

12.31 hrs.

TAXATION LAWS (AMENDMENT)
BILL—Contd.

MR. SPEAKER : The House will now take up further clause-by-clause consideration of the Taxation Laws (Amendment) Bill.

We will take up clause 17.

Clause 17.—(Amendment of Section 80A of Income Tax Act, 1961)

SHRI N. K. SOMANI (Nagaur) : I beg to move :

Page 15, line 41,—

for "section 80QQ or" substitute—

"section 80-00 or section 80QQ or" (109)

I would like to submit that my amendment No. 109 is consequential to the next amendment at Serial No. 110. So, I would not like to press it at this stage because if Amendment No. 110 is accepted, it will automatically be incorporated. I would, therefore, not like to comment on it at this stage any further.

MR. SPEAKER : So, you are not pressing it.

SHRI N.K. SOMANI : It is consequential to the next one.

SHRI N. DANDEKER (Jamnagar) : If the House is pleased to pass the other one, this will automatically be incorporated.

SHRI N.K. SOMANI : This is because of the structure of the Bill. It has to be done in this fashion.

MR. SPEAKER : Amendment No. 110 is clause 20A (New). We can take up Clause 17 and Clause 20A (New) together. This is rather an exceptional procedure. But I allow it.

SHRI N.K. SOMANI : I move Amendment No. 110 also.

I beg to move :

Page 16—

after line 31, insert—

"20A. After section 80-o of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1970, namely :—

20A (New)

"80-00. Deduction in respect of Professional Fees Received from Non-Resident Persons—Where the gross total income of an assessee resident in India includes any income by way of fees, charges or any similar payment received by him from any person not resident in India in consideration of professional services rendered or agreed to be rendered to such person by the assessee and such income is received in, or brought into, India by him or on his behalf in accordance with the Foreign Exchange Regulation Act, 1947 (7 of 1947), and any rules made thereunder, there shall be allowed a deduction of the whole of such income in computing the total income of the assessee." (110)

MR. SPEAKER : I will put clause 17 and 20A together, but before that I will put Mr. Jha's amendment.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI VIDYA CHARAN SHUKLA) : I suggest that this clause 17 and new clause 20A that has been proposed by the hon. Member may be discussed now and after the discussion is over, we can take up clause 19 on which Mr. Jha has an amendment.

SHRI N. K. SOMANI : Amendment 110 purporting to introduce a new clause 20A, I think, is eminently sensible and should be done. A lot of concern has been expressed and quite rightly so by on the degree of unemployment as far as our own technicians and other professional people are concerned and these questions come up before the House repeatedly. When we are discussing the import of foreign technicians into our country *vis-a-vis* duration of their stay and *vis-a-vis* the income tax ceiling that has to be allowed by the Government, here is one area of darkness, I think, which has not been brought out or recognised by the Government so far that there are a very

[Shri N. K. Somani]

few people, competent, experienced, and able to give technical know-how, to be able to give suggestions and to be able to act as consultants to people overseas which brings an inflow of foreign exchange which is regularly brought in through the channels of the Reserve Bank. This is a kind of field we would at least and I hope the Government would also like to encourage. Therefore, this export of services is very vitally necessary for the development of our own services as well as foreign exchange earnings and my amendment clearly and simply says this that the quantum of foreign exchange earned by these people by the export of their services by virtue of their clients being located overseas should be exempted from income-tax when the computation of income takes place for the purposes of assessment. This particular portion should be exempted. As I said, this has been an area which has been neglected so far. This is also an area which we would like to reinforce and we would like this to go ahead. Therefore, my proposal that any foreign exchange thus earned by such people—professionals or managers or these kinds of technicians—who bring in by virtue of their competence and experience foreign exchange into the country, should be allowed to these people. This is, I think, eminently sensible and I would request that the Government ought to accept this particular proposal.

SHRI VIDYA CHARAN SHUKLA : As far as this particular amendment is concerned, it was pointed out in the Select Committee and I have to point out here also that this amendment is completely outside the scope of this Bill. It is neither consequential to it nor incidental to it. Therefore, it cannot be really brought in. I do not wish to go into the merits of the amendment that has been proposed by the hon. Member and I do not wish to express any view either this way or that way but I would request him that since this is neither incidental or consequential to this Bill and outside its scope, he may kindly withdraw his amendment.

SHRI N. K. SOMANI : This amendment was brought in yesterday also and the Government was pleased to promise to this

House on a number of occasions that they would sympathetically consider it.

SHRI VIDYA CHARAN SHUKLA : Unfortunately, you have moved this amendment.

SHRI N. K. SOMANI : I have been allowed to move by the President of India. To that extent it is not ruled out of scope.

SHRI VIDYA CHARAN SHUKLA : It is not ruled out of order. But as far as the scope of the present amending Bill is concerned, it is neither consequential to it nor incidental to it. This is the information which has been given by the Law Ministry which has drafted the Bill. But I can assure the hon. Member that we shall have this matter examined and will see how we can utilise the suggestion that the hon. Member has given.

SHRI N. K. SOMANI : In view of this assurance, I do not press my amendments. I seek the leave of the House to withdraw my amendments.

Amendments Nos. 109 and 110 were, by leave, withdrawn.

MR. SPEAKER : The question is :

"That Clause 17 stand part of the Bill."

The motion was adopted.

Clause 17 was added to the Bill.

Clause 18 was added to the Bill.

Clause 19.—(*Amendment of Section 80G of Income-Tax Act, 1961*).

SHRI SHIVA CHANDRA JHA (Madhubani) : I am moving amendments Nos. 14 and 15. I beg to move :

Page 16, line 6,—

for "two" substitute "one" (14).

Page 16, line 11,—

for "five" substitute "one" (15).

The amended version will read :

"Provided that where such aggregate includes any donations referred to in clause (b) of sub-section (2) and such aggregate exceeds the limit of one hundred thousand rupees specified in this sub-section then such limit shall be raised to cover that portion of the donations aforesaid which is equal to the difference between such aggregate and the said limit, so, however, that the limit so raised shall not exceed ten per cent of the assessee's gross total income as reduced as aforesaid or one hundred thousand rupees whichever is less."

मेरा कहना यह है कि 200 हजार और 500 हजार की जगह पर 100 हजार कर दिया जाये। इससे कुछ जरूरतमन्द आदमियों को सुविधा पाने का मौका मिल जाता है और उनको छूट मिल जाती है। यह मेरा एक छोटा सा संशोधन है, इसको सरकार को मान लेना चाहिए।

SHRI VIDYA CHARAN SHUKLA : Sir, as far as this amendment is concerned, we have brought forward this Section 19 in the Bill which is under consideration to only clarify the existing provision in our Income-Tax Act to make the meaning amply clear. We are not bringing in any new feature ; we are not bringing in any new innovation at all. Mr. Jha wants that that limit which is provided for charitable purposes should be reduced. Now, we have already put in lot of restrictions on these matters and this limit which has been prescribed seems to be quite justified.

If Mr. Jha wants further reduction, it will become so low that it will amount to no concession at all. 5 lakhs is provided for as ceiling in special cases, for temples and other places of worship. This seems to be reasonable because such places are not only of sentimental importance but some of the places are of national importance and of archaeological importance. This limit of

5 lakhs should be kept and I hope he will not press for his amendment.

MR. SPEAKER : I will put amendments Nos. 14 and 15 to the vote of the House.

Amendments Nos. 14 and 15 were put and negatived.

MR. SPEAKER : The question is ;

"That Clause 19 stand part of the Bill."

The motion was adopted.

Clause 19 was added to the Bill.

Clause 20 was added to the Bill

MR. SPEAKER : New Clause 20-A has already been disposed of.

Clause 21.—(Insertion of New Section 80 QQ in Income-Tax Act, 1961).

SHRI SHIVA CHANDRA JHA : I beg to move :

Page 16, line 42,—

for "twenty" substitute "ten" (16).

The present clause says :

"Where in the case of an assessee the gross total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1971, or to any one of the four assessment years next following that assessment year, includes any profits and gains derived from a business carried on in India of printing and publication of books or publication of books, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to twenty per cent thereof."

I want to reduce 'twenty' per cent to 'ten' per cent.

[श्री शिव चन्द्र झा]

इस सेक्शन से पब्लिशर्स और बुक प्रिंटरों को छूट दी जा रही है। आपने अब्जबारों में देखा होगा कि किताबों की दुनिया एक अलग दुनिया होती है। आज वह ड्राई होती जा रही है। इसका विकास हो यह बात अच्छी है, लेकिन इसमें जो 20 परसेंट की छूट उनको दी जा रही है वह मेरे विचार में बहुत ज्यादा है। किताब लिखने का कुछ काम मैं भी करता हूँ और रायल्टी वगैरह का थोड़ा बहुत अन्दाज मुझे भी है। जो किताबें छापता है और रखता है उसको कितना मिलता है यह मुझको मालूम है, जब कि जो लेखक होता है उसको उचित पैसा नहीं मिलता। जब भी वह प्रकाशक के पास जाता है, तब उसको पैसा मिले इसकी व्यवस्था प्रकाशक नहीं करता। हिन्दुस्तान में जो पब्लिशर्स हैं वह लेखकों का शोषण करते हैं। मैं चाहता हूँ कि लेखकों को छूट ज्यादा मिलनी चाहिए। अगर पब्लिकेशन के काम को नेशनलाइज कर दिया जाये तो ज्यादा अच्छा होगा, लेकिन ऐसा रास्ता आप अख्तियार नहीं करेंगे। इसलिए मेरा संशोधन यह है कि जिस तरह से आप लेखक को 10 परसेंट रायल्टी की छूट देते हैं, उसी तरह से पब्लिशर को भी 10 परसेंट दें।

श्री विद्या चरण शुक्ल : इस संशोधन के पीछे जो उद्देश्य है इससे हमें कोई कठिनाई नहीं है। सवाल यह है कि जो पुस्तकों के प्रकाशक हैं हम उनको प्रोत्साहन देना चाहते हैं। जिस तरह से इण्डस्ट्री को टैक्स हालिडे या टैक्स कंसेशन देते हैं उस तरह से पुस्तकों के प्रकाशकों को नहीं दे सकते। इसलिए ऐड हाक 20 परसेंट डिडक्शन हम अलाऊ करना चाहते हैं जिससे पुस्तकों के प्रकाशकों को प्रोत्साहन मिले और जो पुस्तकों के प्रकाशन का व्यापार करना चाहते हैं उनको प्रोत्साहन मिले। लेखकों को यदि कुछ पैसा मिलता है तो उनकी जो व्यक्तिगत आय होती है उसके ऊपर हिसाब किताब लगाया जाता है और डिडक्शन दे दिया जाता है जो ऐडमिनिस्ट्रेशन

होता है। प्रकाशकों को जो सुविधा दी जाती है उसको कम कर दिया जाये, तो पुस्तकों के प्रकाशकों को जो सुविधा हम देना चाहते हैं उसमें कठिनाई होगी।

इसलिए मैं माननीय सदस्य से प्रार्थना करूंगा कि वह लेखकों और प्रकाशकों दोनों को मिला कर न सोचे क्योंकि इससे हमारे यहां पुस्तकों के प्रकाशकों से ज्ञान वृद्धि में सहायता मिलती है। अतः 20 परसेंट तक की छूट देने का जो प्रावधान किया गया है इस विधेयक में उसको जैसे का तैसा रहने दिया जाये।

MR. SPEAKER : I shall now put amendment No. 16 to the vote of the House.

Amendment No. 16 was put and negatived.

MR. SPEAKER : The question is :

"That clause 21 stand part of the Bill."

The motion was adopted.

Clause 21 was added to the Bill.

Clause 22.—(Substitution of New Section for Section 80U of Income-Tax Act, 1961).

SHRI SHIVA CHANDRA JHA : I beg to move :

Page 17, line 16,—

for "four" substitute "five" (17).

यह बहुत अहम क्लॉज है। इसमें बलाइंड लोगों को, फिजिकली हैंडीकैप्ड लोगों को, परमानेंटली क्रिपल लोगों को इनकमटैक्स में छूट देने की बात है।

"In computing the total income of an individual, being a resident, who, as at the end of the previous year,—(i) is totally blind, or (ii) is subject to or suffers from a permanent physical dis-

ability (other than blindness) which has the effect of reducing substantially his capacity to engage in a gainful employment or occupation, there shall be allowed a deduction of a sum of four thousand rupees."

रुपये की कीमत निरंतर घटती जा रही है। 1947 में जो कीमत रुपये की थी वह आज 1970 में घट कर चौदह पैसे रह गई है। 1960 में एक रुपये की कीमत। रुपया थी और आज 1970 में वह घट कर 42 पैसे रह गई है। आपने इसमें ब्लाइंड, फिजीकली हैंडी कैण्ड तथा परमानेंटली क्रिपल्ड को चार हजार की छूट देने की बात कही है। मैं चाहता हूँ कि इसको आप पांच हजार कर दें। इससे आपको कोई बड़ा लास नहीं होता और आप दया भी उनके प्रति दिखलाएंगे और उनका भला भी करेंगे।

अध्यक्ष महोदय : इन्होंने आपकी कोई बात माननी ही नहीं है।

श्री विद्या चरण शुक्ल : जो संशोधन है इसके बारे में सिलैक्ट कमेटी में काफी बहस हुई थी। पहले हमने दो हजार रखा था। प्रवर समिति ने इसको बढ़ा कर चार हजार कर दिया। अब ज्ञा जी इसको पांच हजार करना चाहते हैं। मुझे कोई आपत्ति नहीं है इस संशोधन को मंजूर करने में। मैं समझता हूँ कि पांच हजार हो जाए तो ठीक है और इस संशोधन को मैं मंजूर करता हूँ।

अध्यक्ष महोदय : ज्ञा साहब, आपको बधाई। कोई बात तो मानी आपकी इन्होंने।

The question is :

'Page 17, line 16,—

for "four" substitute "five". (17)

— *The motion was adopted.*

MR. SPEAKER : The question is ;

"Clause 22 as amended, stand part of the Bill."

The motion was adopted.

Clause 22, as amended, was added to the Bill.

Clauses 23 and 24 were added to the Bill.

Clause 25.—(Substitution of New Section for Section 119 of Income-Tax Act, 1961).

SHRI SHIVA CHANDRA JHA : I beg to move :

Page 18, line 37,—

after "published" insert "and circulated". (18)

मेरे इस संशोधन को मानने में इनको कोई एतराज नहीं होना चाहिए। बोर्ड जो इंस्ट्रक्शंस देगा यह कहा गया है कि उनको पब्लिश किया जाएगा।

".....and any such order may, if the Board is of opinion that it is in the public interest so to do, be published in the prescribed manner for general information".

मेरा संशोधन यह है कि पब्लिश के बाद सक्युलेटिड शब्द जोड़ दिया जाए, एण्ड सक्युलेटिड। आप छाप कर पब्लिकेशन डिविजन में या रिकार्ड में रख देंगे तो उससे किसी को कोई फायदा नहीं होगा। सभी लोगों को उसके बारे में मालूम होना चाहिए। इसलिए मैंने कहा है कि पब्लिश एण्ड सक्युलेटिड। इसको मानने में आपको कोई आपत्ति नहीं होनी चाहिए।

SHRI KANWAR LAL GUPTA (Delhi Sadar) : I beg to move :

Page 18,—

for lines 35 to 38, substitute—

"initiation of proceedings for the imposition of penalties all such orders shall be published in the prescribed manner for general information, but the publica-

[Shri Kanwar Lal Gupta]

tion may be withheld if the Board is of the opinion that it is not in the public interest to publish it, in which case, the Board shall record reasons in writing for the same before the enforcement of that order." (52)

Page 19, line 2,—

after "instructions" insert—

"which are not contrary to the Act." (53)

SHRI BENI SHANKER SHARMA
(Bauka) : I beg to move :

Page 18, line 36,—

for "may" substitute "shall" (93)

Page 18, lines 36 and 37,—

omit "if the Board is of opinion that it is necessary in the public interest so to do," (94)

श्री कंवर लाल गुप्त : मेरे दो संशोधन हैं। यह क्लॉज बहुत आवश्यक और गम्भीर है। इसमें आई० टी० ओ० को बहुत ज्यादा अधिकार दिए गए हैं। इसमें सैकशंज 143, 144, 147, 148, 154, 155, 210, 271 और 273 का जिक्र है। ये जो सैकशंज हैं ये ज्यादा तर एसेसीस के खिलाफ जाते हैं। इनमें पैनलटी और रिओपनिंग की बात है। मोटे तौर से इनकम टैक्स एक्ट में जो बड़ी-बड़ी और आवश्यक क्लॉजिज हैं उनको लेकर बोर्ड ने अधिकार मांगा है कि वह इनके बारे में कुछ न कुछ, कम या ज्यादा रिलैक्स कर सकता है, नरम कर सकता है, ढीला कर सकता है और एसेसीस को लाभ पहुंचाने के लिए ही ऐसा किया जाएगा। कुछ क्लॉजिज के बारे में वह ऐसा करेगा और ऐसा वह काफी सोच विचार के बाद ही करेगा। ये अधिकार बहुत अधिक हैं। हमें डर है कि कहीं इस अधिकार का दुरुपयोग न हो। एक उदाहरण भी पीछे आया था जब एक मंत्री को पैनलटी

लगाने की बात आई थी जिसने दस साल तक इनकम टैक्स नहीं दिया और कमिश्नर ने उनकी पैनलटी को वेव कर दिया और इसका उनको अधिकार था। उसी तरह के डिपार्टमेंट में सैकड़ों नहीं हजारों केसिस हैं जहां पर एसेसीस पर टैक्स लगाया गया है, पैनलटी लगाई गई है। इस तरह का फेवॉरि-टिज्म, डिसक्रिमिनेशन डिपार्टमेंट न करे, इसकी व्यवस्था होनी चाहिए। हमने सिलैक्ट कमेटी में कहा था कि जो आर्डर या इंकट्रशंज हों वे लोगों के लाभ के लिए हों और उनके बारे में सबको मालूम होना चाहिए। इसमें यह भी कहा गया है कि इफ दी बोर्ड इज आफ दी ओपिनियन कि यह पब्लिक इंटरेस्ट के लिए है तब तो वह सैक्युलिट करेगा, पब्लिश करेगा नहीं तो नहीं करेगा। मेरा कहना यह है और मेरा संशोधन यह है कि बोर्ड को अंधेपन से काम करने का अधिकार नहीं होना चाहिए। अगर बोर्ड समझता है कि पब्लिक इंटरेस्ट में यह है तब तो वह पब्लिश करेगा और अगर नहीं है तो मेरा कहना यह है कि वह रीजंज राइटिंग में रिकार्ड करे कि क्यों नहीं है और क्यों वह यह बर्दिश लगाना चाहता है।

अगले पेज पर इंकट्रकशंज देने की बात है। मैं चाहता हूँ कि ऐसी कोई इंकट्रकशंज न दे किसी इनकम टैक्स आफिसर को कमिश्नर या और कोई अधिकारी जो कानून के खिलाफ जाती हों। यह मेरा दूसरा संशोधन है। मैं आशा करता हूँ कि मंत्री महोदय मेरे इन संशोधनों को स्वीकार कर लेंगे।

13 hrs.

