bills before us. One is, technically, taxation measures, that is enhancing the duties. The usual practice is that these matters relating to enhancement of duties are not referred to Select Committees. But there is another part of this Bill which is very important, that is the new clauses that are being introduced relating to compulsory deposit. This is a new principle that is being introduced in the Income-tax law and the point now is whether Government can introduce by way of a Finance Bill new principles of taxation. My humble opinion is that the amendments that are sought to be made to the original sections of the Income-tax Act, not merely for the purpose of taxation, but introducing new principles of taxation, by way of tax or by way of deposits, are very important and I do think that an important piece of legislation like this should be referred to a Select Committee.

You have allotted eight-and-a-half hours for the whole of this Bill. I think we should not hurry up or hustle up amendments to basic Acts like this and in the interest of good tradition, in the interest of good discussion and in the interest of good examination of the basic points that have been freshly introduced in the Income-tax law by way of amendments in this Bill, at least this portion must be referred to a Select Committee; thereby you will be safeguarding the interests of this House.

Shri T. T. Krishnaamachari: Sir, I am afraid the dilatory character of this point of order as well as the motion for reference to Select Committee has not been correctly appreciated by hon. Members on my side who supported the motion of my hon. friend

[Shri T. T. Krishnamachari]

Mr. Tulsidas Kilachand. Of course, my hon. friend is exercising a right that he undoubtedly possesses of delaying legislation and that is the object of both the point of order as well as the motion for reference to Select Committee.

I may venture to invite your attention to the last Finance Act and the remarks on the composition of that Act, which emanated from the discussions to which reference has been made. Seventeen sections and several sub-sections of the Income-tax Act were amended by the last Finance Bill. I am not saying that there was a case for raising a question of further examination or not. Even so, there it is: what happened is a thing known to this House.

So far as these particular measures which are clubbed together are concerned, the points that have been raised are: one, the Constitution provides for an annual financial statement, so that there can be no Finance Bill in the interval and the Finance Bill can only be introduced once a year, the second point is that by and large the income is going to be expended in the next year and therefore we should not come in with a Finance Bill now, unless we have expenditure ahead of us; the third point—which is a very valid point undoubtedly—is that the mortality of this House is known, and naturally along with that the fact goes that the Government is not immortal, nor am I. I would like to concede that point straightway to my hon. friend Shri Tulsidas Kilachand. A friend who has worked with me for some time, and we have both worked together, was found dead in his bed yesterday. It may happen to me or to my hon. friend opposite. That does not mean that we should delay action.

The mortality of a human being is there and similarly every institution

that we create has got a period and it ends. As my hon. friend Shri Gadgil pointed out however our responsibility is a continuing responsibility. It may be that the next Government that comes may change their promise; so long as I do not change, this policy has got to be continued. It has got to be continued until the last day of this House. It may be necessary for me, if circumstances so warrant it, even to make a breach into conventions and pass an ordinance. The circumstances that prevail may be a justification for my taking action to which the constitutional conscience of my hon. friend Shri Tulsidas Kilachand which has been so highly developed to a very refined degree during the last four-and-a-half years might feel unhappy, or feel injured. The point, therefore, is that this is admittedly a dilatory motion and the reference to the last Finance Bill does not bear out his case, because of the changes to seventeen sections and several sub-sections in that Bill. That Bill amended section 34 of the Income-Tax Act.

Section 34 is a very important factor so far as my hon. friend Shri Tulsidas Kilachand is concerned. Re-opening of cases under section 34, going into books and various other things that are contemplated in the last Finance Act makes me feel that he might have made all attempts to get them changed, which I do not know if he did or he did not.

So far as these particular measures which are before the House are concerned, there is undoubtedly element of urgency in them. The urgency comes from the fact that apart from the question of raising revenues which undoubtedly is there,—it is not incidental, it is primary—there is another reason. The other reason is that there are inflationary circumstances now existing. Certain things are happening which have to be stopped.

