

[Dr. V. A. Seyid Muhammad]

State in the circumstances that exist. That being the position, however much respect I may have towards Mr. Sreekantan Nair's statement and sincerity, simply because certain point of view is raised and certain people want—including Mr. Sreekantan Nair—it cannot be done because there are not the necessary conditions

Some time ago—you know it much better than me—the Government was existing by a narrow majority of two. Now there is a difference of 31—81 and 49 or so. When it has become so well established and when for the first time for five years, there is a very stable, very effective and very useful Government operating, and continuing to operate, under what ground can we say that there is a breakdown of the constitutional machinery? It is an essential condition precedent for the introduction of President's rule that there must be a breakdown of the constitutional machinery and the existence of circumstances which make it impossible to carry on the normal constitutional government. We are far from it. In these circumstances, in spite of the good intentions and sincerity of Shri Sreekantan Nair, it cannot just be done.

Shri C H Mohamed Koya wanted an assurance that election would be held when the term of six months expires. I have already replied to that point.

I submit we have brought the Bill because circumstances justify bringing such a Bill giving extension for various reasons which I need not repeat. Even though very good suggestions were made in all earnestness and sincerity, in the circumstances explained, I am not in a position to accept them. I thank all the members who have participated and for giving us very valuable suggestions which have very fundamental significance. Thanking them, I commend the motion for acceptance.

MR. SPEAKER: The question is:

"That the Bill to provide for the further extension of the duration of the present Legislative Assembly of the State of Kerala, be taken into consideration".

The motion was adopted.

MR. SPEAKER: We take up clause by clause consideration. There are no amendments. The question is:

"That Clause 2, Clause 1, the Enacting Formula and the Title stand part of the Bill".

The motion was adopted.

Clause 2, clause 1, the Enacting Formula and the Title were added to the Bill.

DR. V. A. SEYID MUHAMMAD: I beg to move.

"That the Bill be passed".

MR. SPEAKER: The question is:

"That the Bill be passed".

The motion was adopted.

12.43 hrs.

# CENTRAL SALES TAX (AMENDMENT) BILL

MR. SPEAKER: We will now take up the next item, the Central Sales Tax (Amendment) Bill. Shri Pranab Kumar Mukherjee.

SHRI N. SREEKANTAN NAIR (Quilon): On a point of order. This Bill is against art. 286 of the Constitution. Article 286(1) says:

"No law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place—(a) outside the State; or (b) in the course of the import of the goods into or export of the goods out of, the territory of India".

Clause (2) of article 286 says that Parliament may be law formulate principles for determining when a sale or purchase of goods takes place. In other words Parliament is empowered only to lay down norm which we should comply with. Article 286 is meant for that purpose. This legislation is intended to deny to the state government the right to formulate its law regarding sales tax: It is not laying down norms; it is in fact negating them. That is not the purpose of that article and the purpose of the Constitution is defeated by bringing in this bill, further all the state governments are seriously affected by the restriction intended to be imposed and this would also go against the twenty-point programme of the Prime Minister because the prices will shoot up when multi-point sales tax is realised in place of a single point tax. The Supreme Court has also given a ruling that the state governments are empowered to levy tax on goods sold within the State before they are sent outside.

THE MINISTER OF STATE IN-CHARGE OF THE DEPARTMENT OF REVENUE AND BANKING (SHRI PRANAB KUMAR MUKHERJEE): This is only an amending Bill to the Central Sales Tax Act which has already been passed by this Parliament. Secondly this relates to sales tax relating to export items on which Parliament has exclusive competence and the state governments have no authority. We are just trying to extend those provisions which have already got the approval of Parliament. This is not a new piece of legislation.

SHRI N. SREEKANTAN NAIR: You are denying the states; the constitution says that you can lay down certain norms; but you are denying the states their revenues.

SHRI PRANAB KUMAR MUKHERJEE: We are laying down a principle

in respect of exports and Parliament has this authority; it is laid down in article 286 (2).

MR. SPEAKER: So, let us proceed with the Bill in view of this. Besides we are not determining the constitutionality or otherwise of the provisions.