The Lok Sabha adjourned for Lunch till Fourteen of the Clock.

The Lok Sabha reassembled after Lunch at Six Minutes Past Fourteen of the Clock.

[**SHRI VASUDEVAN NAIR** *in the Chair*]

SHRI S. M. BANERJEE (Kanpur) : Sir, I crave your indulgence to submit a very important matter which concerns the Central Government. You are aware that at the instance of the late-lamented Prime Minister, Jawaharlal Nehru, 35,000 houses were constructed in the place of those slums—

MR. CHAIRMAN : What is the urgency of the matter ?

SHRI S. M. BANERJEE : The urgency is this. 7,000 workers in Uttar Pradesh, including 4,000 defence employees—and that is a Central matter, as defence employees are staying in those quarters, labour colonies—are being given eviction notices. They are actually being evicted forcibly with the help of the police. My submission is only this. These defence employees....

MR. CHAIRMAN : How does the Defence Department come in ?

SHRI S. M. BANERJEE : Because the money was advanced by the Centre by the Works, Housing and Supply Ministry, and the Defence Minister assured the defence employees that they will be given housing facilities. Now, those employees are being evicted forcibly in Kanpur, and I am sure that because of these things, 35,000 defence employees will surely go on strike and that will impede our defence production. I only request through you, that the Central Government should state that there will be no discrimination between one industrial employee and another industrial employee, and...

MR. CHAIRMAN : You cannot go into the merits of the case. If the Defence Department is concerned with, they will take note of the matter.

SHRI S. M. BANERJEE : They are concerned with it. I request the authorities, through you, to make a statement on the subject this week. (*Interruption*)

MR. CHAIRMAN : We cannot go into a discussion on the matter. You have already posed the issue before the House.

The hon. Minister of Parliamentary Affairs has taken note of it.

SHRI INDRAJIT GUPTA (Alipore) : At least convey to the Minister our desire that they should make a statement, and at least issue a stay order, staying the eviction. (*Interruption*)

SHRI S. M. BANERJEE : I have seen the Chief Minister also.

MR. CHAIRMAN : That is enough.

SHRI JYOTIRMOY BASU (Diamond Harbour) : Sir, last night I got a telegram from Calcutta and also a trunk call which are very distressing ; the point is that *Basumati*, a daily newspaper run by Mr. Asoke Sen, Member of Parliament, and a former Law Minister of the Union Government, has been closed down, retrenching 500 employees. It is a 50-year old newspaper, and now 500 people have been laid off. It is the job of the Government now and the Central Government must intervene in the matter. What is going to happen ?

MR. CHAIRMAN : Your Consultative Committee is, I think, already in session, and that is the proper forum for you to take up this subject. We will now go ahead with the legislative business.

SHRI KANWAR LAL GUPTA (Delhi Sadar) : Sir, will you permit me to say a few words about some incident ?

MR. CHAIRMAN : No please.

SHRI KANWAR LAL GUPTA : You have permitted Mr. Banerjee. Please permit me also to raise an important matter.

MR. CHAIRMAN : I cannot give permission to any member. Things that are happening at 2 O'clock every day are happening without the permission of the Chair.

THE MINISTER OF PARLIAMEN-
TARY AFFAIRS, AND SHIPPING AND
TRANSPORT (SHRI RAGHU

RAMAIAH) : If they say anything without your permission, I take no note of it.

SHRI S. M. BANERJEE : 7000 people are going to be evicted. If there is strike by the defence establishment there, the Minister of Parliamentary Affairs would be held responsible. He should take note of it.

MR. CHAIRMAN : When I said that I did not give permission, I meant that permission was not given before the submission was made. All the same, the submission has been made and it is on record. Naturally the minister cannot close his eyes to it.

SHRI S. M. KRISHNA (Mandya) : May I also draw your attention to a very important matter, namely, the lockout in HMT, Bangalore for the last one week ?

MR. CHAIRMAN : I do not deny the importance of the subject but there are normal procedures for these subjects to be raised here. You might have tabled notices and the Speaker might be considering them. In course of time, all these will come up.

श्री कंबर लाल गुप्त : सभापति जी, एक इंसीडेंट जो दिल्ली में हुआ है बहुत ही गम्भीर घटना है कि सेंट स्टीफेंस कालेज के 6 लड़के दशहरा हालीडे से आज तक गायब हैं। उनके माता-पिता को पता नहीं वह कहां हैं, कालेज एयारिटीज को पता नहीं कि कहां गए। पुलिस ने भी कोई कार्यवाही नहीं की। ब्याल यह है कि सेंट स्टीफेंस कालेज में कुछ लेक्चरर नक्सलाइटस हैं जिन्होंने नक्सलाइट गैंग में उन्हें भेज दिया है। गैंग में जाकर के वह ट्रेनिंग लेकर फिर गड़बड़ करना चाहते हैं। तो मैं आपके जरिए से यह कहना चाहता हूँ कि होम मिनिस्टर इसकी एन्क्वायरी करें कि वह लड़के कहां गए और उनका क्या हुआ ? उनके बारे में वह जानकारी प्राप्त करें और जो सेंट स्टीफेंस कालेज के लेक्चरर्स नक्सलाइट

हैं उनके बारे में भी कार्यवाही की जानी चाहिए नहीं तो दिल्ली में भी उसी तरह का वातावरण पैदा हो जाएगा।

श्री रणधीर सिंह (रोहतक) : बात तो यह ठीक कर रहे हैं। पता तो लगना चाहिए कि वह लड़के कहां गए ? वह खुद गायब हैं या उनका क्या हुआ यह पता चलना चाहिए।

MR. CHAIRMAN : There should be a limit to everything. I do not think any useful purpose is being served by this kind of discussion. You may have the satisfaction of having raised the subject, but the concerned ministers are not here. No notice has been given prior to the subject being raised. I do not know what is the earthly purpose at this odd hour of raising such subjects in this manner. Otherwise, you have to change the rules and we should establish a procedure where at 2 O'clock also we can have a zero hour and all the ministers should be present here. Now, we will proceed with the Bill.

14.15 hrs.

TAXATION LAWS (AMENDMENT) BILL—Contd.

SHRI BENI SHANKER SHARMA : The object of my amendment is to see that the Board of Direct Taxes acts above board and not under the board. By this clause they have been authorised to issue orders, instructions and directions for the proper administration of this Act. And in this I do not think there is anything which they have got to conceal. All these orders, directions and instructions are issued in the public interest, for the benefit of either the assessee or revenue, which also belongs to the public. I admit that the clause, as it originally stood, was not so specific as it has emerged from the Select Committee. Here we have empowered the Board to publish the directions, orders and instructions if the Board is of opinion that it is necessary in the public interest so to do. This is a very vague way of saying it. Since they are all

issued by the Board either for the good of the public, or for the proper management of the department, or for the proper collection of revenue, there is nothing to hide or conceal from anybody. I do not understand why the government is shy of publishing them for the benefit of the assessees in general.

By my amendment I have suggested that the word "may" in this clause be substituted by the word "shall" and the words "if the Board is of opinion that it is necessary in the public interest so to do" be deleted. All such orders should be published without any distinction so that the assessees are in a position to know what is being done, either for their good or for their harassment.

I know that the Board is not likely to issue any order which are prejudicial to the assessees. But the assessees should know that they are not prejudicial to them and they could be sure of that only if they see and scrutinise those orders themselves. It is the right of the assessee to know and understand whether those instructions are prejudicial to them or not. Therefore, this right should be conceded to the assessees by publishing all such orders, instructions and directions in the Official Gazette in the same way as all other such things are published.

SHRI S. S. KOTHARI (Mandsaur) : I have made this point yesterday in a different context, but it was not taken notice of. I say that the attitude of the Central Board and the income-tax department should be that of a judge, a quasi-judicial attitude in the sense that they should do justice to both revenue and the assessee. At present the attitude of the income-tax officer is to extract the maximum revenue anyhow and at cost. If that attitude is replaced by a semi-judicial attitude that they must adjudicate and do justice to the assessee also, then there is nothing for the Board to conceal or keep secret in the official instructions. I would emphasize that all instructions of the Board must be made available to the public so that the assessee knows what is the thinking of the Board on particular issues and he may act accordingly. If the attitude of the department is objective and judicial, it would lead to better public relations between the

department and the assessee and then these circulars need not be kept secret. They can be published and made available to the assessee which would be in the interest of all concerned.

SHRI VIDYA CHARAN SHUKLA : Sir, this matter was discussed at great length in the Select Committee as I can see from the record and the Select Committee also made some changes in this clause. The main purpose of the clause is to give power to the Central Board of Direct Taxes to issue general and special instructions in order to facilitate tax collection matters. There is a provision in the clause that an order made by the Board will be published if it is in the public interest to do so. Shri Shiva Chandra Jha wants that in case such an order is published it should also be circulated. I think, this is a reasonable amendment and I am willing to accept this amendment.

As far as the amendments of Shri Kanwar Lal Gupta, Shri Beni Shanker Sharma and Shri Kothari are concerned, they wish to compel the Board to publish all the orders that might be issued.

SHRI KANWAR LAL GUPTA : Mine is different.

SHRI VIDYA CHARAN SHUKLA : I am coming to that also. Shri Kanwar Lal Gupta suggests that whenever it is not possible to publish or circulate an order, it should be done only on the plea that it cannot be published or circulated in the public interest and reasons for doing so should be recorded in writing.

In the original draft there was no such question of publication or circulation but certain Members, like Shri Gupta, wanted that the order should be published. Then it was decided that we should accept this position that whenever it is in the public interest to do so, the Board shall publish the order that is issued.

But, obviously, all the instructions or circulars of the Board cannot be published for various reasons. For instance, when we have to select cases for detailed scrutiny to find out suspected cases of tax evasion or when we have to issue instructions for various things, advance knowledge or know-

[Shri Vidya Charan Shukla]

ledge of it will give undue advantage to the assessee here and there. Those instructions and circulars will have to be kept secret and cannot be made public; they cannot either be published or be circulated.

So, this power must remain with the Board that when they want to publish a particular order, which is in the public interest to do so, they should be allowed to do it but when it is not in the public interest to do so, it should be for them not to publish it and not to give advance publicity or publicity to that particular order. I do not want to put it reverse as Shri Gupta wants that everything should be published except that which is not in the public interest to publish. I want that only such things should be published as are in the public interest to publish.

SHRI KANWAR LAL GUPTA : Why ?

SHRI VIDYA CHARAN SHUKLA : I have told you the reason and I will repeat it. It hampers the Board's effort to curb tax evasion and unhealthy tendencies of tax avoidance if the amendment moved by the hon. Member is accepted.

Therefore I am not in a position to accept the amendments moved by Shri Gupta, Shri Sharma and Shri Kothari. I would be willing to accept the amendment moved by Shri Jha.

SHRI S. S. KOTHARI : What about the Department having an objective or judicial attitude ?

MR. CHAIRMAN : The question is.
'Page 18, line 37,.....

after "published" insert "and circulated" (18)

The motion was adopted.

MR. CHAIRMAN : Now I am putting the other amendments to clause 25 to the vote of the House.

Amendments Nos. 52, 53, 93 and 94 were put and negatived.

MR. CHAIRMAN : Now, the question is :

"That clause 25, as amended, stand part of the Bill."

The motion was adopted.

Clause 25, as amended, was added to the Bill.

Clause 26.—(Amendment of Section 139 of Income-Tax Act, 1961)

SHRI SHIV CHANDRA JHA : I beg to move :

Page 19, line 42,—

for "nine" substitute "ten" (19)

सभापति जी, जहाँ पर असेसी को रिटर्न फाइल करने में देरी हो जाती है, वहाँ पैनलटी के रूप में इन्टरेस्ट देने की बात कही गई है। इस क्लॉज में कहा गया है—

"Where the return under sub-section (1) or sub-section (2) or sub-section (4) for an assessment year is furnished after the 30th day of September of the assessment year, or is not furnished, then (whether or not the Income-tax Officer has extended the date for furnishing the return under sub-section (1) or sub-section (2)), the assessee shall be liable to pay simple interest at nine per cent per annum, reckoned from the 1st day of October of the assessment year....."

इसका अर्थ है कि उसको पैनलटी के रूप में 9 परसेन्ट इन्टरेस्ट देना होगा। हमारे यहाँ बहुत से ऐसे लोग हैं जो टैक्स इवेजन्स में लगे हुए हैं, काफी लम्पसम में उनको रुपया देना होता है, इसलिए यह 9 परसेंट का ब्याज उनके लिए कुछ भी नहीं है, मैं चाहता हूँ कि इसको 10 परसेन्ट कर दिया जाय।

श्री विद्या चरण शुक्ल : सभापति जी, माननीय सदस्य ने जो संशोधन पेश किया है, उसको मंजूर करने में मुझे कठिनाई है। इसका कारण यह है कि यह रेट केवल इसी

से सम्बन्धित नहीं है, 9 परसेन्ट रेट हम अन्य बहुत सी चीजों पर भी लेते हैं, जैसे टैक्स पे करने में, अण्डर-पेमेन्ट आफ एडवांस टैक्स में। इसी तरह से जहां गवर्नमेंट को रिफण्ड करना पड़ता है, अगर रिफण्ड करने में देरी हो जाती है, तो वहां गवर्नमेंट भी 9 परसेंट का व्याज देती है। अगर हम केवल इसको 10 परसेंट कर दें तो दूसरे मामलों में कठिनाई आयेगी, वह सारा अरेन्जमेंट डिस्टर्ब हो जायगा। इसलिए मेरा निवेदन है कि इसको 9 परसेंट ही रहने दिया जाय। हम 9 परसेंट लेते हैं तो देते भी 9 परसेंट ही हैं।

MR. CHAIRMAN : Now I put Amendment No. 19 moved by Shri Shiv Chandra Jha to the vote of the House.

Amendment No. 19 was put and negatived.

MR. CHAIRMAN : The question is :

"Clause 26 stand part of the Bill"

The motion was adopted.

Clause 26 was added to the Bill.

Clause 27.—(Substitution of New Section for Section 140 A of Income-Tax Act, 1961)

SHRI SHIV CHANDRA JHA : I beg to move :

Page 20, line 41,—

for "fifty" substitute "one hundred" (20)

सभापति जी, इस क्लॉज में यह कहा गया है—

"If any assessee fails to pay the tax or any part thereof in accordance with the provisions of sub-section (1), he shall, unless a regular assessment under section 143 or section 144 has been made before the expiry of the thirty days referred to in that sub-section, be liable, by way of penalty, to pay such amount as the Income-tax Officer may direct, and in

the case of a continuing failure, such further amount or amounts as the Income-tax Officer may, from time to time, direct, so, however, that the total amount of penalty does not exceed fifty per cent of the amount of such tax or part, as the case may be :"

इन्कम टैक्स आफिसर के बार-बार इन्स्ट्रक्शन देने पर भी जो डिफाल्टर हो जाता है, उसको सजा देने के लिए सरकार चाहती है कि उस पर पैनल्टी लगाई जाए और यह पैनल्टी उसके एरियर का 50 परसेंट होनी चाहिए। मेरा संशोधन यह है कि ऐसे लोगों के लिए यह पैनल्टी 50 परसेंट के बजाय 100 परसेंट होनी चाहिए।

श्री विद्या चरण शुक्ल : सभापति जी, इस प्रकार की पैनल्टी की व्यवस्था सन् 1964 से शुरू हुई थी। हमें इस बात को ध्यान में रखना चाहिए कि हमारे यहां कर देने वाले बहुत से छोटे-छोटे लोग भी हैं। उनकी स्थिति को, उनकी पढ़ाई लिखाई और हमारे कानूनों के बारे में उनकी जानकारी को ध्यान में रखते हुए, यह उचित नहीं होगा कि यह पैनल्टी 50 परसेंट से बढ़ाकर 100 परसेंट कर दी जाए। और यह तो अभी-अभी चीज शुरू हुई है। इसके बारे में लोगों का ज्ञान धीरे-धीरे बढ़ता जा रहा है। इसलिए मैं समझता हूं 50 प्रतिशत की पैनल्टी उचित है, सौ प्रतिशत पैनल्टी कर देना एक कड़ी सजा हो जायेगी। इसको 50 परसेंट ही रखा जाये तो उचित होगा। इसलिए मैं समझता हूं यह संशोधन मंजूर करने से कोई फायदा नहीं है।

MR. CHAIRMAN : I shall now put amendment No. 20 to the vote of the House.