There is another fact and there is no point in my not referring to it. It is that the future Government that would come in—assuming that I am not there, or my party is not there—will start operating some time about the middle of May, and my hon. friend Shri Tulsidas Kalachand, if he has the good fortune to come back, or I have the misfortune to face him, will say: "Oh, on the 15th of May you are imposing taxation; the whole of the half year has gone. You should not impose anything now. This is *ex post facto* legislation, or taxation." That is quite an easy; Usage to make that is a fact which has to be considered.

So far as this measure itself is concerned, my hon. friend Shri Chettiār gave me qualified support. So far as the amendment to the Income-tax Act is concerned, I am not introducing any new principle. I am only amending the procedure in regard to particular section which already exists in the statute. It is very necessary today that I should tell these people that capital gains tax will be imposed and that is the only way by which I can tell people that they cannot indulge in speculative activity, because speculative activity will mean that I will get only a portion of it and the fruits of speculation will not all remain with this speculator. Therefore it is very necessary.

So far as this question of deposits is concerned, I would like to mention this. It is perfectly right—I think my hon. friend will concede—that I can change the rate of tax on dividends. And what is the consequence? The consequence of it is people would not declare dividends and the money would be put into reserves there is a chance of its being abused. We do not want the reserves which are built up as a consequence of my raising the tax on dividends to be abused. In fact, I am not imposing a new penalty, or saying that I shall do this or that if you do not deposit a part of this reserves with us. All I say is if you deposit the money I shall refund it to

you if you need the monies. If you do not do it the penalty is my withholding of privilege, of the tax from concession on the development rebate and the depreciation allowance which I am allowing. I say I will withhold that concession. Should I not say that? Is it not a concomitant on my raising the tax on dividend that the privilege should be withheld? Am I to suit my friend Shri Tulsidas Kilachand and people of his tribe to say, 'I will impose a higher tax than on dividends, all right; you put the money in the reserve fund and spend it as you like and allow somebody else to purchase that company in order to get the reserve fund'. The whole act of Government is a co-ordinated act. My hon. friend thinks that we people have no wisdom and that we act by fits and starts and we act without a plan. My hon. friend Shri Kamath always thinks that we are a set of planless people. I should like to say he has got....

Shri Kamath: Yours is a planned planlessness.

Shri T. T. Krishnamachari: At least there is some plan about it which my hon. friend has not got.

Shri Kamath: You will know it by and by; do not be in a hurry; be patient.

Shri T. T. Krishnamachari: I suggest that there is no very big change. After all, what is it that I have done? The Capital Gains Tax is already there. It is to be brought into operation again with certain modifications which are necessary in the light of the circumstances. Of course, it is a permanent tax; it is already there. I am not introducing a new principle unknown to the tax structure of this country. I am not claiming any originality for it. What I am doing is to raise the rate of Tax on this dividend and the consequence of my raising is to allow it to go to the reserve. I am not saying I am going to impose a penalty. What I am giving is a free gift. I am giving it as a free gift and the money to be set apart for purposes of development rebates and depreciation allowance is to be deposited. I say if you do not want to deposit

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and want to take away that money for your purposes, I shall not give you the free gift. I claim that I am entitled to do that as a consequence of the measures that I have taken.

So far as the Stamp Act is concerned, again, it is a necessary weapon that I need today for the purpose of preventing certain monetary trends and I cannot wait until the next year. These are two integrated pieces of legislation.

The question really is: could it be bettered by going to a Select Committee? I must humbly submit that much as I value the wisdom of my hon. friend Shri Tulsidas Kilachand, much as I value the erudition of my hon. friend Shri Chatterjee, I do not think they are going to contribute in any way to improve this Bill and make this a better instrument than what it now seeks to be.