SHRI N. SREEKANTAN NAIR: I am also not an expert on constitution but I know that this Bill harms the interests of states.

MR. SPEAKER: We shall take up this Bill now. Two hours have been allotted. The hon. Minister.

THE MINISTER OF STATE IN CHARGE OF THE DEPARTMENT OF REVENUE AND BANKING (SHRI PRANAB KUMAR MUKHERJEE): I beg to move:

"That the Bill further to amend the Central Sales Tax Act, 1956, be taken into consideration."

Sir, under Section 5(1) of the Central Sales Tax Act, 1956, a sale or purchase of goods is regarded as a sale in the course of export of those goods out of the territory of India only if such sale or purchase has either occasioned such export or is effected by a transfer of documents of title to the goods after the goods have crossed the customs frontiers of India. In the case of Md. Serajuddin Vs. State of Orissa, the Supreme Court held in April, 1975 that under this section, the sale by an Indian exporter from India to the foreign importer alone qualifies as a sale in the course of export.

According to the Export Control Orders, exports of certain goods can be made only by specified agencies such as the State Trading Corporation. In other cases also manufacturers, particularly, in the small scale and medium sectors, have to depend upon export houses for exporting the goods because of the special expertise

[Shri Pranab Kumar Mukherjee]

needed for carrying the export trade. A sale of goods made to the canalising agency like the State Trading Corporation or to an export house for the purposes of export of those goods, in compliance with an existing contract or order, is inextricably connected with the export of the goods. In view of the restricted interpretation placed by the Supreme Court in the aforesaid judgment, sales of the above nature to such canalising agency or the export house do not qualify as sales in the course of export and are thus liable to sales tax. This would result in a corresponding increase in the price of the goods and would make our exports uncompetitive in the fiercely competitive international market. It is, therefore, proposed to amend the Act retrospectively from 1st April, 1976 to provide that the last sale or purchase of any goods preceding the sale or purchase occasioning export of those goods out of the territory of India shall also be deemed to be in the course of such export if such sale or purchase took place after, and was for the purpose of complying with, the agreement or order for or in relation to such export.

Sir, sub-section (2) of Section 9 of the Act empowers the sales tax authorities of the States to assess, re-assess, collect and enforce payment of Central sales tax. The said authorities under the exercise of all the powers which they have under these laws. State sales tax laws including, *inter alia*, the powers to impose penalties, for the purposes of the Central Sales Tax Act. In the case of Khemka and Co. (Agencies) Private Ltd. Vs. State of Maharashtra, the Supreme Court in its majority judgement ruled that the provisions of the State sales tax laws as to penalties do not apply for the purposes of the Central sales tax. In view of this judgement, the State Governments are faced with the pro-

blem of having to refund the amounts collected by them in the past by way of penalties. The judgment has also resulted in a vacuum being created in regard to levy of penalties for breaches under the Central Sales Tax Act. It is, therefore, proposed to amend Section 9 of the Central Sales Tax Act to provide expressly that the provisions relating to offences and penalties under the general sales tax law of each State shall, with necessary modifications, apply in relation to the assessment re-assessment, collection and the enforcement of payment of tax under the Central Sales Tax Act. The penalties which have been levied in the past for the purposes of Central Sales Tax Act, on the basis of the provisions of the general sales tax laws of the State are also sought to be validated.

The opportunity of amending the Act in the above respects is also proposed to be utilised for making the following other amendments:—

- (i) Crude oil and certain cereals and pulses are proposed to be included in the list of goods declared to be of special importance in inter-state trade or commerce. The result of such inclusion in the list of declared goods would be that the rate of sales tax on these commodities cannot exceed 4 per cent. It is also proposed to be made clear by amending Section 15 of the Act that paddy and rice will not be treated as separate items for the purposes of levy of sales tax and that there would be no double taxation once at the paddy stage and again at the rice stage. It is also proposed to be clarified that the pulses included in the list of declared goods, whether whole or separated, and whether with or without husk, shall be treated as a single commodity for the purposes of levy of sales tax.