Amendment No. 20 was put and negatived.

MR. CHAIRMAN : The question is :

"That Clause 27 stand part of the Bill."

The motion was adopted.

Clause 27 was added to the Bill.

Clauses 28 and 29 were also added to the Bill.

Clause 30.—(*Substitution of New Section for Section 143 of Income-Tax Act, 1961*)

SHRI N. K. P. SALVE (Betul) : Sir
I beg to move :

Page 22.—

after line 38, insert—

"Provided that if the assessee is aggrieved by the order of the Income-tax Officer under sub-section (1), he may notwithstanding his right to file an appeal under clause (c) of section 246, make an application to the Income-tax Officer within thirty days of the intimation of the order, requesting him to make a fresh assessment under sub-section (3), and the Income-tax Officer on receipt of such an application shall make a fresh assessment as aforesaid." (119)

Page 22,—

for lines 39 to 47, substitute—

"(2) Where a return has been made under section 139, and

- (a) an assessment having been made under sub-section (1), the assessee makes within one month from the date of service of the notice of demand issued in consequence of such assessment, an application to the Income-tax Officer objecting to the assessment, or
- (b) whether or not an assessment has been made under sub-section (1), the Income-tax Officer considers it necessary or expedient to verify the correctness and completeness of the return by requiring the

presence of the assessee or the production of evidence in this behalf.

The Income-tax Officer shall serve on the assessee a notice requiring him, on a date to be therein specified, either to attend at the Income-tax Officer's Office or to produce, or to cause to be there produced, any evidence on which the assessee may rely in support of the return :

Provided that, in a case where an assessment has been made under sub-section (1), the notice under this sub-section [except where such notice is in pursuance of an application by the assessee under clause (a)] shall not be issued by the Income-tax Officer unless the previous approval of the Inspecting Assistant Commissioner has been obtained to the issue of such notice :

Provided further that in case where the assessment made under sub-section (1) is objected to by the assessee by an application under clause (a), the assessee shall not be deemed to be in default in respect of whole or any part of the amount of the tax demanded in pursuance of the assessment under that sub-section, which is disputed by the assessee, in so far as such amount does not relate to any adjustment referred to in sub-clause (i) of clause (b) of sub-section (1), and further no interest shall be chargeable under sub-section (2) of section 220 in respect of such disputed amount." (125)

Page 23,—

for lines 1 to 8, substitute—

"(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, after

hearing such evidence as the assessee may produce and such other evidence as the Income-tax Officer may require on specified points, and after taking into account all relevant material which he has gathered,

- (a) in a case where no assessment has been made under sub-section (1), the Income-tax Officer shall, by an order in writing, make an assessment of the total income or loss of the assessee, and determine the sum payable by him or refundable to him on the basis of such assessment ;
- (b) in a case where an assessment has been made under sub-section (1), if either such assessment has been objected to by the assessee by an application under clause (a) of sub-section (2) or the Income-tax Officer is of opinion that such assessment is incorrect, inadequate or incomplete in any material respect, the Income-tax Officer shall, by an order in writing, make a fresh assessment of the total income or loss of the assessee, and determine the sum payable by him or refundable to him on the basis of such assessment.

Explanation—For the purposes of the section,—

- (1) an assessment under sub-section (1) shall be deemed to be incorrect, inadequate or incomplete in a material respect, if—
 - (a) the amount of the total income as determined under sub-section (1) is greater or smaller than the amount of the total income on which the assessee is properly chargeable under this Act to tax ; or
 - (b) the amount of the tax payable as determined under sub-section

(1) is greater or smaller than the amount of the tax properly payable under this Act by the assessee ; or

- (c) the amount of any loss as determined under sub-section (1) is greater or smaller than the amount of the loss, if any, determinable under this Act on a proper computation ; or
 - (d) the amount of any depreciation allowance, development rebate or any other allowance or deduction as determined under sub-section (1) is greater or smaller than the amount of the depreciation allowance, development rebate or, as the case may be, other allowance or deduction properly allowable under this Act or ;
 - (e) the amount of the refund as determined under sub-section (1) is greater or smaller than the amount of the refund, if any, due under this Act on a proper computation ; or
 - (f) the status in which the assessee has been assessed under sub-section (1) is different from the status in which the assessee is properly assessable under this Act ;
- (2) "status", in relation to an assessee, means the classification of the assessee as an individual, a Hindu undivided family, or any other category of persons referred to in clause (31) of section 2, and where the assessee is a firm, its classification as a registered firm or an unregistered firm.' (126)

This clause 30 is the most important clause in the Income Tax law. It deals with the assessment procedure and the method itself and a very substantial departure has been made in the law which is now contemplated not only in respect of summary and provisional assessments but also the consequential effect on the regular assessment.

What is the present position regarding assessment ? The present position regarding

[Shri N. K. P. Salve]

assessment is that in terms of Sec. 141 an Income Tax Officer is supposed to make a provisional assessment on the basis of the return received and it was considered by the Department and to that returned income the Income Tax Officer could make certain additions and adjustments. The Supreme Court has held in the case of Jaipur Udyog that the assessment contemplated under Sec. 141 has to be an assessment on admission as it were and, therefore, it was beyond the competence and beyond the jurisdiction of an Income Tax Officer, while making assessment under Sec. 141, to go beyond what was returned by an assessee by way of his income. That created a difficulty in the way of the Department. The Department was not able to expeditiously complete several assessments which they would like to by way of summary assessments and that is why they sought to change the law.

In the terms of the law which is now contemplated what is going to be the position? Sec. 141 in terms of which a provisional assessment could be made is deleted and Sec. 143 (1) vests power in the hands of the Income Tax Officer to make a summary assessment after making four types of adjustments to the returned income. What are the four types of adjustments? One is rectification of arithmetical errors for which no one can have any dispute. Second type of rectification is deduction and allowances to be given to the assessee which, *prima facie*, are legally due but not claimed by the assessee. The third type is deduction and allowances claimed by the assessee which, *prima facie*, are not admissible and the fourth rectification is statutory allowances, depreciation, developmental rebate, tax holidays in respect of which in 99 out of 100 cases there are instructions.

This assessment under Sec. 143(1) is made at the back of the assessee and becomes final for all practical purposes and a liability in law is passed on to the assessee which is passed at his back without an opportunity having been given to him. What is the way out thereafter? Thereafter, the assessee is supposed to go in appeal and for the first time, the Appellate Assistant Commissioner of Income Tax,

sitting in appeal, is supposed to do the assessment which is the duty of the Income Tax Officer. All that the AAC does is to pass on the buck back to the ITO and say, 'There are merits in the contention raised by the assessee. The case is sent back for *de novo* assessment.' So the assessee will be sent from pillar to post for no fault of his own. Subsequently what happens is a very serious danger and I hope the hon. Minister will listen to this aspect of the matter. It was explained to the Committee and I do not know how it has escaped. If the ITO finds—Sir, human ingenuity works both ways—the ITO can make over-assessment and an assessee can be so ingenious that while getting assessment made behind his back, he can escape under-assessment. It was explained to the Committee that where the ITO finds that there is under-assessment, where no books of accounts are examined, where no documents are examined where no evidence is allowed to be let by the assessee, the ITO can reopen assessment under Sections 147 and 148. I then pointed out that some of the largest litigations under the Income-tax law in which the Department had to lose relate to the initiation of proceedings under Sections 147 and 148. It is more than likely that a dishonest assessee would just manage to get a summary assessment made and will file a writ in the high court and succeed. The presence of the ITO for initiation of proceedings under Section 147 is extremely limited. If the ITO has no power to disclose what in law he is liable to disclose while filing the return and a summary assessment is made, that then is the end so far as the ITO is concerned and such assessment cannot be reopened under Section 147.

If he is an honest assessee, the liability is passed on to his head. The only remedy is to go to the Appellate Assistant Commissioner, and seek remedy there. I am mentioning some of these drawbacks in saying that litigation is likely to increase unnecessarily. Liability is being passed on to the assessee without having been given any opportunity for the assessee to be heard. Summary assessment to become final, unless it is reopened under Section 147, which I have submitted, is likely to create very serious difficulties.

In my Minute of Dissent I had expressed the difficulties and apprehensions. With your permission, I will just read two or three sentences. I said :

I deem it my duty to give a warning. Though the Committee seems to consider that once a summary assessment is made under sub-section (1) an income-tax officer on finding that it is an under-assessment will be easily able to make a second assessment under sections 147 and 148 of the Income-tax Act 1961 for the second time. This is a view with which however much I may sympathise, I completely disagree. The established law on the serious limitations on the applicability of these two sections will not keep the matter so handy for second assessment.

These are the very serious difficulties which I have pointed out. I entirely agree, there must be provision for expeditious assessment ; there must be provision for summary assessment. Without that the smaller assessees cannot be taken care of. But why should he be called ? The ITO can make certain arrangements by which no litigation can take place and expeditious assessment made. He should be spared the pains of being called to the ITO's office and being subjected to so much scrutiny. So, as suggested in the Committee's deliberations, this acts harshly on the ITO and the assessee. It is a great hardship to honest assessee. So far as ITO is concerned, he will pass on the liability which in law he can do nothing about. The dishonest assessee is likely to escape. The merit of my amendment is this, that it will tide over the difficulty. Sir, at present the difficulty created is on account of the decision in regard to Jaipur Udyog Limited, where it was held that the figure cannot be altered even if it is a case of arithmetical error. He can make a change in respect of arithmetical errors and clerical calculations. The ITO should be allowed to make that much change. Discretionary power must be given to ITO for summary assessment and to the extent that he makes a change of arithmetical or of clerical error, it is binding on the assessee. For the rest, it is open to the assessee to object within 30 days of the assessment ; he can write to the ITO

saying, "I object to this assessment, kindly make regular assessment." I am willing to come, I am willing to lead evidence, I am willing to produce my books of account, but I am not willing for this liability being fastened on me at my back, and I am willing to prove that the liability as per my return is correct. Therefore, this would take due care of the interest of the assessee, and anyone who considers that his assessment is arbitrary, to that extent, he would be able to inform the income-tax officer. And what more, if my amendment is accepted, the income-tax officer will not have to fall back upon section 147. If that summary assessment is found inadequate, incomplete or incorrect, then the income-tax officer himself can make a regular assessment without being required to reopen the assessment under section 147.

In other words, to put the entire matter in a nut-shell, an assessee who disputes his liability on summary assessment can ask the income-tax officer for a regular assessment and tell him 'I do not want summary assessment'. One who has a summary assessment made on him, if it is an honest and correct assessment, need not apprehend. In case it is found that the summary assessment made at the back of the assessee is an under-assessment to which the assessee has not objected, the department has the requisite authority to make a re-assessment. That is my submission on these amendments.

SHRI KANWAR LAL GUPTA : I also would like to say a few words on this amendment. Normally, we do not speak on amendments, moved by others, but since this is an important amendment, I hope you will permit us to speak.

SHRI N. DANDEKER (Jamnagar) : I also wish to speak on this. It is a very important matter. A point of view has been expressed here, and it so happens that I am in support of that point of view. But my hon. friends who are to my right are opposed. Since this is a very important amendment, I hope the hon. Minister will agree that this ought to be debated upon.

MR. CHAIRMAN : I do not know the procedure adopted till now.

SHRI KANWAR LAL GUPTA : Normally, we do not make such requests, but since this is an important matter, I hope you will permit us.

SHRI VIDYA CHARAN SHUKLA : Normally, they do not debate upon an amendment. The hon. Member who moves the amendment mentions the reasons behind his amendment, and other Members mention their own viewpoints.

SHRI N. K. P. SALVE : It is an important amendment, and I would beg of you to give time for a debate on this.

SHRI TENNETI VISWANATHAM (Visakhapatnam) : When the subject is controversial, all have a right to speak.

MR. CHAIRMAN : I am only worried about the problem of time. Hon. Members may be very brief.

श्री कंवर लाल गुप्त : सभापति महोदय, मुझे दुःख है कि मैं श्री साल्वे के संशोधन का समर्थन नहीं कर सकता। मैं समझता हूँ कि इस विधेयक में जो समरी असेसमेंट की बात रक्खी गई है वह बहुत अच्छी चीज है और उसके लिए भी खास लिमिटेशन रक्खी गई है, जैसा श्री साल्वे ने कहा, कहीं क्लेरिकल मिस्टेक हो, कैलकुलेशन की मिस्टेक हो, उससे परे वह नहीं जा सकता।

श्री नरेन्द्र कुमार साल्वे : यह गलत है, उससे परे भी आई० टी० ओ० जायेगा।

श्री कंवर लाल गुप्त : अगर वह जायेगा तो आपको राइट आफ अपील है और आप अपील में जा सकते हैं। आपने यह कहा कि 147 में बड़ी दिक्कत होगी और यह आई० टी० ओ० के भी हैंड्स टाइटने करेगा। आई० टी० ओ० को डिस्क्रिशन है कि किस केस में 143(1) का केस कम्प्लीट करे और किस केस में न करे। आई० टी० ओ० तभी 143(1) का केस कम्प्लीट करेगा जब वह पूरे तरीके से सैटिस्फाइड हो जायेगा कि

जो कागजात या जो नक्शे उसके पास हैं, उनमें कहीं कोई गुंजाइश नहीं। उसके बाद अगर उसके ध्यान में यह बात आये कि कोई चीज रह गई है या छिपाई गई है तभी वह रिओपेन करने का अधिकारी होगा और होना भी चाहिए क्योंकि अगर कोई इवेजन हुआ है तो उसको रि-ओपेन करने का अधिकार ठीक भी है।

जो खतरनाक बात आखीर में कही गई, जिस को सारी सेलेक्ट कमेटी ने और जो विटनेस सामने आये, सबने अपोज किया, वह यह कि अगर 143(1) का असेसमेंट कम्प्लीट हो जाये और आई० टी० ओ० कभी उसको रि-ओपेन करना चाहे, तो वह कर सकता है। इस तरह से हमेशा असेसी के सिर पर तलवार लटकी रहेगी और जो यह कहा जाता है कि जो छोटे-छोटे लोग हैं, जिनकी आमदनी 7, 8 हजार है और जिनके बेनिफिट के लिए यह सब कुछ किया जा रहा है, अगर किसी कारण से उनके केसेज को रि-ओपेन करने का अधिकार आई० टी० ओ० को दिया जाता है 147-148 दफा के अलावा, तब बड़ी दिक्कत आयेगी। आज कल वैसे ही केसेज का डिस्पोजल कम होता है। श्री साल्वे जानते हैं व्यावहारिक रूप से कि डिपार्टमेंट कैसे काम करता है। वह एकदम से सारे असेसमेंट पूरे कर लेंगे। अगर एक महीने के केसेज का डिस्पोजल करना है तो 200 एक दिन में कर लेंगे और फिर उनको रि-ओपेन कर लेंगे। दूसरी चीज यह है कि इस में करप्शन भी बहुत होगा क्योंकि आप आई० टी० ओ० को डिस्क्रिशन देंगे कि वह किसी के पास जाकर कहे कि हम केस रि-ओपेन कर सकते हैं वरना यह करो। यह एक आम बात चलेगी। इसके अलावा हमेशा असेसमेंट की तलवार असेसी के सिर पर लटकती रहे और फाइनैलिटी न हो तो यह एक गम्भीर मामला है।

मैं कहना चाहता हूँ कि अगर आपने कोई सहूलियत दी है तो वह सहूलियत पूरे तौर से

होनी चाहिए। अगर कहीं किसी ने वेईमानी की हो या इवेजन की एविडेंस हो तो 147-148 में अधिकार हासिल हैं। लेकिन अगर उनका केस फाइनल नहीं हुआ और जैसा श्री पालकीवाला ने कहा, मान लीजिए कि अकाउंट्स में कोई गलती है, तो यह एक छोटी सी चीज है क्योंकि अकाउंट ही नहीं दिया गया। इस तरह की छोटी-छोटी बातों पर इस तरह से छोटे-छोटे असेसीज को हैरेस करना, मैं समझता हूँ, गलत है।

जो प्राविजन है वह बहुत ठीक है। उससे लोगों को लाभ होगा। अगर कहीं आई०टी०ओ० की कोई गलती है तो जो चाहे अपील में जा सकता है। अगर असेसी की गलती है तो आई० टी० ओ० को रि-ओपेन करने की पावर है। इसलिए मैं इस अमेंडमेंट का घोर विरोध करता हूँ।

SHRI N. DANDEKER : I have given a great deal of thought to this matter and I spoke at some length on this at the consideration stage. Having now seen the amendment Shri Salve has put in here, I am in favour of that amendment. I should like to state to my reasons in somewhat different terms from what Shri Salve has expressed.