There is also the time factor. If I had introduced this early in a session which is going to last 3 months, we can take some time provided the law comes into operation immediately. But it is not so now. This reference to a Select Committee is a dilatory motion. It is to be reported on by the 17th December so that the Bill will not be passed this session because it cannot be passed here alone and it has to go to the other House. The hon. Members asked for 8½ hours. I shall certainly not raise any objection or from the point of order if they refer to the fact that the Finance Minister does not sit in the proper way, but sits sideways or something else. Any act of Government, whether it is a right one or wrong is one that can be raised in the Finance Bill and I shall claim no privilege for the purpose of shutting out debate on any action of Government. The Business Advisory Committee have been kind enough to give 8½ hours so that we may discuss this economic policy of Government. That was the view of the hon. Members in the Business Advisory Committee so that we might discuss the entire eco-

nomic policy of Government. I shall welcome any criticism.

I rather beg to submit that the point of order has no point for the reason that the Act sought to be amended is consequential on raising the revenues. I also would like to submit that the particular provision of the Constitution referred to by my hon. and esteemed friend, Pandit Thakur Das Bhargava has no relevance, that there should be only an annual financial statement. There is nothing to prohibit having a supplementary statement as there are supplementary budgets. I would like also to say that I am unable to agree to the dilatory motion in the present context of the economic condition of this country.

Shri Tulsidas: May I point out to the hon. Finance Minister that this is not a dilatory motion because he introduced the Bill only last Friday? It has been on the Order Paper only from day before yesterday. So, I had only very limited time to put in this amendment. If it had been introduced earlier it would have been much better.

Mr. Speaker: I have heard the two sides. So far as the motion for reference to a Select Committee is concerned, it is contended that it is a dilatory motion. Shri Tulsidas contends that the Bill was introduced only a short time ago and so it is not so. I have allowed the Bill to be introduced and the motion to be moved here. It is for the House to accept or reject it by taking into consideration all the points of view expressed from all sides.

So far as the point of order is concerned, two views have been pressed before the House. One point is that it is a Finance Bill and for every Finance Bill there is a particular procedure laid down both in the Constitution and under the Rules, and that must be followed. After the Demands for Grants are voted by the House and the House is satisfied that so much

money is necessary, provision must be made by way of taxation, from year to year. That is the object of the Finance Bill. On that ground these two Bills, the Finance (No. 2) and (No. 8) Bills ought not to be allowed here.

The hon. Minister explains there is an emergency and that this Parliament is not likely to continue and if the fresh Parliament were to come in, it would begin to function only by June. In the meanwhile, the year which is sought to be defined under this Bill, ending 31st day of March 1956, would be over. It would be too late for anybody to have all these accounts and so on. It would then be said that it would be taking people by surprise and so on.

There is the further need of the Plan which has been envisaged or a period of 5 years. This financial statement from year to year should be given not the ordinary import as purely a financial statement for the expenditure in the year only but as a permanent one for the revenue and expenditure for all years under the Plan. It is by that implication, therefore, the hon. Minister says that there is an emergency and that he will be able to satisfy that during the discussion whether that necessitates this or not. It is another matter which could be discussed.

That apart, it is contended that it is just on the eve of any particular year the Finance Bill is brought—on the 28th February, that is, in advance of the coming year. The Act is passed not for that year but for the coming year. Therefore, there is no harm if a Bill is introduced in advance of that—February or March—2 or 3 months in advance so as to come into operation from 1957-58. That objection is not also sound.

There is another point so far as that particular matter is concerned. The expenditure could not be incurred in the circumstances and it will be too late to bring in a Bill of that kind to cover the expenditure. It is likely that there might only be a vote on account.

So far as the other objection is concerned, it is that amending provisions of a substantial Act, the Income-tax Act—and provisions for amending the procedure etc. are included in this—ought to be done by way of a separate Bill and more time and attention ought to be bestowed upon that. I understand from the hon. Minister that so far as the deposits are concerned—especially with respect to which a point has been raised by Shri Chettiar—the provision is ancillary or consequential. I do not say that. That is what he says. The Finance Minister says that in order that no speculation may be indulged in he wants to put this tax so that it may not go from one pocket to another. He thinks that the only way of avoiding it is by imposing this tax and make them deposit the amount and so on. This is a matter which could not be discussed in a minute.