- (ii) Two new definitions of the expressions "business" and "crossing the customs frontiers of India" are sought to be inserted in the Act. The definition of "business" is to make clear that dealer carrying on a business would be liable to tax under the Act whether he carries on such business with or without profit motive. "Crossing the customs frontiers of India" is sought to be defined as crossing the limits of the area of a customs station in which imported goods or export goods are ordinarily kept before clearance by customs authorities. In the absence of a definition, "customs frontiers" in Section 5 has been interpreted to be co-terminus with the extent of the territorial waters and this gives rise to practical difficulties to determine the question whether at the time of sale or purchase, the goods have entered or crossed the territorial waters.
- (iii) The existing definition of the term 'dealer' is proposed to be substituted by a new comprehensive definition.
- (iv) Section 7 of the Act is sought to be amended to enable the amount of security to be demanded, being computed in the case of a dealer who applies for voluntary registration under the Act. The amount of security in such a case shall not exceed the sum equal to the tax which could have been levied on sales to such dealer in the course of inter-state trade or commerce, if such dealer had not been registered under the Act. The security cannot be demanded unless the dealer has been given an opportunity of being heard.

- (v) It is proposed to plug a lacuna in subsection (1) of Section 9 of the Act to provide for collection of tax in respect of subsequent sale, not exempt from tax under the Act, which is made by an unregistered dealer, in the State from which such subsequent sale is effected.

Sir, the amendments proposed in the Bill with respect to the definition of 'sale in the course of export' is with a view to give fillip to our export trade. The amendments with regard to crude oil and certain cereals and pulses are for the purposes of restricting the incidence of sales tax on these items. The other amendments are with a view to tightening up the administration of the law.

Sir, I trust the House will unanimously accept the Bill.

Sir, I move.

MR SPEAKER: Motion moved:

"That the Bill further to amend the Central Sales Tax Act, 1956, be taken into consideration."

SHRI C. H. MOHAMED KOYA (Manjeri): Sir, I oppose this Bill, moved by Shri Pranab Kumar Mukherjee. The Amendment Bill, among other things, tries to amend section 5 of the Act, which deals with the exemption of sales and purchases of goods taking place in the course of export and import. If this amendment is passed into law, purchases of goods by exporting agencies will be exempt from sales tax.

The State Government of Kerala have written to the Government of India as late as on 26-7-76, stating that this Bill will affect their finances very heavily. The proposed amendment will have very serious impact on the State's finances.



[Shri C. H. Mohamed Koya]

Each State has its own scheme in the levy of sales tax. The pattern adopted by a large State, which has advanced industrial and manufacturing activities, like West Bengal and Maharashtra, is different from that of a small State which has no such advantages. In that background, the scheme adopted by the Kerala State, in the State Sales Tax law, is largely a single point levy to enable it to tax goods effectively at an identifiable point and with an identifiable dealer, with lesser chances of evasion. In this scheme, many small dealers are left out of the group. The peculiar problems the State Government will have to face do not seem to have been fully appreciated while drafting the amendment, or even when the Kerala State Minister pointed it out in person to the Minister of State for Finance. Most of the exports from Kerala are plantation crops like pepper, ginger, cardamom, cashew and marine products, which have no competition in the export market. At present these items are liable to sales tax at the last point of purchase in the State, that is, purchase by exports. They are the best identifiable persons and the levy will be effective. The State Government is getting an annual revenue of Rs 23 crores from the above levy. This levy, based on past experience, has been in existence for the last twenty years, and it did not have any adverse impact on the export trade, mainly because we are having a near monopoly, and the demand is not responsive to slight variations in prices.

The anxiety of the State Government about the adverse effects of the proposed amendment had been brought to the notice of the Government of India, as stated by me earlier, as back as 26/7/76 in the D.O. letter of the State Finance Minister. Then the State Minister took the trouble of coming to Delhi and explaining the position to the Central Minister in person.