In the first place, there is no doubt whatever that the department should have, and the assessee wish that it should have, summary powers of assessment so that in a large number of cases—undisputed on both sides—can go through without a good deal of unnecessary time-consuming formalities. There is no doubt about it that the summary assessment procedure in sub-section (1) is on merits desirable.

Now as Shri Salve has said—and I support him—there will be two types of cases where that procedure could go wrong. I would like to take the case, first of all, of an assessee who is aggrieved by this, because there are provisions here as to the sort of adjustments that the ITO may make *ex parte*, and may make wrongly. I refer particularly to his power to 'disallow any

deduction, allowance or relief claimed in the return which on the basis of information available in such return, accounts and documents is, *prima facie*, inadmissible'. The ITO exercises his discretion to disallow things that have been claimed. Then there is item 4—give "due effect" to certain allowances. It may well be that the ITO fails to give due effect—do not say *mala fide*, but it just happens. He disagrees or makes mistakes. There are thus at least two groups of cases in which assessee may feel that this assessment, however summary, hurts them rather badly, and, therefore, they ought to have a quick relief procedure. If Shri Salve's amendment is accepted, it enables such assessee to write to the ITO : 'I am afraid you have made certain disallowances that you ought not to have made and you have not made certain allowances that you ought to have made. Will you please call upon me to produce the necessary evidence so that I can show you that you have made these mistakes and I can get these things righted'. I am perfectly certain that this ought to be admissible because otherwise, as I pointed out in my speech on the general consideration stage, and as Shri Salve has pointed out now, the assessee will have to go up in appeal, and a perfectly legitimate case would unnecessarily have to go up in appeal to the Appellate Assistant Commissioner who would have two courses open to him : either he can himself be the ITO and deal with the case—and there will be many such cases as many mistakes will be made, many disallowances will be made that ought not to be had and many due allowances will not be made which ought to have been made—or, alternatively, he can remand the case back to the ITO to be dealt with according to law and on merits, which is precisely what the procedure suggested by Shri Salve amounts to. Instead of the Appellate Assistant Commissioner saying so, the assessee himself says so, and asks the ITO : "Will you please reopen this, I have some doubts and disputes to raise before you, would you kindly make an assessment according to merits ?" That is about a number of cases of honest assessee which can well happen and will happen.

Then we come to the dishonest assessee. If the dishonest assessee begin to get the flavour of this, then I assure you they will say : "This is fine, let us go along and try

[Shri N. Dandekar]

and endeavour our best to get round this assessment business by way of a summary assessment and get away with it all", because they know that the only way these assessments can then be reopened would be under sections 147 and 148 of the Income-tax Act which, although worded widely, have nevertheless been interpreted by the courts rigorously against the tax authorities, and rightly so. It is not open, and should not be open, to the income-tax officer by whims and fancies to be reopening cases under sections 147 and 148, and the law on the subject is fairly clear. But the point that is now relevant is that the law on the subject is difficult for reopening assessments. That difficulty too is sought to be got over by the suggestions made by Mr. Salve in his amendment, namely, that the income-tax officer, finding that somebody has got away with something pretty big, finding that the assessment which he made as a summary assessment, without seeing any evidence, any record, without calling the assessee, without checking the records, without doing any of the normal things that he does in an assessment, trusting the assessee shall we say, has resulted in such a thing, thinks that he has to reopen the case. The proposal here is that the ITO may do so without all the claptrap of sections 147 and 148.

This is the substance of this, that firstly the summary assessment is a desirable thing ; secondly, they can go wrong against the assessee and so let him have a quick means of reopening the assessment, inviting the ITO himself to make a proper assessment ; thirdly, they can go wrong against revenue or the ITO may feel that he has been done down by a smart aleck. And so he has the right to say that he is going to reopen the assessment and have a look at the accounts of this chap.

Sir, I support the amendment.

SHRI TENNETI VISWANATHAM :

The points of view which are being pressed now by Mr. Salve and Mr. Dandekar were the substance of the Clause in the Bill as it originally stood. This was the position taken up by the Board and by the Government at the introduction stage. In the Select Committee the point urged by Shri

Kanwar Lal Gupta was accepted, namely that the ITO should not have the power to make a double assessment under this particular Clause. The Minister also said that he would give instructions under the rule making powers that this summary procedure should generally apply to a particular class of assessee, the class of small income groups. The summary assessment is intended to help small assessee and to reduce the work of the department. That should be remembered. Secondly, the ITO should never have the power to reopen a case which was finalised by himself. The Select Committee changed the wording of sub-clause (3) and provided that where an Income-tax Officer has got any doubt or has to get any explanation, the assessee should be called before the assessment is finalised under this particular section.

The other argument that the Income-tax Officer and the assessee may collude applies whether this Clause is there or not. It can always happen. It can apply to big or small assessee now or at any time. Therefore, I do not think that the argument of collusion can be brought in at this stage. The only question is that the small assessment should be summary. If the income-tax officer has got any doubts about certain items of the return he has got the power to call the assessee under sub-clause 3 before making the final assessment. But the income-tax officer should not have the power to re-open the assessment made by himself. Everybody knows that 148 and other sections give power to the appellate authorities and to the board and the Government to reopen any assessment. This is not an insurance against all fraud ; fraud can be detected and punished in several other ways. This is essentially meant for the small assessee and therefore I strongly plead that the position taken by the Select Committee should be retained and supported by the Government at this stage also.

SHRI BENI SHANKER SHARMA :

I am sorry I have to stand up in opposition to what Mr. Salve and Mr. Dandekar have just now said. Unfortunately they were not present in the Select Committee all the time and had not had the occasion of hearing the evidence of the people.

Thereafter in the Select Committee this clause was discussed for hours together again when they were not present and after a thorough discussion the Committee came to this conclusion. If the amendment suggested by Mr. Salve were to be accepted, we shall be going back to the original position.

Sir, this is one good thing Minister has done after years by which the small assesseees will be saved from harassment and troubles at the hands of the income-tax officer. Mr. Dandekar has spoken of dishonest and big assesseees. Howsoever one may legislate, that contingency will always remain. If a dishonest assessee, say with an income of Rs. 50,000 or a lakh files a return of Rs. 20,000 and gets his assessment made in a summary way as a small assessee and if he is detected later on, we have provided that he shall be punished with rigorous imprisonment of one year.

By this clause as passed by the Select Committee we are helping the clause of the small assesseees only. What the I.T.O. is required to do in making an assessment under this clause is to take into account the incomes or losses and to rectify any arithmetical errors, etc. He may make an assessment of the total income or loss of the assessee after making such adjustments to the income or loss declared in the return. As for example, he may correct any arithmetical errors in the return, accounts or documents, etc. I do not think Mr. Salve has any objection to it. He may then allow any deduction, allowance or relief which is *prima facie* admissible. Again he cannot have any objection to it. But now if you accept this position, you must concede the reverse of it to the ITO as well. On the basis of the information available in the accounts some deductions are *prima facie* not admissible; or some deductions become admissible. Say, there is a puja expenditure of Rs. 50 in the accounts. From my actual experience of this side I may say that there may not be very many cases of litigation on this issue such a disallowance will be automatically accepted by the assesseees.

15 hrs.

The ITO cannot make any big addition and if there is the question of a big addition the ITO will call the assessee and scrutinise

his accounts. We have provided for such a situation in section 43 (2).

Therefore, Sir, you cannot have the palatable things alone and leave out the corresponding unpalatable ones. And it is not an unpalatable thing either. Because, after all, the assessee is interested in having a correct assessment which he cannot object to. If there are items which are to be disallowed, and against which he has nothing to say, on the face of it, then there is no cause for grievance. But, if per chance, there is any such item which he may object to he has the right of appeal. Mr. Dandekar has said that the appellate authorities will be reduced to the position of income-tax officers. In my opinion that is not so.

Therefore, so far as this sub-clause (iv) is concerned, I think it is a God-send for the smaller assessee and merciful, because they do not know which are the items or which are the allowances, which they may claim and which they may not. It has been made incumbent on the income-tax officers to allow those legitimate deductions which the assessee is entitled to and under this section they are elaborated. Therefore, my only submission is this that we should not disturb this clause. There was much discussion about it in the Committee. Unfortunately as I said, my good friends were not there. If they had been there, they would have readily accepted this position, because we thrashed out the whole thing in a spirit of understanding where-after only the Minister and the members of the Board had accepted our suggestion.

My hon'ble friend Shri Gupta has said just now that if we go back to the original position, the Damocles' sword will be hanging on the head of every small assessee whose cases will be once finalised. The income-tax officer will go through a 100 or 200 selected cases, and then complete and revises the assessment again. He, in his good sense or may be in a bad sense, say, "Mr. Salve, here are the assessments; I may reopen them: what have you got to say?" That would be a very difficult position, from which we at least want to save the small assessee. I do not mind about the big assesseees. But so far as the small assesseees are concerned, this Damocles' sword should

[Shri Tenneti Viswanatham]

not be left hanging on them. There must be some finality somewhere. When the assessment has been completed with an addition of say Rs. 100, or Rs. 500 leave the assessee alone. So not harass him further by summarily reopening it. Do not for God's sake keep him in constant fear and terror of the ITO and leave him at his mercy.

Mr. CHAIRMAN : Is it not enough now ? I think all the points have been made.

SHRI S. S. Kothari : I may be allowed a few minutes. I would submit that this clause, as has emerged from the Select Committee, is to be welcomed in that in the United Kingdom, for instance, more than 50 per cent of the assessments are disposed of without the assessee being called. I think that is a stage which we may take probably some years to reach, but this is a provision which is going to solve many of the difficulties of the assessee, and in many cases where the ITO feels that it is a good file—what is known in the Income-tax Department as a good file—he can dispose of that assessment without calling the assessee.

With regard to Mr. Salve's amendment, I am afraid I cannot agree with it, because, as my colleagues here have already pointed out, once those assessments have been made they must be closed and what we call finality should be there. We cannot allow an ITO to go on revising whenever he likes. If an assessment has to be reopened, let him reopen it under the provisions which are there. In that case, he will have to do it in a proper manner. Therefore, I would say that we should retain it as, because it is a very good feature of this Bill, and it should be welcomed.

SHRI N. K. P. SALVE : Sir, just two minutes.

MR. CHAIRMAN : No, please. You have made one speech. No second speech.

SHRI N. K. P. SALVE : Only two minutes.

MR. CHAIRMAN : I am sorry. Mr. Shiv Chandra Jha.

SHRI N. K. P. SALVE : After Mr. Jha, please give me a chance.

श्री शिव चन्द्र झा : सभापति महोदय, फर्ज कीजिए किसी ऐसे की आमदनी पांच साल पहले ज्यादा थी और आज वह दिवालिया की हालत में है। इनकम टैक्स आफिसर उस के केस को रीओपन करता है और कहता है कि पास्ट यीअर्ज में, पांच साल पहले, तुम्हारी आमदनी ज्यादा थी और तुम इस आधार पर अपनी रिटर्न फाइल नहीं कर रहे हो, इसलिए अब तुमको ज्यादा टैक्स देना पड़ेगा। इसलिए इसमें यह खामी है कि "पास्ट यीअर्ज" शब्द बहुत इलास्टिक है, इससे इनकम टैक्स आफिसर को ज्यादा पावर मिल जाती है और वह छोटे ऐसे पर सक्ती कर सकता है। इसमें यह एक लूपहोल है।

इस संशोधन के बाद भी इसमें ऐसा कोई प्राविजन नहीं है कि एक इनकम टैक्स आफिसर के पास एसेसमेंट का जितना काम है, वह उसी साल बिल्कुल पूरा हो जाये और कोई काम बकाया न रहे। आम तौर पर कुछ काम पेंडिंग रहता है। यह आवश्यक है कि ऐसे को तुरन्त इन्टीमेशन दिया जाये। मंत्री महोदय को दस साल तक बार-बार नोटिस क्यों नहीं दिये गये ? इस लिए इस बारे में जितना दोष मिनिस्टर साहब का है, उससे ज्यादा इनकम टैक्स आफिसर का है कि उसने सक्ती के साथ नोटिस क्यों नहीं दिया। यह व्यवस्था होनी चाहिए कि एक सीमा में वह अपना एसेसमेंट का सब काम फाइनलाइज कर ले।

SHRI N. K. P. SALVE : Please give me one minute.

MR. CHAIRMAN : It is not a question of time. It is a question of creating wrong precedents. I cannot allow two speeches by the same member on the same amendments. If you are not satisfied after the minister's reply, you may seek some clarification,

SHRI VIDYA CHARAN SHUKLA : This matter has been very ably argued by

Mr. Salve and Mr. Dandekar for the amendment and equally ably by Mr. Kanwar Lal Gupta, Mr. Beni Shanker Sharma and Mr. Kothari against it. While moving for consideration of this Bill, I said that I would like to have the guidance of the House in this matter, because this matter was debated at great length in the select committee, but we were not able to make up our mind as to what will be the best for the assessee as well as for revenue collection. But after hearing the arguments here and also after holding inter departmental meetings to try to understand the implications of these amendments, I have come to the conclusion that it would be in the interest of the assessee and of tax collection to accept amendments Nos. 125 and 126. If these two amendments are accepted and put in the statute-book, it would be very helpful. Therefore I accept these two amendments moved by Mr. Salve.

SHRI TENNETI VISWANATHAM : It is a bad precedent. He is absolutely going back on the select committee recommendations.

SHRI KANWAR LAL GUPTA : There was not one witness who gave evidence in favour of this. (*Interruptions*).

MR. CHAIRMAN : At this stage, there is no scope for such cross-talk.

I will now come to the amendments.

SHRI N. K. P. SALVE : I do not press amendment No. 119.

SHRI TENNETI VISWANATHAM : If this is the procedure to be followed by the Minister, we are not going to move any amendments.

MR. CHAIRMAN : Has Shri Salve the permission of the House to withdraw his amendment ?

SHRI KANWAR LAL GUPTA : I oppose it.

MR. CHAIRMAN : All right. I will put amendment No. 119 to the vote.

Amendment No. 119 was put and negatived.

MR. CHAIRMAN : Shri Lobo Prabhu is absent. I will now put amendment Nos. 125 and 126 moved by Shri Salve and accepted by the Government, to the vote of the House.

SHRI K. LAKKAPPA : Let the hon. Member withdraw the amendment.

MR. CHAIRMAN : There is no scope for a debate at this stage.

SHRI K. LAKKAPPA : The Minister agreed in the Select Committee**

MR. CHAIRMAN : Nothing will go on record now. There is no scope for a debate. You can vote as you like.

The question is :

'Page 22,—

for lines 39 to 47 substitute—

“(2) Where a return has been made under section 139, and—

- (a) an assessment having been made under sub-section (1), the assessee makes within one month from the date of service of the notice of demand issued in consequence of such assessment, an application to the Income-tax Officer objecting to the assessment, or
- (b) whether or not an assessment has been made under sub-section (1), the Income-tax Officer considers it necessary or expedient to verify the correctness and completeness of the return by requiring the presence of the assessee or the production of evidence in this behalf,

the Income-tax Officer shall serve on the assessee a notice

**Not recorded.

[Mr. Chairman]

requiring him, on a date to be therein specified, either to attend at the Income-tax Officer's Office or to produce or to cause to be there produced, any evidence on which the assessee may rely in support of the return :

Provided that, in a case where an assessment has been made under sub-section (1), the notice under this sub-section [except where such notice is in pursuance of an application by the assessee under clause (a)] shall not be issued by the Income-tax Officer unless the previous approval of the Inspecting Assistant Commissioner has been obtained to the issue of such notice :

Provided further that in a case where the assessment made under sub-section (1) is objected to by the assessee by an application under clause (a), the assessee shall not be deemed to be in default in respect of the whole or any part of the amount of the tax demanded in pursuance of the assessment under that sub-section, which is disputed by the assessee, in so far as such amount does not relate to any adjustment referred to in sub-clause (i) of clause (b) of sub-section (1), and further no interest shall be chargeable under sub-section (2) of section 220 in respect of such disputed amount." (125)

*The Lok Sabha divided.***AYES**

Division No. 9]

[15.17 hrs.

Adichan, Shri P. C.

Ahmed, Shri F. A.

Amjad Ali, Shri Sardar

Atam Dass, Shri

Babunath Singh, Shri

Bajpai, Shri Vidya Dhar

Barua Shri R.

Basumatari, Shri

Bhandare, Shri R. D.

Chanda, Shrimati Jyotsna

Chandrika Prasad, Shri

Choudhary, Shri Valmiki

Dandeker, Shri N.

Deshmukh, Shri Shivajirao S.

Dixit, Shri G. C.

Dwivedi, Shri Nageshwar

Gandhi, Shrimati Indira

Gautam, Shri C. D.

Gavit, Shri Tukaram

Hanumanthaiya, Shri

Hem Raj, Shri

Horo, Shri N. E.

Jadhav, Shri V. N.