There are some statements here which are not relevant. The hon. Minister who has brought this Bill with respect to an emergency according to him defends the clause regarding deposits etc. Last year, it is true that I said—and I still stick to that view—that in a Finance Bill, only provisions relating to the taxation measures to meet the expenditure that has been voted upon by the House ought to be there. Otherwise, there is no meaning in a Finance Bill. During that discussion opportunity is taken to review the whole administration, whether it has been working right or wrong, whether the funds voted have been handled properly, with respect to the expenditure, whether a year is lean or fat and all that. All these should be taken into account.

So far as this is concerned, that is why though only a few Bills or a few Acts are allowed to be amended, like the Stamp Act, the Postal Act, etc., these are all necessary for the purpose of raising revenue wherever additional tax is put—not the Stamp Act, but the postal rates, sea customs rates, etc. are improved from time to time, they can be improved, and, therefore, they

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are brought under the annual Finance Bill.

I would normally urge upon the Finance Minister, not only he but also all his successors, to see to it that only those provisions which relate to the raising of taxation should be included in the Bill. The procedure should be followed and no other provisions should be given attention to unless they are absolutely consequential. If we have to provide by way of an amendment to the Income-tax Act or by way of an amendment to a substantial Act, Government must come forward with an independent measure separately, and the House will have ample opportunity to consider it. But in a Finance Bill those things ought not to be normally included. Even though 17 clauses were included last time by way of an amendment to the Income-tax Act, I still hold the view but for the point having been raised and it is a little too late now. I would urge upon the hon. Minister to see that the House should bestow sufficient attention upon all these matters and there ought not to be any impression in any quarter that without knowledge of the full import of the discussion anything was brought in this House. That ought to be avoided, at any cost wherever it can be avoided.

But in the peculiar circumstances of this particular case and having heard the hon. Finance Minister that the clauses that touch or seek to amend the Income-tax Act are only consequential, and also in view of the fact that we are not meeting again shortly and though this Bill is intended to come into operation from the beginning of 1957-58, it is in a way touches upon the income from 31st March 1956 onwards. I do not consider that there is any point of order. I am not going to allow that. I will now allow discussion both on the Bills as also on the motion for reference to Select Committee.

Shri Tulsidas: I was only referring to my motion for reference to Select Committee.....

Mr. Speaker: I am not going to allow another opportunity to him to discuss the Bill. He can, therefore, speak on this motion and on both the Bills. Both the Bills are taken up together.

Shri Bansal (Jhajjar—Rewari): We have taken about an hour and a quarter for discussing this matter, and we think that this time will be added on to the allotted time.

Mr. Speaker: We are meeting tomorrow. This is part of it. Whatever objection has been raised has been raised. Anyhow let us see how many people are interested in this discussion.

Shri T. S. A. Chettiar: This time should not be part of the 8½ hours allotted for this discussion.

Shri Tulsidas: Are we discussing this tomorrow?

Mr. Speaker: No.

Shri Jhunjhunwala (Bhagalpur Central): When will we take it up for discussion again.

Mr. Speaker: On Tuesday next.

Shri Tulsidas: Sir, you have ruled out my point of order because there is an emergency. I would like to point out to the Finance Minister the problems which he has himself pointed out in his speech—the important problem of the price trends about which he himself just said there are the problems of speculation and so many other things. I would like to know whether these measures which he has brought forward are going to solve these problems, whether these measures are intended to solve the problems which he has pointed out in his speech, and which he considers as emergency measures. I can understand an emergency if there was the question of a war or some sort of trouble. What is the emergency here?

I would like to point out to the hon. Finance Minister that by his own statement, the amount which he will