The proposed amendment will have very serious impact on the State's finances. To fund the current year's plan, we are raising additional resources of the order of Rs. 20 crores, and we have also agreed to improve the financial position by another Rs. 10 crores by way of economy in expenditure and arrear collections. Even then there will be a sizable uncovered gap. For financing the Plan in the coming two years, the State Government stand committed to raise nearly Rs. 47 crores over and above this year's commitment. The further erosion of our revenue by the proposed amendment by Rs. 23 crores will make it impossible to finance the Plan, which even at the present level does not meet our reasonable requirements.

Therefore, I would request the Minister to accept the amendment moved by some hon. Members from Kerala, belonging to all parties, or at least accept the amendment of Shri Stephen, which is an enabling provision

MR. SPEAKER. Shri Stephen.

SHRI C. M. STEPHEN (Muvattupuzha): rose

MR. SPEAKER. He is in possession of the House. He can speak after lunch.

13 hrs.

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

The Lok Sabha re-assembled after Lunch at Fourteen of the Clock.

[MR. DEPUTY-SPEAKER in the Chair]  
CENTRAL SALES TAX (AMENDMENT) BILL—Contd.

MR. DEPUTY-SPEAKER: Shri Stephen.

श्री राम हेमद (रामटेक) : उपाध्यक्ष महोदय, हमें ऐसा पता चला है कि अनुसूचित जातियों और अनुसूचित जनजातियों का

विशेष के साथ भी नहीं ला रहे हैं। अनु-  
सूचित जातियों के बारे में यहाँ कोई बोलनेवाला  
नहीं है, इसीलिए उन को पीछे रखा जा रहा  
है....

MR. DEPUTY-SPEAKER: Order  
please. I have not called him. I  
have called Shri Stephen. You can-  
not take me by surprise in this way.  
I have no notice of it, I know nothing  
about it. There is other business  
before the House. If you have any-  
thing to say, you first convey it to me  
in writing. Shri Stephen.

श्री राम हेडाऊ : उपाध्यक्ष महोदय,  
कुछ एम०पी० लोग जगह जगह बैठ कर इसके  
बारे में बात करते हैं, लेकिन हम से बात नहीं  
की जा रही है। मैं चाहता हूँ कि यह बिल  
अवश्य लाया जाय और पास किया जाय..

MR. DEPUTY-SPEAKER: Order,  
order. I am not able to follow any-  
thing. Nothing of this will go on re-  
cord. If there is anything, you kind-  
ly convey it to me in writing, not in  
this manner. I do not understand what  
you are saying.

SHRI RAM HEDAOO : \* \*

SHRI C. M. STEPHEN (Muvat-  
tupuzha): Mr. Deputy-Speaker, while  
I rise to speak on this Bill, I must con-  
fess a feeling of dismay and consi-  
derable mental disturbance when I  
think of the consequences after the  
Bill is matured into law. In my view,  
it runs against the basic principles  
which should govern the Government  
of a federal structure. It runs against  
the basic concept that, when Parlia-  
ment defines a particular thing, the  
definition must be truthfully done.  
The consequences of this will be that  
the economy of the different States in  
the country will be shattered on the

one hand, and a large circle of the so-  
called exporters besides the public sec-  
tor exporting houses will have consi-  
derable benefit at the expense of the  
exchequer of the different States.  
These are the three implications of  
this Bill as far as I could see it.

Now I am concerned mostly with  
Clause 3 of this Bill which seeks to  
define what exactly is a transaction in  
the course of export trade. This de-  
finition is sought to be incorporated  
into the Bill in exercise of the autho-  
rity vested in Parliament under arti-  
cle 286(2). Article 286 prohibits im-  
position of any tax on sale in the  
course of export and import, and sub-  
article (2) gives the power to Parlia-  
ment to formulate the principles for  
determining when a sale or purchase  
of goods takes place in any of the  
ways mentioned in the said sub-  
clause.