Jamna Lal, Shri

Kahandole, Shri Z. M.

Kedar Nath Singh, Shri

Kesri, Shri Sitaram

Kinder Lal, Shri

Kotoki, Shri Liladhar

Krishnan, Shri G. Y.

Lakshmikanthamma, Shrimati

Laskar, Shri N. R.

Mahida, Shri Narendra Singh	Saleem, Shri M. Yunus
Masani, Shri M. R.	Santosham, Dr. M.
Master, Shri Bhola Nath	Sayyad Ali, Shri
Minimata Agam Dass Guru, Shrimati	Sen, Shri Dwaipayana
Mishra, Shri Bibhuti	Sethi, Shri P. C.
Mishra, Shri G. S.	Sambhu Nath, Shri
Modi, Shri Pилоo	Shankaranand, Shri B.
Mohamed Imam, Shri J.	Shastri, Shri Biswanarayan
Mohsin, Shri	Shastri, Shri Ramanand
Muhammad Ismail, Shri M.	Shastri, Shri Sheopujan
Pahadia, Shri Jagannath	Shivappa, Shri N.
Parmar, Shri D. R.	Shukla, Shiv Vidya Charan
Partap Singh, Shri	Siddayya, Shri
Parthasarathy, Shri	Siddheshwar Prasad, Shri
Patil, Shri Deorao	Sinha, Shri Mudrika
Patil, Shri N. R.	Snatak, Shri Nar Deo
Pradhani, Shri K.	Sonavane, Shri
Qureshi, Shri Mohd. Shaffi	Surendra Pal Singh, Shri
Raghu Ramaiah, Shri	Swaran Singh, Shri
Raj Deo Singh, Shri	Tarodekar, Shri V. B.
Ram, Shri T.	Thakur, Shri P. R.
Ram Dhan, Shri	Tiwary, Shri D. N.
Ram Swarup, Shri	Uikey, Shri M. G.
Ramji Ram, Shri	Ulaka, Shri Ramachandra
Randhir Singh, Shri	Verma, Shri Balgovind
Ranga, Shri	Virbhadra Singh, Shri
Reddy, Shri Surender	Xavier, Shri S.
Roy, Shrimati Uma	Yadav, Shri Chandra Jeet
Sadhu Ram, Shri	

NOES

श्री कंबर लाल गुप्त : सभापति जी, हम
इसके खिलाफ वाक आउट करते हैं।

Arumugam, Shri R. S.

Birua, Shri Kolai

Das, Shri N. T.

Daschowdhury, Shri B. K.

Gupta, Shri Kanwar Lal

Gupta, Shri Ram Kishan

Hazarika, Shri J. N.

Jha, Shri Shiva Chandra

Joshi, Shri Jagannath Rao

Katham, Shri B. N.

Kedaria, Shri C. M.

Mangalathumadam, Shri

Masuriya Din, Shri

Mehta, Shri P. M.

Parmar, Shri Bhaljibhai

Patel, Shri J. H.

Pramanik, Shri J. N.

Sen, Shri P. G.

Sharma, Shri Beni Shanker

Sheo Narain, Shri

Solanki, S. M.

Suraj Bhan, Shri

Viswanatham, Shri Tenneti

MR. CHAIRMAN : The result* of the
division is : Ayes 89 ; Noes 23,

The motion was adopted.

*(Shri Kanwar Lal Gupta and some
other hon. Members then left the
House)*

MR. CHAIRMAN : The question is :

"Page 23,—

for lines 1 to 8, substitute :

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Income-tax Officer may require on specified points, and after taking into account all relevant material which he has gathered, —

(a) in a case where no assessment has been made under sub-section (1), the Income-tax Officer shall, by an order in writing, make an assessment of the total income or loss of the assessee, and determine the sum payable by him or refundable to him on the basis of such assessment,

(b) in a case where an assessment has been made under sub-section (1), if either such assessment has been objected to by the assessee by an application under clause (a) of sub-section (2) or the Income-tax Officer is of opinion that such assessment is incorrect, inadequate or incomplete in any material respect, the Income-tax Officer shall, by an order in writing, make a fresh assessment of the total income or loss of the assessee, and determine the sum payable by him or re-

*The following Members also recorded there votes :

Ayes : Sarvashri Shashi Bhushan, N. K. P. Salve, R. K. Amin and C. C. Gautam;

Noes : Shri Shri Chand Goyal.

fundable to him on the basis of such assessment.

Explanation—For the purposes of the section,—

- (1) an assessment under sub-section (1) shall be deemed to be incorrect, inadequate or incomplete in a material respect, if—
 - (a) the amount of the total income as determined under sub-section (1) is greater or smaller than the amount of the total income on which the assessee is properly chargeable under this Act to tax ; or
 - (b) the amount of the tax payable as determined under sub-section (1) is greater or smaller than the amount of the tax properly payable under this Act by the assessee ; or
 - (c) the amount of any loss as determined under sub-section (1) is greater or smaller than the amount of the loss, if any, determinable under this Act on a proper computation ; or
 - (d) the amount of any depreciation allowance, development rebate or any other allowance or deduction as determined under sub-section (1) is greater or smaller than the amount of the depreciation allowance, development rebate or, as the case may be, other allowance or deduction properly allowable under this Act ; or
 - (e) the amount of the refund as determined under sub-section (1) is greater or smaller than the amount of the refund, if any, due under this Act on a proper computation ; or

(f) the status in which the assessee has been assessed under sub-section (1) is different from the status in which the assessee is properly assessable under this Act ;

- (2) "status", in relation to an assessee, means the classification of the assessee as an individual, a Hindu undivided family, or any other category of persons referred to in clause (31) of section 2, and where the assessee is a firm, its classification as a registered firm or an unregistered firm." (126)

The motion was adopted.

MR. CHAIRMAN : The question is : "That clause 30, as amended, stand part of the Bill."

The motion was adopted.

Clause 30, as amended, was added to the Bill.

Clauses 31 to 33 were added to the Bill.

MR. CHAIRMAN : There are some amendments to clause 34. Shri Kanwar Lal Gupta is absent.

SHRI N. K. P. SALVE : I do not move my amendment.

MR. CHAIRMAN : No amendment is moved. The question is :

"That clause 34 stand part of the Bill."

The motion was adopted.

Clause 34 was added to the Bill.

Clauses 35 to 43 were added to the Bill.

MR. CHAIRMAN : There are some amendments to clause 44.

SHRI N.K.P. SALVE : I do not move my amendments.

MR. CHAIRMAN : Then, the question is :

"That clause 44 stand part of the Bill."

The motion was adopted

Clause 44 was added to the Bill.

Clause 45. (*Amendment of Section 253 of Income-Tax Act, 1961*).

SHRI SHIVA CHANDRA JHA : I move :

Page 27, line 20,—

for "twenty-five" substitute "fifty".
(21)

सभापति महोदय, मेरा संशोधन बहुत साधारण है और मंत्री महोदय, मुझे उम्मीद है इसको मान लेंगे। हमारे और उनके बीच में इसके अन्दर कोई बड़ा तफर्का नहीं है। ओरिजिनल बिल में 250 रुपये था जोकि असेसी को बतौर फीस के देना था यदि उसका असेसमेंट गलत हुआ है और वह हाईकोर्ट को सूच करता है। पहले यह 100 रुपये था। उसकी जगह बिल में 250 रुपये आया जिसको कमेटी ने घटाकर 125 रुपये कर दिया। मेरा कहना यह है कि 250 रुपया बहुत ज्यादा है और 125 कम है इसलिए मैं चाहता हूँ कि उसकी जगह 150 कर दिया जाय। केवल 25 रुपये का फर्क है। कोई भी असेसी जिसके टेक्स की बात होगी और वह अपना केस रीओपेन करना चाहता होगा उसके लिए 25 रुपये कोई ज्यादा नहीं हैं और आपको भी आमदनी हो जायगी। तो 125 की जगह 150 कर दिया जाय। इसी तरह के मेरे और भी अमेंडमेंट्स हैं।

श्री विद्या चरण शुक्ल : सभापति जी, यह बिल जैसा पहले था उसमें जो यह मद रखी गई थी उसमें था 250 रुपये। पहले 100 रुपये था। बिल में 250 रुपये आया।

जब प्रवर समिति में बहस हुई तो उन्होंने इसे घटा कर 250 से 125 रुपये कर दिया।

सभापति जी, झा जी चाहते हैं कि इसको 125 रु० से बढ़ाकर 150 रु० कर दिया जाय। मैं नहीं समझता कि इससे कोई विशेष फर्क पड़ेगा। मेरा अनुरोध है कि सिलैक्ट कमेटी ने जो मंजूरी दी है, उसको ही स्वीकार किया जाय।

MR. CHAIRMAN : Now I put Amendment No. 21 moved by Shri Shiva Chandra Jha to the vote of the House.

Amendment No. 21 was put and negatived.

MR. CHAIRMAN : The question is :

"That Clause 45 stand part of the Bill".

The motion was adopted.

Clause 45 was added to the Bill.

Clause 46 was added to the Bill.

Clause 47. (*Amendment of Section 256 of Income-Tax Act, 1961*).

SHRI SHIVA CHANDRA JHA : I beg to move :

Page 27, line 26,—

for "twenty-five" substitute—

"fifty". (22)

इसमें भी, सभापति जी, वही बात है कि जहां 125 रु० रखा गया है, वहां 150 रु० कर दिया जाय।

श्री विद्या चरण शुक्ल : सभापति जी, इसमें भी जैसा सिलैक्ट कमेटी ने कहा है, वैसा ही रहने दिया जाय तो ज्यादा अच्छा होगा।

MR. CHAIRMAN : May I put Amendment No. 22 moved by Shri Shiv Chandra Jha to the vote of the House ?

Amendment No. 22 was put and negatived.

MR. CHAIRMAN : The question is : "That Clause 47 stand part of the Bill".

The motion was adopted.

Clause 47 was added to the Bill.

Clause 48 was added to the Bill.

Clause 49. (Amendment of Section 274 of Income-Tax Act, 1961).

SHRI SHIV CHANDRA JHA : I beg to move :

Page 27, line 49,—

for "twenty-five" substitute "fifteen". (23)

MR. CHAIRMAN : I put Amendment No. 23 moved by Shri Shiv Chandra Jha to the vote of the House.

Amendment No. 23 was put and negatived.

MR. CHAIRMAN : The question is :

"That Clause 49 stand part of the Bill".

The motion was adopted.

Clause 49 was added to the Bill.

Clause 50 and 51 were added to the Bill.

Clause 52. (Insertion of New Sections 276 C and 276 D in Income-Tax Act, 1961).

SHRI SHIV CHANDRA JHA : I beg to move :

Page 28, line 38,—

for "one year" substitute "two years". (24)

Page 28, line 39,—

for "four" substitute "seven". (25)

Page 29, line 22,—

for "one year" substitute "two years". (26)

Page 29, line 23,—

for "four" substitute "seven". (27)

Page 29, line 27,—

for "one year" substitute "two years". (28)

Page 29, line 29,—

for "four" substitute "seven". (29)

सभापति जी, क्लॉज 52 एक बड़ी अहम क्लॉज है। सिलैक्ट कमेटी में इस पर बहस हुई थी। इसमें सजा की बात है—जो रिटर्न फाइल नहीं करेगा, उसको सजा दी जायगी। इसमें कहा गया है—

"(b) in any other case, be punishable with rigorous imprisonment for a term which may extend to one year or with fine equal to a sum calculated at a rate which shall not be less than four rupees or more than ten rupees for every day during which the default continues, or with both."

इसके सभी सब-क्लॉजेज में यही बात है। मेरा कहना यह है कि अगर आप टैक्स इवेजन को रोकना चाहते हैं, तो सक्ती से रोकिये। एक साल का रिगोरस-इम्प्रीजनमेंट में आप का क्या दर्शन है ? यदि एक साल की सजा देने से टैक्स इवेजन रुक जायगा, तब तो ठीक है, लेकिन मुझे इसमें शक मालूम होता है। मेरी दृष्टि में इसमें ज्यादा सक्ती बरतना अच्छा होगा, इसलिए मैं चाहता हूँ कि इसको दो साल कर दिया जाय।

दूसरे संशोधन में— "not be less than four rupees or more than ten rupees....." यहां पर जो "नाट-लैस-दैन-4 रु०" है, इसको

[Shri Shiva Chandra Jha]

7 रुपया कर दिया जाय। उसको प्रतिदिन जो फाइन देना होगा, वह 4 रुपये के बजाये 7 रुपया होना चाहिए। हकीकत में अगर आप टैक्स इवैजन् को रोकना चाहते हैं तो इसको सक्ती से रोकिए।

कमेटी में जब बात हुई थी तो कहा गया कि कारपोरल पनिशमेंट सरकार देती है, निहल्ये सत्याग्रहियों के खिलाफ जब सशस्त्र सेना और पुलिस सरकार भेजती है—क्या वह सजा नहीं है। जो व्यक्ति संविधान के मुताबिक चलता है, कहीं पर घूम रहा है, सरकार उसके खिलाफ सशस्त्र सेना भेजती है—वह भी सजा ही है, जब यह काम आप करते हैं तो एक साल की सजा ज्यादा नहीं है, इसको दो साल रखिए। मेरा यही संशोधन अन्य सब-बलाजेज पर भी लागू होता है।

श्री विद्या चरण शुक्ल : सभापति महोदय, इसके बारे में जैसा माननीय सदस्य ने कहा प्रवर समिति में काफी विचार-विमर्श हुआ था। प्रवर समिति में इस बिल के जाने से पहले इस सजा की सीमा 6 महीने रखी गई थी, लेकिन वहां पर काफी बहस होने के बाद यह तय पाया गया कि इस सीमा को बढ़ा कर 1 साल कर दिया जाय।

जहां तक फाइन की बात है, जुमनि की रकम भी पहले कम थी, लेकिन प्रवर समिति में इसको बढ़ा दिया गया। अब इसको और ज्यादा बढ़ाने में मुझे कोई औचित्य नजर नहीं आता। इसलिए मैं कहूंगा कि प्रवर समिति ने जिस रूप में इसको भेजा है, उसी रूप में इसको स्वीकार कर लिया जाय। मैं माननीय सदस्य से कहूंगा कि वे इस पर जोर न दें।

MR. CHAIRMAN : Now I will put amendments Nos. 24 to 29 to the vote of the House.

Amendments Nos. 24 to 29 were put and negatived.

MR. CHAIRMAN : Now the question is :

“That Clause 52 stand part of the Bill.”

The motion was adopted.

Clause 52 was added to the Bill.

Clauses 53 to 55 were added to the Bill.

Clause 56. (Amendment of Second Schedule of Income-Tax Act, 1961).

SHRI SHIVA CHANDRA JHA : Sir, I beg to move :

Page 30, line 8,—

for “nine” substitute “ten”. (30)

इस संशोधन में मैंने यही कहा है कि 9 प्रतिशत के बजाय 10 प्रतिशत का व्याज रखा जाय।

श्री विद्या चरण शुक्ल : सभापति महोदय, जैसा मैंने पहले कहा था कि 9 परसेंट का व्याज बहुत सी चीजों पर लागू होता है, केबल एक ही जगह पर नहीं है। इसलिए मैं अनुरोध करूंगा कि 9 परसेंट की जो सिफारिश की गई है, उसको ही रहने दिया जाय। माननीय सदस्य कृपया अपने संशोधन पर जोर न दें।

MR. CHAIRMAN : I will now put amendment No. 30 to the vote of the House.

Amendment No. 30 was put and negatived.

MR. CHAIRMAN : Now the question is :

“That Clause 56 stand part of the Bill.”

The motion was adopted.

Clause 56 was added to the Bill.

Clauses 57 to 59 were also added to the Bill.

Clause 60. (Amendment of Section 15 B of Wealth-Tax Act, 1957).

SHRI SHIVA CHANDRA JHA : Sir, I beg to move :

Page 32, line 42,—

for "fifty." substitute "one hundred".
(31)

Page 32, line 47,—

for "fifty" substitute "one hundred".
(32)

मेरे दो संशोधन हैं। यहां से वेल्थ टैक्स का चैप्टर शुरू होता है। जब कोई व्यक्ति डिफाल्टर होता है और कन्टीन्यूड डिफाल्टर होता है तो उसमें सज़ा और पैनल्टी की बात आती है। मैं इसमें यही चाहता हूँ कि दोनों जगहों पर 50 रुपये के बजाय 100 रु० रखा जाय।

श्री विद्या चरण शुक्ल : जिस तरह का संशोधन श्री साहब ने प्रस्तुत किया था इनकम टैक्स के मामलों में उसी प्रकार का यह है। जैसे कि हमने इनकम टैक्स के सेल्फ असेसमेंट में कुछ गलतियाँ होने पर 50 परसेंट का जुर्माना रखा था उसमें भी ये चाहते थे कि उसको सौ परसेंट कर दिया जाये। उसी तरह से सेल्फ असेसमेंट वेल्थ टैक्स के सम्बन्ध में जो है उसमें भी हमने 50 परसेंट का जुर्माना रखा है लेकिन उसको भी श्री साहब चाहते हैं कि बढ़ाकर सौ प्रतिशत कर दिया जाये। इस सम्बन्ध में मैंने जो पहले कारण दिये थे कि इसको बढ़ाने से जिस तरह की स्थिति आ जाती है उससे वर्तमान में फायदा नहीं होगा और उससे टैक्स वसूल करने में कोई बड़ी भारी सुविधा नहीं होगी यदि इसको सौ प्रतिशत कर दिया जाये। इसलिए मैं श्री साहब से निवेदन करूँगा कि वे इस संशोधन पर जोर न दें बल्कि जिस तरह से यह प्रवर समिति से आया है उसी तरह से इसको मंजूर कर लें।

MR. CHAIRMAN : I will now put the amendments of Shri Shiva Chandra Jha to the vote of the House.

Amendments Nos. 31 and 32 were put and negatived.

MR. CHAIRMAN : The question is :

"That Clause 60 stand part of the Bill."

The motion was adopted.

Clause 60 was added to the Bill.

Clause 61. (Amendment of Section 18 of Wealth-Tax Act, 1957).

SHRI SHIVA CHANDRA JHA : I move my amendments Nos. 33 and 34.

Page 33, line 8,—

for "five" substitute "one". (33)

Page 33, line 17,—

for "twenty-five" substitute "fifteen".
(34)

The proviso of Sec. 61 says :

"Provided that if in a case falling under clause (c) of sub-section (1) the amount in respect of which penalty is impossible for the relevant assessment year, or where such disclosure relates to more than one assessment year, such amount for any one of the relevant assessment years, exceeds five hundred thousand rupees, no order reducing or waiving the penalty shall be made by the Commissioner unless the previous approval of the Board has been obtained." ;

पाँच लाख की रकम होगी तो उसमें पैनल्टी रेड्यूस या वेव करने की बात नहीं रखी गई है। मेरा कहना यह है कि पाँच लाख की रकम बहुत बड़ी रकम है। हिन्दुस्तान में कितनी आबादी ऐसी है जिसकी कि इनकम पाँच लाख से ऊपर है ? इसलिए हिन्दुस्तान

[Shri Shiva Chandra Jha]

के वातावरण को मद्दे-नजर रखते हुए मैं चाहता हूँ कि पांच लाख की जगह पर एक लाख कर दिया जाये।

मेरा दूसरा संशोधन यह है कि ज.आ कि (बी) में कहा गया है :

Sub-section (b) says:

“the amount (as determined by the Wealth-tax Officer on assessment) in respect of which penalty is imposable under clause (c) of sub-section (1) exceeds a sum of twenty-five thousand rupees—” ;

इसमें भी मेरा यही कहना है कि 25 की जगह 15 कर दिया जाये।

श्री विद्या चरण शुक्ल : वेल्य टैक्स के सम्बन्ध में जो ये संशोधन हम कर रहे हैं इसमें हमने कई शक्तियाँ कमिश्नर के पास रखी हैं और कई शक्तियाँ सैन्ट्रल बोर्ड के पास रखी हैं। जब सिलैक्ट कमेटी में जब विचार-विमर्श हुआ तो यह तय पाया गया कि जो पांच लाख तक के केसेज हैं उसमें इस बात की शक्ति कमिश्नर्स को दे देनी चाहिए कि वहाँ वे चाहें तो जुमानि को घटा सकते हैं या जुमानि को हटा सकते हैं। अगर अब उसको एक लाख तक कर दिया जाये तो हिन्दुस्तान भर से इस तरह के केसेज जो बोर्ड के सामने आयेगे उसमें काम करने में बहुत बड़ी कठिनाई हो जायेगी और दूसरी तरफ इतनी बड़ी मशीनरी जो हम लोगों ने कायम कर रखी है उसके पास कोई काम नहीं रह जायेगा। इसलिए मैं समझता हूँ प्रवर समिति के द्वारा जो लिमिट बताई गई है उसी को हम मंजूर कर लें और माननीय सदस्य अपने संशोधन पर जोर न दें।

MR. CHAIRMAN : I am putting the amendments of Shri Shiva Chandra Jha to the vote of the House.

Amendments Nos. 33 and 34 were put and negatived.

MR. CHAIRMAN : The question is :

“That Clause 61 stand part of the Bill.”

The motion was adopted.

Clause 61 was added to the Bill.

Clause 62. (Amendment of Section 24 of Wealth-Tax Act, 1957).

SHRI SHIVA CHANDRA JHA : I beg to move :

Page 34, line 3,—

“for “twenty-five” substitute “fifty”.
(35)

MR. CHAIRMAN : I shall put this amendment to the vote of the House.

Amendment No. 35 was put and negatived.

MR. CHAIRMAN : The question is : “That Clause 62 stand part of the Bill”.

The motion was adopted.

Clause 62 was added to the Bill.

Clause 63. (Amendment of Section 26 of Wealth-Tax Act, 1957).

SHRI SHIVA CHANDRA JHA : I beg to move :

Page 34, line 6,—

for “twenty-five” substitute “fifty”.
(36)

MR. CHAIRMAN : I shall now put this amendment to the vote of the House.

Amendment No. 36 was put and negatived.

MR. CHAIRMAN : The question is :
 "That Clause 63 stand part of the
 Bill".

The motion was adopted.

Clause 63 was added to the Bill.

Clause 64. (AMENDMENT OF
 SECTION 27 OF WEALTH-TAX
 ACT, 1957).

SHRI SHIVA CHANDRA JHA : I
 beg to move :

Page 34, line 9,—

for "twenty-five" substitute "fifty".
 (37)

MR. CHAIRMAN : I shall now put
 this amendment to the vote of the House.

*Amendment No 37 was put and
 negatived.*

MR. CHAIRMAN : The question is :
 "That Clause 64 stand part of the
 Bill."

The motion was adopted.

Clause 64 was added to the Bill.

*Clauses 65 and 66 were added to
 the Bill.*

Clause 67. (AMENDMENT OF
 SECTION 23 OF GIFT-TAX
 ACT, 1958).

SHRI SHIVA CHANDRA JHA : I
 beg to move :

Page 34, line 44,—

for "twenty-five" substitute "fifty".
 (38)

MR. CHAIRMAN : I shall now put
 this amendment to the vote of the House.

*Amendment No. 38 was put and
 negatived.*

MR. CHAIRMAN : The question is :
 "That Clause 67 stand part of the
 Bill."

The motion was adopted.

Clause 67 was added to the Bill.

Clause 68. (AMENDMENT OF
 SECTION 25 OF GIFT-TAX
 ACT, 1958).

SHRI SHIVA CHANDRA JHA : I
 beg to move :

Page 35, line 3,—

for "twenty-five" substitute "fifty".
 (39)

MR. CHAIRMAN : I shall now put
 this amendment to the vote of the House.

*Amendment No. 39 was put and
 negatived.*

MR. CHAIRMAN : The question is :
 "That Clause 68 stand part of the
 Bill."

The motion was adopted.

Clause 68 was added to the Bill.

Clause 69. (AMENDMENT OF
 SECTION 26 OF GIFT-TAX
 ACT, 1958).

SHRI SHIVA CHANDRA JHA : I
 beg to move :

Page 35, line 6,—

for "twenty-five" substitute "fifty".
 (40)

MR. CHAIRMAN : I shall now put
 this amendment to the vote of the House.

*Amendment No 40 was put and
 negatived.*

MR. CHAIRMAN : The question is :

"That Clause 69 stand part of the
 Bill."

The motion was adopted.

Clause 69 was added to the Bill.

Clauses 70 and 71 were added to the Bill.

Clause 72. [AMENDMENT OF SECTION 12 OF COMPANIES (PROFITS) SURTAX ACT, 1964].

SHRI SHIVA CHANDRA JHA : I beg to move :

Page 35, line 42,—

for "twenty-five" substitute "fifty".
(41)

सभापति जी, वेल्थ टैक्स में ये 125 रखना चाहते हैं। चैप्टर 5 जो आगे शुरू होता है उसमें कम्पनीज प्राफिट्स सरटैक्ड ऐक्ट, 1964 में संशोधन करके कम्पनियों को भी वही देंगे। वेल्थ टैक्स में तो कुछ इंडिविजुअल आ सकते हैं जिनसे कि आपको हमदर्दी हो सकती है लेकिन कम्पनी को आप किस आधार पर 125 देते हैं। मेरा कहना है कि उसको 150 कीजिए। कम्पनी के साथ कोई रियायत नहीं होनी चाहिए।

श्री विद्या चरण शुक्ल : सभापति महोदय, यह बात ठीक है, जैसा श्री झा कह रहे हैं, मगर इसमें सवाल यह है कि प्रवर समिति में इसके ऊपर बहस हुई तब वहां पर हम लोगों ने इसकी लिमिट 250 रु० रखी थी, लेकिन उन्होंने घटाकर 125 कर दी। इसके बारे में प्रवर समिति की एक सिफारिश है और वह सर्वसम्मत सिफारिश है। उसके ऊपर किसी ने भी मिनट आफ डिसेंट नहीं दिया। चूंकि इसमें कोई मिनट आफ डिसेंट नहीं है, यह यूनेनिमस रिजॉल्यूशन है, इसलिए वह इस पर जोर न दें। यह इस विधेयक का आखिरी संशोधन है, इसलिए वह इसको जैसे का तैसा रहने दें।

MR. CHAIRMAN : I shall now put amendment No. 41 to the vote of the House.

Amendment No. 41 was put and negatived.

MR. CHAIRMAN : The question is :

"That Clause 72 stand part of the Bill."

The motion was adopted.

Clause 72 was added to the Bill.

MR. CHAIRMAN : The question is :

"That Clauses 73 and 74 stand part of the Bill."

The motion was adopted.

Clauses 73 and 74 were added to the Bill.

MR. CHAIRMAN : The question is :

"That Clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

MR. CHAIRMAN : The question is :

"That the Enacting Formula stand part of the Bill."

The motion was adopted.

The Enacting Formula was added to the Bill.

MR. CHAIRMAN : The question is :

"That the Title be added to the Bill."

The motion was adopted.

The Title was added to the Bill.

SHRI VIDYA CHARAN SHUKLA : I beg to move :

"That the Bill as reported by the Select Committee and as amended be passed."

SHRI TENNETI VISWANATHAM : On a point of order. As several amendments have been accepted, it is only proper that the Bill should be held over for the next day. That is Parliamentary practice as I read in *May*. This may be November. I am serious. We have passed a very controversial Clause in a very controversial manner. That is why I said it. If you are pleased to agree with me, you may hold it over. Otherwise we shall proceed.

MR. CHAIRMAN : I am in the hands of the House in such matters, because we have almost completed the deliberation on the Bill, but if some senior Members like Shri Tenneti Viswanatham are desirous of having sometime to consider the changes made, I will not stand in the way.

SHRI VIDYA CHARAN SHUKLA : I do not think we have any time.

I have given notice under rule 93(3) of certain consequential amendments which were not made while the concerned Clauses were under consideration. I beg to move :

Page 27,—

omit lines 9 to 11.

Page 27, line 12,—

omit "(b)".

Page 29,—

omit lines 18 to 25.

Page 29, line 26,—

omit "(b) in any other case".

SHRI KANWAR LAL GUPTA : On a point of order. It should be circulated. It has not been circulated.

SHRI TENNETI VISWANATHAM : To which Clauses do they relate ?

MR. CHAIRMAN : The House adopted some amendments previously to Clause 30 of the Bill. These are only consequential amendments to Clauses 44 and 52. According to the rules, such consequential

amendments can be moved at the third reading stage.

That is how these amendments are made; they are purely consequential/amendments.

SHRI TENNETI VISWANATHAM : When the second reading was taken up most of us willingly and with a full heart said that the Government was very cooperative and the Department also was very cooperative during the Select Committee stage and that we all arrived at a very good Bill indeed. I wish I could say that now; I wish the Minister gave us the opportunity to say so now at this stage also. Today it is not because of the substance of the amendments that were adopted that I am rising to speak we have certain decorum in parliamentary procedure. The particular clause is a very controversial clause ; it originally gave power to the ITO to open an assessment after it was finalised by himself. Now the Select Committee considered it very carefully and did not agree to it. An alternative was found; sub-clause 3 was amended and an entirely new look was given to that clause. Government agreed. Even though in the Select Committee there were quite a good number of Members to outvote the Government, we never did so. It is a fact which you will permit me, Mr. Chairman, to say here we acted in a cooperative spirit. If the Minister did not agree to a particular suggestion, we used to hold it over and discuss it and iron out our differences and came to agreed conclusions.

According to the amendment accepted by the Minister here on the spot, all the small assesseees are placed in the hands of the ITO who might happen to be unscrupulous. Today he may say : I have finalised your income-tax assessment I am a very small man and I go on with my business. After seven days perhaps he gets angry with me because I did not smile at him in a tea party and so he immediately sends a notice of reopening. Or, perhaps there is a function in his house; he might send for a carpet and some silver ware ; if it is not sent, immediately a notice will come. These things were happening; they will happen here after with redoubled vigour with this clause. It is for that reason all of us who had some knowledge of these things wanted that clause. I have not been

[Shri Tenneti Viswanatham]

recently paying incometax on account of Government itself deducting tax at the source but I know something of this ; I have friends and relations ; I was myself acting as the guardian of an incometax assessee for a long time. I know the ways of small men. Therefore we do not like to give too much power to small men. The Minister very graciously agreed there. Now the Minister has changed. There is a departmental meeting. Immediately he changes the clause. Is it right ? In other matters he says that the Select Committee has carefully considered this and therefore he is not going to accept this or that amendment but here, he says, "I have a departmental meeting and I was convinced that the Select Committee was wrong. It is this procedure with which I am aggrieved. It will set a very bad precedent and I do hope that hereafter no Minister will ever do such a thing..... (*Interruptions*) I do not work we have to set some standards not only in respect of procedure but also in administration. When a predecessor accepts in the Select Committee something it is only proper that the successor also gracefully accepts it. I might have differences of opinion, and no Minister completely and fully agrees with every other Minister. But he must stand by his predecessor. Mr. Dandekar was not there. Mr. Salve was not there at the time. (*Interruption*)

SHRI VIDYA CHARAN SHUKLA : They have appended their Minutes of Dissent to this in that particular matter.

SHRI TENNETI VISWANATHAM : Yes ; I never said no. What I said was that after a full discussion, after the Minister willingly agreed to it, we accepted this. Therefore, I thought the procedure followed by the Government which does not have any grace about it. That is all that I can say.

So far as the section is concerned, it is a very bad section. We convinced the department and the Minister that it was a bad section, but now, you have thrown all those small assesseees in the hands of unscrupulous small men you might have there. That is all.

Otherwise, the Bill is a fairly good measure, and I think the Government

have not lost anything by accepting the suggestions of the Select Committee. The Select Committee has done its best and also the Government have accepted the other sections. The assesseees also will not complain and the department also will not complain, and anyway, even if there is a complaint, in the light of experience, proper amendments may be made at a later time. That is all I have got to say.

SHRI N. K. SOMANI : Mr. Chairman, Sir, it is but natural, at the end of a marathon exercise which involved not only the debate in the House but also the suggestions of the Members of the Select Committee, for some of us to reflect very briefly at this particular stage the essence of what little we have been able to achieve through the medium of this particular Bill, and the frustrations and disappointments that have been faced in spite of the very clear and outstanding evidence produced not only by the various witnesses from various walks of life but also from the department itself. Therefore, it is doubly disappointing that the Government of India, the Minister of Finance, have chosen to tread very cautiously or to use very cautious approach in certain matters where the subject was completely wide open and free from any controversy.

I would, however, like to say that this has been a Bill which takes a very limited step of progress and advancement, and I would not say that it is entirely unhelpful. The essence of the argument should run on the line that much more could have been done to develop and to straighten and simplify the various procedures on incometax and other matters that have been tried to be tackled in this particular Bill. Whenever some sensible and realistic suggestions had been made, whether it is in the case of assessment procedures that have just now been exposed by the hon. Member who preceded me or in the case of amortisation, when we talked about ceiling on enlargement or the changes in the definition of the various items of expenses, or whether we talked about domestic companies in certain fields which I think are very vital to India's development especially in the mining field, or the withholding of certain legitimate concessions or tax-concessions to those companies, I think the Government have singularly withheld, and I do not know to

what purpose, the grants of those legitimate demands. I think it is better to remind the hon. Minister that he should take very early opportunity to consider sympathetically all the aspects that he has now promised during the course of the debate as well as the amendments that have been moved by us, and about which he has promised today.

I would also like briefly to draw the attention of the House to the fact that of late there has been a plethora of Committees and Commissions which have gone into the various aspects of taxation, tax assessments, black money and all that kind of subjects that have been dealt with not only by the Boothalingam Committee and the committees that have followed it, but also by a lot of people preceding them. Now, when we deal with the subject in an *ad hoc* fashion like this and choose to take one bit from one committee and another bit from another section and a third, from a jumble from somewhere else, it not only gives a rude shock to the assessee or to the corporate sector to the registered or recognised firms, but also create a certain sense of uneasiness and uncertainty in the minds of those people who would like really to contribute to India's economic development.

16 hrs.

HUF is case in point. After all, if some Hindus have chosen to live in a joint family manner and have taken the burden of the dependents, if it has been conclusively proved that this has not been a matter involving considerable tax avoidance I do not see any reason why Government should go out of their way to shake the confidence of an institution about which we have spoken before.