This has been a controversial point  
for quite a long time ever since the  
Constitution was enacted as to what  
exactly would constitute a sale in the  
course of export or import, and there  
have been umpteen rulings, quite a  
large number, and given in quick suc-  
cession by the Supreme Court of India  
defining what exactly is a sale in the  
course of export or import. I should  
say that this is one of the items on  
which the view of the Supreme Court  
has been consistent right through, and  
this definition given by the Supreme  
Court was accepted by Parliament  
when Parliament enacted the Central  
Sales Tax Act. The definition was  
given by Parliament by section 5 of  
the Central Sales Tax Act. Sub-sec-  
tion (1) and sub-section (2) in the  
original Act are now being retained,  
besides what exactly should be deem-  
ed to be a sale in export and import.  
Now, a third sub-section is sought to  
be incorporated. I can understand if  
you say that section 5 is deleted and  
another principle is being brought in.  
Sub-section (1) and sub-section (2) of  
section 5 are being retained. And this

[Shri C. M. Stephen]

section says that a sale or purchase of goods shall be deemed to take place in the course of export of goods out of the territory of India only if the sale or purchase either occasions such export or is effected by transfer of documents of title to the goods, etc. etc. That is being retained. What is in the course of a sale across the borders of a State, what exactly should be deemed to be an inter-State sale, is pointed out in section 3, and section 3 is being retained. Section 5 is also retained. These sections are in consonance with the dictums spelt out by the Supreme Court of India—they are not at all taken away. Now, a third sub-clause says that, even if your sale does not occasion the movement of goods across the borders of India, across the customs borders of India, even if your sale does not occasion a sale in the course of export and import factually, your sale, although it is to a person in this country, can still be deemed to be a sale in the course of export and import. It is true that this Parliament has got the power to define, but my humble plea is that the definition that this Parliament gives, must be consistent with commonsense, must be consistent with the legal dictum formally accepted, must be consistent with what I would call, legal proof and legal honesty. A deeming provision should not be such as to commit an act of intellectual dishonesty. A deeming provision should not be a defining principle should not be such as would run counter against what really everybody knows to be the fact.

If I sell my goods to you or to Mr. Pranab Mukherjee, knowing well that by the sale of the goods to Mr. Pranab Mukherjee, the goods do not go across the frontiers of the State, no deeming provision can convert my sale into a sale across the border....

MR. DEPUTY-SPEAKER: That is only in execution of an existing agreement.

SHRI C. M. STEPHEN: That I am coming to.

But what I am submitting is: retaining both, retaining on the one hand and saying that only when this happens, it will be this—that is what is stated: "a sale or purchase in the course of export out of the territory of India only when the sale or purchase has occasioned such exports." That section is retained. You say, Your sale can be deemed to be a sale across the border in the course of export, only if that sale occasions the transfer of goods. Only that. That is retained. After retaining that, you say that in spite of that, a sale which has taken place prior to that shall also be deemed to be a sale in furtherance of the export sale. That is what I say is a conjecture which baffles all understanding.

MR. DEPUTY-SPEAKER: I think they have qualified that.

SHRI C. M. STEPHEN: That I am coming to. The point is whether it occasions or not. That is the only thing I want to say about.

Now, there are two principles spelt out. As far as inter-State sale is concerned, the same principle must govern inter-State trade. I, in Kerala, sell my goods to somebody in conformity with an agreement to sell it across to somebody else. Would that also come under the same principle? That does not come under the same principle. If this is the principle that a sale which not only occasions the transfer of goods or movement of goods but a sale which is in conformity or in fulfilment of an agreement for export can also be deemed to be a sale in the course of exports, then, applying the same principle we will have to concede that a sale within the State in fulfilment of an agreement or a sale occasioning the movement of goods across the State can also be covered by the same principle. There cannot be two standards. That is why I say, you keep one standard here and

you take another standard somewhere else. One is in the course of exports and imports between two States and another is in the course of exports and imports between India and countries outside. If a sale happens to be in the course of exports you apply one principle. Then by applying the same principle, sale across the State must also be a sale which is in fulfilment of an agreement and putting the goods across the States must also be in the course of the inter-State transaction. That is not being done. The other one is kept. For this the original is kept. Then the third one comes saying that the new principle is important. This is highly baffling. That is what I want to submit.