The crux of the matter is there have been far too many changes in taxation, not only in procedural matters but in the matter of approach and attitudes, in a field which is sensitive. The Minister should know that in the Finance Ministry everything has got to be done so that the sensitivity and confidence of the assessee is not only not shaken but is reinforced. Therefore, if it is not possible to take a long term approach in such matters for a period of 10 or 15 years, if the Government is not in a position to define its policies—I am not talking of

levels of taxation or any other concessions for a particular industry or group of assessee—for, say, 20 years, at least for a period of five years, say for the fourth or fifth plan period, it should be possible for Government to clearly lay down guidelines about the policies that will continue to rule either the corporate sector or mining industry etc. Development rebate was another case in point. It was extensively debated in the last budget session. There we pointed out that if you make violent and abrupt jerks in this fashion, it shakes the entire confidence of investors, shareholders, small and large assessee, etc. It is these things which prove, by design or otherwise, to be a drag on the total effort that has to be put into the economic development of our country.

A lot of members have chosen to quote Mr. Bhoothalingam's report in parts. I would respectfully submit that it is not correct to take a particular report and exaggerate one portion of it, for instance development rebate. Mr. Bhoothalingam proposed a package deal, to go into the simplification and rationalisation of the income-tax and various other tax laws. He went deeply into this. A long time has elapsed since then and there is another committee which is going into allied matters. On the surface it is meant for collecting information about black money, but it will certainly have to go into several aspects covered by this Bill and this debate. Therefore, at the very top level, once for all for a period of five years, it should be possible for the Government to lay down firmly and clearly guidelines about various matters concerning the tax laws so that any assessee can go with his eyes open as far as this matter is concerned.

About amortisation, a lot has been said. The Minister has been good enough to promise to the House that as and when they gather experience they will try to keep an open mind not only in regard to the ceiling fixed at 2½ per cent but also in regard to enlargement and inclusion of various other legitimate expenses that have got to be incurred from time to time. I would like to plead that they should certainly keep an open mind and a flexible policy in this regard. As experience accumulates—I do not agree with this approach, but if they have chosen to do it—they should certainly

[Shri N. K. Somani]

keep an open mind and try to meet the particular demands of a particular time.

I have already said that there was no particular reason to deny the domestic companies certain mining concessions that are being given to Indian companies. After all, domestic companies are subject to the laws of the land and they are doing a valuable service in copper and other mining operations. Therefore, this should have been done.

This is one department which collects revenue for the Government. But analysis of this particular revenue, research and development on the application of various trends and indicators—this exercise is completely lacking in this department.

I would like to suggest that either by the installation of a national computer centre attached to this Ministry, or the Central Board of Direct Taxes, or Indirect Taxes, they should make use of economic analysis in such a fashion that it will be possible to draw lessons to formulate a particular economic or tax measure in one field or another.

As far as the assessment producers are concerned, I certainly endorse the views expressed by Shri Tenneti Viswanatham that in their enthusiasm to tighten the procedure, in their enthusiasm to increase the penalties, they should not put more and more hardship in the way of the small assessee. It is very well known in the country that there are a very few merchants or small traders who maintain their annual accounts, trading accounts, in the mercantile fashion or in any other intelligible fashion, and these are the people who do not have recourse to income-tax practitioners, who do not have any technical known-how relating to this complicated hydra-headed monster called the Income-tax Act. Therefore, these small assessee, the small traders and businessmen would not be able to follow and comply with absolutely meticulously, in letter and spirit, the various provisions of this particular law. So, I would like to plead with the Government that they should take steps to educate the tax-payers and assessee, people with

small income, so that they are not put to unnecessary harassment. As in the case of other measures they have taken the attitude of hastening slowly or moving with caution, I could certainly plead with the Government that they should certainly hasten as long as education is not provided to the tax-payer.

In conclusion, I would like once again to bring to the notice of the Government the fact that this is a Bill which is a mixed bag. So, attempts should be made at the top national level to simplify and rationalise the entire procedure of income-tax, wealth-tax and all other taxes so that this whole plethora and jungle of laws that have been created during the last ten or fifteen years could be streamlined and straightened so that even the ordinary tax-payer, whether he is in the corporate sector, or in the co-operative sector or in his individual capacity, not only does not forget to pay his taxes in time but he understands the letter and the spirit of what are the requirements and that will help the country as a whole.

SHRI S. R. DAMANI : Mr. Chairman, I rise to support this Bill. I had the privilege of being a member of the Select Committee on this Bill where we heard very patiently the difficulties faced by the assessee and the suggestions to overcome them. I am happy that many of the suggestions and views of the witnesses have been accepted by Government. On some points like compulsory registration and taxation of Hindu joint families some amendments have been accepted.

In the Select Committee the fear was expressed by most of the witnesses that the reopening of assessment upto Rs. 7,500 will be harmful, will cause injustice and will create fear among the assessee. The Minister who was piloting the Bill was convinced of this argument and he agreed that the assessment can be re-opened only with the consent of the Commissioner. When a provision has been made after so much careful consideration, I am sorry that amendment has been withdrawn by Government. It is not at all fair. Many of the merchants are not educated and we are now creating in their mind a fear of re-opening their assessment by this provision. The re-opening of assessment will keep away assessee from

coming forward to file their returns for fear of harassment and the very object of simplification of the measure, namely, people voluntarily coming forward to file the returns, will be defeated.

This fear will continue. I specially want to draw the attention of the hon. Minister to remove this fear among the assesseees that they will be harassed. The officers in charge were also at that time convinced that some safeguards should be kept so that the assesseees may have an assurance that they will not be harassed.

This amendment, I think, has done harm to the assesseees and created fear in them. I think, a new practice has been accepted whereby an amendment accepted by the Government and the Select Committee is removed and revised. I want to stress very strongly that this should be looked after and some directive should be given by the Central Board of Revenue that assessments are not frequently opened, the assesseees are not harassed and the fear in the mind of the assesseees is removed. I want the hon. Minister to give such an assurance.

Regarding amortisation, we made a strong plea and submitted that smaller companies raising a capital of Rs. 10 lakhs will also have to spend a lot of money for advertisement and all the procedures whereas a company raising a capital of Rs. 5 crores will have to spend a little more but proportionately it will not be that much; so, $2\frac{1}{2}$ per cent will be harmful to the smaller companies or companies which raise small funds and will be beneficial to big companies. On the one side, the Government's policy is to help the small entrepreneurs and small persons to come, on the other, by this flat rate they are not helping the small entrepreneurs or the small investors but are giving incentive to big capital issues. So, we submitted at that time that there should be a slab system. Either they should accept the actual expenditure incurred by the companies or there should be slab, say, 5 per cent up to Rs. 25 lakhs, 4 per cent above that etc., so that every section can get justice. At that time it was not accepted by the Government. I again request that some slab system should be accepted or the actual expenditure incurred by the company should be allowed as amortisation.

With these two suggestions I support the Bill.

श्री कंवर लाल गुप्त : सभापति जी, जिस उद्देश्य से यह बिल सदन के सामने आया था उसमें दो ही बातें कही गई थीं। एक तो सिम्प्लीफिकेशन होगा और दूसरे इनकम टैक्स का नेशनलाइजेशन होगा। उन उद्देश्यों को सामने रखते हुए मैंने यह कहा था कि यह मिक्स्ड बैंग है। पर इस संशोधन के बाद जो सरकार ने अभी किया और जो मेरे मित्र साल्वे जी के संशोधन को माना, मैं यही कह सकता हूँ कि इस बिल से जो बड़ी-बड़ी कम्पनियाँ हैं उनको तो लाभ हुआ लेकिन जो छोटे-छोटे असेसीज हैं उन पर इतना आघात है कि शायद उसका परिणाम आज यह सदन नहीं जानता, जब यह बिल लोगों के सामने आएगा और इस पर जब अमल होगा तब सरकार को और मंत्री महोदय को मान्य होगा। इस बिल में यह तो प्रावधान है कि जो कम्पनियाँ हैं उनको ढाई परसेंट खर्चा मिल गया, कम्पनियों को और सुविधाएं भी मिल गईं। इसलिए हो सकता है कि कम्पनियों के लोग या कम्पनियों के हितैषी इसका समर्थन कर सकते हैं। लेकिन जिनका थोड़ा भी हित छोटे-छोटे असेसीज से है वह इसका समर्थन नहीं कर सकते। इसलिए मैं इस बिल का मूलतः विरोध करना चाहता हूँ और मैं समझता हूँ कि इससे छोटे लोगों को तो आघात पहुंचेगा ही, सिम्प्लीफिकेशन के लिए भी जो पूरी तरह सोचकर एक काम्प्रीहेंसिव बिल लाने की जरूरत थी, वह भी नहीं हुआ और सरकार ने यह पीसमील लेजिस्लेशन लाकर एक हाफ हाटेंड अटेम्प्ट किया है। आपको आश्चर्य होगा यह जानकर, जैसा श्री विश्वनाथन जी ने कहा कि सारी सेलेक्ट कमेटी में साल या डेढ़ साल के दौरान में एक बार भी वोटिंग नहीं हुई और आपस में चाहे मेजारिटी किधर भी थी, कई बार गवर्नमेंट के खिलाफ मेजारिटी होते हुए भी वोटिंग नहीं हुई। यहां पर श्री सेठी जी बैठें हैं, मैं आपके

[श्री कंवर लाल गुप्त]

जरिए से उनका ध्यान दिलाना चाहता हूँ कि वह मेरी इस बात की पुष्टि करें कि एक बार भी हमने वोटिंग नहीं होने दी। हालांकि कई बार ऐसी स्थिति थी पर हमने आपस में बातचीत करके एक कम्प्रोमाइज निकाला और जो एक संशोधन अभी आया वह भी एक कम्प्रोमाइज का ही तरीका है। जैसा कि अभी दमानी जी ने कहा यह एक तरह से ब्रीच आफ ट्रस्ट है और एक काम करने के तरीके के खिलाफ है जिसमें कि कुछ चीजें इस तरह से की जाती हैं, आपस में बैठ कर निर्णय लिए जाते हैं। सरकार उसमें बाद में बदल जाती है तो मैं समझता हूँ कि यह परम्परा कोई अच्छी नहीं है। और आप देखें अभी क्या होगा ? यह जो आइडिया था कि जो छोटे-छोटे असेसी हैं उनका असेसमेंट बगैर बुलाए पूरा कर दिया जाय उसमें क्या होगा कि अगर कोई रेहड़ी वाला है, पेटो शाप-कीपर है, पान वाला है, उसकी पांच हजार, 6 हजार या 10 हजार आमदनी है तो उसके पास ज्यादातर लोगों के पास हिसाब नहीं होता। उनके पास पूरा हिसाब नहीं होता। तो उन लोगों का थोड़ा बहुत देखकर इनकम टैक्स आफिसर असेसमेंट आर्डर करके भेज देता था। अब जो सेलेक्ट कमेटी ने यह कहा कि जब तक यह शिकायत न हो उसके पास कि कहीं बचत हुई है या उसने बेईमानी की है, तब तक उसको आर्बीट्ररी पावर नहीं देनी चाहिए कि वह कभी भी उसके केस को खोले लेकिन साल्वे जी के संशोधन के बाद उन्होंने इनकम टैक्स आफिसर को इतनी आर्बीट्ररी पावर दे दी है कि कहीं भी किसी समय भी बगैर कोई कारण बताए, बगैर पूछे किसी से, अगर उसने गली में जाते हुए नमस्ते नहीं की तो वह कह सकता है कि अच्छा, मैं तुम्हारा असेसमेंट खोलता हूँ। कोई लिमिट इसमें नहीं है। इस तरह की आर्बीट्ररी पावर मैं समझता हूँ कि सारे इनकम टैक्स ऐक्ट में नहीं है। अगर मान लीजिए असेसी गलती करता है,

बेईमानी करता है तो हम उसका समर्थन नहीं करेंगे। उसके लिए इसमें पावर्स हैं। सेलेक्ट कमेटी में यह बात आई थी। 147 सेक्शन मैं आपकी आज्ञा से पढ़ना चाहता हूँ उसमें देखिए, अगर कहीं भी लैकुना है, उसमें इनकम टैक्स आफिसर को पहले तो डिस्क्रिशन है कि चाहे वह 143 में असेसमेंट करे या न करे। अगर नहीं करता है तो उसकी मर्जी है। कोई उसको बाध्य नहीं करता है। अगर देखता है कि फिट केस है तो तब वह करेगा लेकिन अगर उसके ध्यान में आ जाय कि कुछ गलती हुई है, टैक्स की बचत की गई है तो उसको पावर्स हैं, इसमें आप देखिए, मैं पढ़ता हूँ।

"147. If—

- (a) the Income-tax Officer has reason to believe that, by reason of the omission or failure on the part of an assessee to make a return under section 139 for any assessment year to the Income-tax Officer or to disclose fully and truly all material facts necessary for his assessment for that year, income chargeable to tax has escaped assessment for that year, or
- (b) notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the assessee, the Income-tax Officer has in consequence of information in his possession the reason to believe that income chargeable to tax has escaped assessment for any assessment year,"

—in that case, he can reopen the case.

चाहे तो असेसी का ओमिशन हो, कमीशन, हो, कोई फेल्योर हो, या पार्टली डिस्क्लोजर हो, पार्टली डिस्क्लोजर न हो और यह भी नहीं, अगर इनकम टैक्स आफिसर को अपनी तरफ से भी कोई जानकारी हो तब भी वह खोल सकता है। अब इससे ज्यादा पावर आप इनकम टैक्स आफिसर को क्यों देना चाहते हैं ?

यह जो ब्यूरोक्रेसी है यह तो ज्यादा से ज्यादा पावर लेना चाहेगी और मैं समझता हूँ कि मंत्री महोदय उनके हाथ के शिकार हुए हैं और जो सदस्य महोदय हैं जिन्होंने यह बात रखी है मैं उनको भी यह बात कहूँगा कि वह भी उनके हाथ में खेल रहे हैं, उनके हाथों के शिकार हो रहे हैं जाने या अनजाने ।

अभी क्या किया—147 की जरूरत नहीं है, बगैर किसी कारण के बताये, उनको अगर बिल्डिंग आ जायेगा, तो वह खोल सकते हैं । अब मुझे बताइये कि इससे क्या फायदा होगा । एक आदमी के पास आज असेसमेंट आर्डर आ गया । मान लीजिए, मेरे ही पास असेसमेंट आर्डर आ गया, मेरा केस फाइनल हो गया, साल, दो साल के बाद फिर नोटिस आता है, इनकम टैक्स आफिसर उमको रि-ओपन करना चाहता है, तो फिर रि-ओपन हो गया, इसमें फाइनलिटि क्या हुई, तलवार फिर भी सिर पर लटकती रही ।

मैं मंत्री महोदय से कहूँगा कि अभी यह बिल राज्य सभा में जायेगा । आप कृपया इसके बारे में दूसरे लोगों से सलाह कीजिए और देखिए लोग इसके बारे में क्या कहते हैं । केवल अफसरों की बातों में मत जाइये । अगर आप दूसरे लोगों से सलाह लेंगे, तो इसमें वही बात निकलेगी, जो हम कहते हैं, जो अफसर कहते हैं, वह बात नहीं निकलेगी ।

अन्त में मैं इतना ही कहना चाहता हूँ कि इससे छोटे असेसिज का बहुत नुकसान हुआ है । सभापति जी, सिलैक्ट कमेटी में एक भी विटनेस ऐसी नहीं आई, अगर आई है तो साल्वे जी कोट करके बतलायें, जहाँ यह कहा गया हो कि इतनी पावर्स इनकम टैक्स अफसर को देनी चाहिए । सब ने यही कहा कि इससे छोटे असेसिज का बहुत नुकसान हुआ है ।

सभापति महोदय, मैं मंत्री जी से कहूँगा कि केवल इस संशोधन के कारण यह बिल ब्लैक-बिल के नाम से पुकारा जायेगा, क्योंकि

इससे लाखों की तादाद में लोगों को नुकसान होगा । अगर मंत्री जी या साल्वे साहब को यह भरोसा हो कि लोग उनकी बात को बेलकम करेंगे, तो आप रेफ्रेंडम करा लीजिए । अगर 100 में से 25 आदमी भी इस पक्ष में मत देंगे तो हम आपकी बात को मान लेंगे कि सरकार ने ठीक किया है । लेकिन अगर 90 प्रतिशत लोग यह कहें कि यह गलत हुआ है, तो सरकार को राज्य सभा में इस बिल में संशोधन कर देना चाहिए ।

SHRI S. R. DAMANI : There is one advantage.....

MR. CHAIRMAN : No please. Let us finish the discussion. You have already made your speech.

SHRI N. K. P. SALVE : Sir, the general comments I have already made when I was participating in the general discussion. I would only like to dispel some of the grave apprehensions created by the extremely unfortunate speech of Mr. Kanwar Lal Gupta. I have no doubt that he has motives, though they have always been the highest. Perhaps it is out of sheer ignorance. I am not attributing anything else.