I have got my own doubt about the constitutionality of this definition. It is true that the Parliament has got the power to define a principle, but the principle must be a principle. What is the principle defined? You have applied two standards. That is not a principle. I have got my own doubts against the constitutional validity of it. It may be that the Government does not care whether it is legal or not. But certainly it revolts against my sense of propriety as a legislator. That is all I have to say about it.

Here it says that it is not only the final sale but the sale preceding the final sale will also be a sale for execution of an export contract. I, residing in Kerala, sell to somebody in Cochin in Kerala, something, on the basis of a document which is produced, saying, this is in fulfilment of an export contract. I sell it without realising sales-tax. That man shows the contract to hundreds of other people. He represents to them that this is in fulfilment of export contract. This person sells it to somebody else. He sells it across the border of Kerala. He escapes from the sales-tax from Kerala and sells it to somebody in Madras, in the course of inter-State sales. What happens here? You cannot collect the tax here, because, here is a sale which is claimed to be for a sale which will

directly occasion export. Two parties are not the only ones involved in it. A third party comes in; an intermediary comes in. I hang on to a particular agreement which he has got. I believe it. I sell it without collecting the tax. He shows the same thing to different people. He sends it round the country to different States. He escapes sales-tax. He escapes sales-tax in the other State, saying this is finally for export. Every State is thus deprived of the tax. The dishonest man will thrive, the treasury will suffer, nobody will benefit by this. You may consider the disastrous consequences. There is no security for anybody. I can't demand the tax. I can't collect the tax. This is the position here.

As far as my State is concerned, tax revenue under sales-tax is Rs. 118 crores. Out of that, goods which would be affected would come to Rs. 23 crores. A poor State is thus robbed of this amount of Rs. 23 crores. They will not be able to collect the tax. So much of its revenue is denuded. My friend will say, we will make some adjustment and give the money to you. It may be that you may give in the next five-year plan but what about the future? After some days somebody else will come and this will become a part of Indian statute and this will become a part of history; everything would be forgotten!

MR. DEPUTY-SPEAKER: You are unduly pessimistic.

SHRI C. M. STEPHEN: This is the position we are coming to. This is where I say that the federal principle is violently violated; this is an area where I have got the jurisdiction—that area is sales-tax. Under Item 92A of List No. I, you got the jurisdiction to collect your Central Sales-tax. There, you are converting the sale which is factually a sale within-

[Shri C. M. Stephen]

"the State by a deeming definition into an inter-State transaction and you are taking away my right to collect that tax and to give it in my own State. That is merely because sub-rule (2) gives you the power to make a definition and using that, we are being denuded for the whole thing that is taking place.

Finally, one more point and I have done. What is the justification? They have specifically stated that, as far as the S.T.C., the M.M.T.C. and some export houses are concerned, they are not able to compete in the international market because of this additional charge, the levy. That is the plea given. Therefore, to save out the S.T.C. or rather to facilitate the business transactions by the S.T.C. and by the chosen export houses, you are bringing in the entire circle of exporters within the protecting provision. Is it necessary for you to see the atom bomb to kill an ant? Is it necessary to build a China wall to protect a squirrel? Is it necessary for you to protect your S.T.C., to protect your selected export houses? You could have made some other provision about it. Immediately you will now come out and say 'I cannot make an exemption because my authority is only to spell out the principle, under the Constitution'. My good Heaven, are we not amending the Constitution whenever it is necessary? If sub-article 2 of Art. 198 would stand in the way and if we can amend so many Articles, why not we amend that Articles also and take the power and devise it in such a manner that the economy of the country and of the States may not suffer. Therefore, for Heaven's sake, don't throw sub-Article 2 at us and say that 'we are powerless'. But, the fact remains that the finances of the different States will crash; they will become desperate. That is the only source of their revenue and it is on that source that you are laying your hands and you are depriving the States of their

inherent revenue in order to protect these two sources. The effect of it will be that the protection will not be for these public sectors but the protection will be for these undertakings in the trade. Protection will be for the black-money makers in this country. Protection will be for these exporters. With this cover, what will happen is a complete anarchy in the matter of sales-tax collection. Any dealer will say he is protected. I have collected it. Another dealer will say that he does not believe in this agreement and that he will collect and finally he will say that he will not pay because this has been proved to be the export trade. And so he will not pay whatever he has collected. Finally that boot will go to the export with a sale-tax charged on it. Your purpose will be even defeated. Therefore, I say that this deeming provision is constitutionally irregular, factually incorrect and it is violative of the basic concept of certain legal dictum, it is a misuse of an appellate jurisdiction placed on this Parliament and it will be disastrous as far as State's autonomy is concerned. That is why we should develop this mutual faith in our federal economy. It is for this reason that I started my speech by saying that I was completely and mentally disturbed. I would still plead with the hon. Minister to consider the amendments; I have given to him and under the enabling provision there is sufficient flexibility whereby the States could be protected; the S.T.C. also could be protected; and so do not be firm about this position. I request you to consider this.

With these words, I conclude my speech.

SHRI DINESH JOARDER (Malda): Mr. Deputy-Speaker, Sir, while sharing the views expressed by my friend Mr. Stephen as regards the revenue, it is going to be affected so far as all States are concerned. It is not only going to affect the revenue of Kerala but it will affect most of the States in our country.

I would like to draw the attention of the hon. Minister to one thing.

Earlier, in the year 1972 there was another amendment to the Central Sales Tax Law and at that time mention was made about the arrears of the Central Sales Tax that have already been assessed but not collected. Sir, though black-money to the tune of Rs. 1500 crores has been unearthed by the Central Government yet, I think, the tax evasion has not been stopped and the arrears have not been collected still. Huge unrecovered arrears are still lying on the Central Sales Tax account. By amending this Act, certain exemptions to certain categories of people are being given and they are those big business houses who are in the habit of evading taxes and huge arrears have still not been recovered from them.

Sir, in respect of inter-State sales the evasion of Central Sales Tax is there. The big business houses like Bata and Colgate have their manufacturing and purchasing centres in different parts of the country. In the case of Bata Shoe Company though there was strike in their various factories for about three to four months yet their overall sales did not hamper. The reason behind this is that Bata Shoe Company makes purchases from small manufacturing units at Kanpur, Agra, Calcutta, Madras, etc. These small private manufacturing units put the Bata company label on the shoes manufactured by them. These small manufacturers have to surrender their goods to the big monopoly houses. Likewise is the case with Colgate. This company makes the purchases of paste from small manufacturers and get affixed the label of their own company. Now, they are evading the Central Sales tax by saying that these are their manufactured goods. They actually purchase from the small manufacturers. They pay them a very meagre amount. These small units are not able to maintain themselves and they are selling their products to the big monopoly houses. Thereby, the Government is being cheated and the small manu-

facturers are also being cheated. In this process of inter-State sales, they purchase it from Agra and take it to Calcutta and they simply put the label saying 'it is our own manufacture'. The label is of the Bata Shoe Company. The small manufacturer puts the label also for them 'Bata Shoe Company', 'Colgate Tooth Paste' and so on and send them to the headquarters of these big monopoly houses. In this and various other ways, there is evasion of tax. There should be certain machinery to take care of this and see that the evasion is stopped and arrears are also recovered.

As a result of the inclusion of these cereals, pulses and other agricultural produce in clauses 7 and 8 of the Bill, there is an indirect encouragement to impose Central Sales tax and State sales tax on certain essential commodities and food products, where at present in many cases they have not imposed or do not impose and collect any tax, Central sales tax or State sales tax.

You are going to exempt export goods from tax. Today the Central taxes and State taxes on certain items are also responsible for the high prices of those items. On account of the excise duty, customs duty and other taxes, sales tax and other taxes, on account of the enhancement of the rates of these taxes, prices are going up. There has been a rise of 33 per cent or 35 per cent on prices of cloth and other garments. Similarly, Central and State taxes are responsible for the rise in price of other essential commodities. You are imposing taxes on these essential items and you are going to exempt sales for export purposes from tax, only to give the benefit to certain classes of traders, manufacturers or businessmen. You are not exempting the basic and essential commodities from taxation. So I would request that you specify in this connection what are the essential commodities which are totally exempt.