यह कहना कि इनकम टैक्स आफिसर कभी भी असेसमेंट खोल सकता है, यह सबसे बड़ी भूल है, बुनियादी और अमूल भूल है । सैक्शन 153 के तहत उसमें असेसमेंट खोलने के लिए लिमिटेशन प्रेस्क्राइब कर दी गई है और जो भी असेसमेंट किया जाएगा There is a time limit prescribed in terms of Sec. 153. for an assessment to be re-opened. Let me tell him one thing more. Now my amendment has been accepted. Where the time expires under Sec. 153, the assessment cannot be re-opened under Sec. 147 or 148. He is saying that the smaller assesses can be put to a great deal of difficulty. In which way ? In which manner ? May I know ? He has not cited a single manner. He says that he is going to re-open in any circumstance and every circumstance. There are only two basic differences between my amendment which has now been accepted and the

[Shri N. K. P. Salve]

amendment as was recommended by the Committee. Before I come to the two differences, there is one thing I am unable to understand. It is said that the Minister gave a promise that he will accept it. I was not there.

SHRI TENNETI VISWANATHAM : No question of promise. His statement is wrong.

SHRI N. K. P. SALVE : Is it an understanding ?

SHRI TENNETI VISWANATHAM : He was part of the Select Committee, and with his agreement the clause was redrafted.

SHRI N. K. P. SALVE : Sir, for the sake of putting the record straight, since I understood Shri Guptaji to say that the Minister accepted the recommendation or the Bill as recommended by the Committee would be accepted, he is morally bound...

SHRI TENNETI VISWANATHAM : I am sorry there is a misunderstanding. All that we say is this. If you do not agree, you may not agree. In the Select Committee the Minister accepted a certain position and, therefore, the whole Bill was passed in a particular way. Now, his successor should not change it, having had an inter-departmental conference. That is all we say.

SHRI N. K. P. SALVE : Impliedly or explicitly if he has accepted, does it mean that there is a bar to improve upon what the Select Committee has reported ? Sir, Parliament is above the Select Committee. What I say is not going to put difficulties in the way of the small assessee, honest assessee. What is the difference in this regard as it was recommended by the Select Committee and as the position now is as per the amendment which I have suggested ? The difference is this. The assessee challenges and says that his figure is correct and that he is not going to accept even one rupee addition by the ITO. The ITO can do nothing about it. He will have to call the assessee, take the evidence and make a final assessment.

SHRI S. R. DAMANI : The smaller assessee will suffer unnecessarily and he has to go many times to the Income-tax Officer. He has to engage Income-tax practitioners and incur huge expenses for the same. The idea of encouraging small assessee to come forward to file their returns and offering other facilities will be defeated.

SHRI N. K. P. SALVE : The small assessee need not engage a lawyer at all. He can simply write saying, "I object to this assessment, I do not accept it;" that is all. He can simply say, 'My return is final'. That is the end of the matter. He need not go to a lawyer. He need not engage an income-tax practitioner. The democles' sword hangs on the head of the honest assessee. If he says : I don't care what you have to say in the assessment, you made it at my back, then the ITO can do nothing about it. He has to summon him, take his evidence, and make the final assessment. Thereafter the regular procedure will follow. Whether it is small or big assessee, the provision for summary assessment is there. I cannot understand how it is considered that smaller assessee will be hit and bigger assessee will be at an advantage. Not a single instance like that has been cited. This is where the Department has tripped and it is not for me to make the Department any wiser. If the ITO makes an assessment, I am not liable to accept it and pay tax, to the extent of the disputed item, because it is made at the back of me, without affording me opportunity to lead the appropriate evidence. That would have been the end of the matter. No liability over and above what I have accepted should be passed on to me.

My hon friend Shri Gupta champions the cause of the honest assessee. What is the authority of the ITO under Section 143 and under Section 147 ? If he opens under Sec. 147 he will open under Section 143. The objection is that, he should not open under Section 143, but under Section 147. There is some reason for it. Both 147(a) and 147(b) have been the subject matter of prolonged debate and litigation and I think Shri Guptaji will bear me out on this point, that 80% of the cases arose because of the restricted scope of those sections, and the technicalities involved. The question of the jurisdiction of the ITO-

which is a limited jurisdiction in terms of those sections have been stifled and stultified from reopening assessments. Under Section 143, this can be done. If he does not salute him ten times, it does not matter.

SHRI TENNETI VISWANATHAM : How many occasions he has to go to the Income-Tax Officer at inconvenient times? That is the point.

SHRI N. K. P. SALVE : The assessee need not go at all if he does not object. The assessment has to be completed within the time prescribed. That was there under the earlier Act also.

If the assessment is reopened under section 147, how many times has he to go?

SHRI TENNETI VISWANATHAM : That is all right. That is understood.

SHRI N. K. P. SALVE : What is understood?

SHRI TENNETI VISWANATHAM : Having made it final, he himself opens it. So, the position is totally different.

SHRI N. K. P. SALVE : Does he not have to walk then? If it is opened under section 147 he does not have to go in a rickshaw? Does he not have to use his feet? If it is opened under section 143, then only he has to use his feet?...

SHRI TENNETI VISWANATHAM : This is too much.

SHRI N. K. P. SALVE : This is a difference that they are seeking to draw without any distinction, about the number of times that he has to be present there. The basic question is this whether or not when there is an under-assessment of an assessee, you want to vest the income-tax officer with the authority to reopen the assessment, of course, within the limitations laid down, because assessment under section 143 has to be subject to section 153? My hon. friend Shri Kanwar Lal Gupta may do well to check up section 153. An assessment under section 143 cannot be made any time as thought of by him.

I would submit that an assessee who is an honest assessee, who does not want the income-tax officer to fix a liability arbitrarily on him need not be scared, whether he is big or small. Only such assessee as want some protection under technicalities or want protection under a facade of having filed a correct and proper return are the only ones who will not be so easily protected by my amendment.

SHRI TENNETI VISWANATHAM : I think that it is a very bad insinuation.

SHRI S. S. KOTHARI : I think it is a very important amendment. So, kindly allow me also to make some observations. I would not take more than two or three minutes.

MR. CHAIRMAN : Already, it is late.

SHRI S. S. KOTHARI : Why should you not permit? In the third reading, I think that only four or five Members have participated.

MR. CHAIRMAN : I think we have had sufficient discussion during the third reading.

SHRI SHIVA CHANDRA JHA : I also want to speak.

MR. CHAIRMAN : One Member from the Jan Sangh has already spoken, namely Shri Kanwar Lal Gupta. As for Shri Shiva Chandra Jha, I think that he has monopolised most of the debate during the first reading and second reading. Does he want to speak again during the third reading?

श्री शिव चन्द्र झा : मैं सिर्फ दो तीन मिनट ही लूंगा।

SHRI S. S. KOTHARI : What is this kind of partiality that you are showing? If you permit him, then I must also be permitted. Why do you want to discriminate? I am very sorry. I could have expected this from anybody else but not from you.

MR. CHAIRMAN : Order, please. I never thought that Shri S. S. Kothari can lose his temper like this. I said that one Member from the Jan Sangh had already

[Mr. Chairman]

spoken. In the case of Shri Shiva Chandra Jha, there is a difference, because he represents another party in this House. So, when the hon. Member makes remarks, let him be careful.

Now, Shri Shiva Chandra Jha.

SHRI S. S. KOTHARI : An idol has fallen. I am sorry to say that.

श्री शिव चन्द्र झा : मन्त्री महोदय जब विधेयक को पेश कर रहे थे तो खुद उन्होंने कहा कि एक्सपेरिमेंट के रूप में हम लोग आगे बढ़ रहे हैं। कुछ नई बातें इस विधेयक में आ रही है और उनको हम एक्सपेरिमेंट करने जा रहे हैं—एक नया तरीका चला करके। ठीक है, आप एक्सपेरिमेंट करते हैं, करें लेकिन मैं जानना चाहता हूँ कि आपने अपने सामने कोई अवधि रखी है कि एक दो साल के बाद हम इसका लेखा-जोखा करेंगे कि इस विधेयक को पास करने के बाद हमको क्या प्राप्ति हुई है और जो हमारा मकसद था उसमें कितनी सफलता मिली है? यदि नहीं तो टैक्स के सम्बन्ध में जो कुछ और रिपोर्टें आने वाली हैं जैसे वांचू कमेटी की रिपोर्ट—उनके संदर्भ में क्या आप संशोधन करेंगे या नहीं या आप कोई काम्प्रिहेंसिव विधेयक लायेंगे या नहीं?

दूसरी बात यह है कि इनकम टैक्स आफिसर को कुछ ज्यादा ताकत दी गई है। कुछ कंट्रोल भी है लेकिन साल्वे जी के संशोधन से ऐसा जान पड़ता है कि उनको ज्यादा ताकत मिल रही है। जैसा कि मैंने प्रथम वाचन में ही कहा था कि इस विधेयक में कम्पनी वाद ज्यादा है, समाजवाद नहीं है। इस विधेयक से कम्पनियों को ही ज्यादा फायदा होने वाला है। पिछली योजनाओं में डेवलपमेंट रिबेट और टैक्स हालीडे के नाम पर उनको बहुत सी छूटें दी गई हैं और अब तो स्थिति ऐसी हो गई है कि इन्वेस्टमेंट हालीडे चल रहा है, प्राइवेट सैक्टर हड़ताल पर है। अभी एक

करोड़ तक इन्वेस्टमेंट पर लाइसेंस की जरूरत नहीं थी और अब कहा जा रहा है कि 5 करोड़ तक रियायत दो। इस तरह से प्राइवेट कैपिटल ने—इन्डस्ट्रियल डेवलपमेंट को रोक रखा है। दूसरी बात यह है कि जो कोर सैक्टर है उसमें कांशसली या अनकांशसली प्राइवेट कैपिटल घुस रहा है। इन्डस्ट्रियल पालिसी रेजोल्यूशन पर छिपे तौर से आघात हो रहा है।

मैं कहना चाहता हूँ कि औद्योगिक विकास को मद्देनजर रखते हुये सरकार को कुछ कदम उठाने चाहिए। एक तो यह कि जो बैंक्स बचे हुए हैं जिनका कि राष्ट्रीयकरण नहीं हुआ है, उनका राष्ट्रीयकरण कर दिया जाए। दूसरे भूतपूर्व राजाओं को जो भी रिलीफ देने की बात चल रही है। उसको सरकार छोड़ दे। इसी तरह से इस देश के जो 75 मानोपलि हाउसेज हैं उनका सरकार शीघ्रातिशीघ्र राष्ट्रीयकरण कर ले। प्लानटेशन इण्डस्ट्री और विदेशी कम्पनियों का सरकार राष्ट्रीयकरण कर ले। उसी प्रकार से जमीन के मामले में मिल्कियत और इनकम सीलिंग की बात जैसी कि मैंने शुरू में कही है, उसका भी करना चाहिए। ये 5-6 कदम अगर सरकार उठायेगी तो समाज के विकास और पुनर्निर्माण का जो मसला है उसकी तरफ हमारा रेडिकल कदम माना जायेगा। इन बातों से ही हमारी समस्या का कुछ हल निकल सकता है। वर्ना जो यह विधेयक है जिसके जरिए से आप एक्सपेरिमेंट करना चाहते हैं उसमें हम आपके साथ हैं और देखना चाहते हैं कि उसका क्या नतीजा होता है लेकिन अगर ठीक एक्सपेरिमेंट नहीं होता है तो उसके लिए आप आश्वासन दीजिए कि बाद में एक काम्प्रिहेंसिव विधेयक लायेंगे।

SHRI VIDYA CHARAN SHUKLA : Though lately there has been a little controversy about certain amendments that were moved to cl. 30, the debate, by and large, has been constructive and hon. members who participated in it have kept it at high level. I must also compliment hon. mem-

bers for having studied this rather complex question properly and carefully and making a good contribution to the debate.

I have had occasion to give assurances of considering several suggestions made during the debate. I shall do so expeditiously so that all those suggestions made, which could not, for various reasons, be accepted during discussion could be properly examined to see whether such of those suggestions which could be incorporated in the law or in the rules, in keeping with the scheme of the law and keeping in our total objective as far as taxation matters are concerned, could be used profitably.

I must say that in the beginning of my opening speech itself I had made it clear regarding cl. 30 that whereas there was a recommendation of the Select Committee before the House, the minute of dissent appended to the Report of the Committee by Shri Salve has considerable force. I had also said at that time that I would like to have the guidance of the House regarding this particular clause and after hearing various members here shall decide whether I should accept the amendment that are moved by Mr. Salve or I should accept the Bill as was reported by the Select Committee. It is absolutely unfair for any hon. Member to allege here that the Government is changing its attitude or its commitments. No commitment of any kind was made in the Select Committee. I can give many instances of members who did not append a Minute of Dissent on a particular matter but spoke here against several things which the Select Committee has suggested. For instance, Shri Kanwar Lal Gupta moved several amendments opposing what has been suggested by the Select Committee though he did not append any Minute of Dissent to the report of the Select Committee. I would not allege that he went back on his commitment or changed his stand. I would say that the Government with its officials and legal experts and the hon. Members sat in the Select Committee, put their minds together and drew up a certain scheme accepting certain amendments, but the ultimate decision rests with the House and the Government is not committed to any stand this way or that way. Therefore, for Mr. Viswanatham or

any other Member to allege that the Government is going back on its word is not correct and I emphatically repudiate this kind of allegation. I think it is very unfair to make any such allegation.

SHRI TENNETI VISWANATHAM :
Only it is correct.

SHRI VIDYA CHARAN SHUKLA :
Another thing which we have tried to do— I hope we will succeed to an extent—is to simplify the provision and make them more understandable. Unfortunately, so far whenever this exercise was undertaken, the laws have become more complicated instead of becoming simplified. I hope this time at least we shall to an extent succeed in simplifying the provisions of this Act. As a matter of fact, if we were using these taxation laws only for the purpose of collection of revenue, the laws would not have been so complicated, but we all know that apart from collection of revenue, there are various other objectives that we seek to fulfil by these taxation law like enforcing social justice, enforcing equality, reducing the gap between the richer and the rich, the rich and the poor etc., and because of that we have to insert many provisions which may not be strictly necessary from the point of view of collection of revenue only. If you want to prevent the concentration of economic power in a few hands, we have to put many things in these laws, and there are various other aims of this kind which we have accepted as a matter of policy, which have to be put in the laws, and because of that these laws become complicated. These laws are not meant purely for collection of revenue. There are certain economic obligations that the Government has towards the people, and to that extent, out of necessity these laws will be slightly complicated and there is no getting away from this fact. I wish we could simplify them a little more, but I do not think that it is possible to simplify them in such a manner as to make them understandable to the common people.

We have tried to achieve some kind of peaceful atmosphere between the tax collector and the assessee in this Bill. Clause 30, about which there was such controversy, is one of the most important clauses of this Bill. Hon. Members from both sides

[Shri Vidya Charan Shukla]

representing both points of view explained the position. I would in short indicate the position as I look at it.

16.45 hrs.

[MR. SPEAKER *in the Chair*]

We wanted that there should be summary assessment. It was pointed out to us that in the process of summary assessment injustice may result. But the difficulty arises that it was not possible under sections 147 and 148 to reopen these cases.

Because of the operation of court judgments, etc., it would have become very cumbersome and difficult to retain that. The small assessee would suffer on account of that. We thought that the small assessee whose case was disposed of in a summary manner should have an opportunity of going to the income-tax officer and tell him : here a mistake had been committed and so I want to be heard. Therefore we have accepted the amendment of Mr. Salve. It does not make any difference whether power had been given to the income-tax officer to reopen the case or not because as Mr. Viswanatham and Kanwar Lal Gupta and Kothari know those powers were available to the ITO under 147 and 148. No new power has been given by this amendment which we have accepted in the House. An unnecessary furore had been made in this matter.

Shri Shiva Chandra Jha said that this Bill was going to benefit companies. I should assure him that this would benefit mostly small assesseees and not the big companies. The new provision in respect of amortisation of certain expenditure would help the growth of small people in industry ; it is not going to help the bigger people much but the middle level and the lower level people whether in the corporate sector or the non-corporate sector. I am glad that by and large the Bill had received the support of all sections of the House and I hope that the House will now pass the Bill unanimously.

MR. SPEAKER : I shall first put the consequential amendments which the Govern-

ment moved to the vote of the House. The question is :

Page 27,—

omit lines 9 to 11

Page 27, line 12,—

omit "(b)"

Page 29,

omit lines 18 to 25

page 29, line 26,—

omit "(b) in any other case"

The motion was adopted.

MR. SPEAKER : The question is :

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

The motion was adopted.

श्री मधु लिमये : अध्यक्ष महोदय, दूसरा विधेयक लेने के पहले आप जरा संसद्-कार्य मंत्री तक हमारा एक निवेदन पहुंचा दें। जावेद आलम, लेक्चरर, का जो मामला है उसको लेकर 21 लड़कों को गिरफ्तार किया गया है। पार्लियामेंट स्ट्रीट पुलिस स्टेशन पर उन्हें खाना भी नहीं दिया गया है। क्या मंत्री महोदय इसकी जानकारी हासिल करके सदन स्थगित होने के पहले एक बयान देंगे ?

MR. SPEAKER : Not anything, at any time, without any notice. There must be some procedure followed for these things. I am so sorry.

श्री मधु लिमये : उन्हें खाना तक नहीं मिला। इसलिए जावेद आलम का मामला बहुत अहम है।

16.50 hrs.

SCHEDULED CASTES AND SCHEDULED TRIBES ORDERS (AMENDMENT) BILL

THE MINISTER OF LAW AND SOCIAL WELFARE (SHRI K.