[Shri Dinesh Jøarder]

Regarding security deposit, it is as well that the provision has been liberalised. We are glad that certain concessions have been given to the small trader. This question of security deposit was raised on the earlier occasion also. Now it is only on the basis of an approximate assessment that would be made that the amount of security deposit will be fixed.

Regarding harassment by certain agencies while crossing inter-State orders, by the railways or the trucks or other means of transport, whether you possess the sales tax certificate or other documents, at certain checking posts during inter-State traffic, this is there. We also discussed it when we were considering the inter-State route permits. I know of a certain bona fide consignor who had consigned a wagon load of certain articles from U.P. to West Bengal. He had valid documents, sales tax certificate and other documents for such transshipments. Even then the local authority would harass them saying 'Produce this produce that'. They examine whether it is a genuine certificate or a forged certificate. Due to the delay caused in such operations, the consignee has to pay demurrage to the railways and so on. The other harassment is there. Therefore, I request the hon. Minister to see that in the course of inter-state sale and transshipment, on the central sales tax account no party is harassed unduly; that point should be looked into.

Here, another definition has been given. It is for the purpose of central sales tax. This will create confusion. Business has been defined 'any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture even for their own personal, individual purpose'. Even if a person manufactures some thing for his own consumption, it is covered. In rural areas bricks are manufactured by the individual for construction of his own house. If you treat that as adventure or manufacture and if you do not take the fact that it is being manufactured for

his own individual use, it comes within the meaning of this clause. Then it says 'any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture adventure or concern'—My district is bordering on Bihar; certain persons live on this side of the border. They manufacture bricks in Bihar and carry it to this side, to West Bengal; then they are compelled to pay sales tax. They have lands on that side and residences on this side; even if they manufacture bricks for their own individual consumption, they have got to pay sales tax for crossing the border. This will confuse the meaning. I have also expressed my view about exemption. That will reduce the revenue of the states concerned; this will exclude sales in general for export purposes. That point should be reviewed and reconsidered. I have already mentioned about exemption being granted to essential commodities because prices rise because of taxation on the part of the centre as well as states. Duties on essential articles required for students for their education and by the poor villagers and other lower strata of society should be exempted; they cannot afford to pay duty on such articles which are needed for their livelihood; and they should be exempt from tax.

श्री हरी सिंह (खजूर) : सेटल सेलज टैक्स एमेंडमेंट बिल पर चर्चा चल रही है। मैंने जो बिल का मकसद उद्देश्य है वह यह प्रतीत होता है कि आज़कल अन्तर्राष्ट्रीय मार्किट में हमारा जो माल जाता है वह इस कम्प्युटीटिव दुनिया में बहुत महंगा पड़ता है जिस की वजह से हमारे माल की विदेशों में खपत दूसरे मुल्कों के मुकाबले में उतनी नहीं हो पाती है जितनी होनी चाहिये। लिहाजा हमारे मंत्री महोदय ने यह जो एमेंडिंग बिल पेश किया है और जो सेलज टैक्स की धनक : न्यायो का निपटारा करता है वह स्वागत योग्य है। यह बिल इस माने में बहुत ही महत्वपूर्ण है कि हमारा जो एक्सपोर्ट होने वाला माल है, उसके दाम हम विदेशी मार्किट में दूसरे देशों



से कम कर सके। इस कारण से हमारे माल की सम्पत्ति विदेशों में बढ़ सकेगी। इस संसोधन के जरिये जहाँ सेल्स टैक्स की घनेक व्यवस्थाओं का समाधान कर सकेगा वहाँ यह भी होगा कि हमारा अन्तर्राष्ट्रीय व्यापार बढ़ेगा। यह बिल बहुत ही समायिक है, और जो अभी बहुत सारी बातें कही गईं कि स्टेट्स के इन्टरस्ट को इस से क्षति पहुँचती है, ऐसी कोई बात इस बिल में नहीं है। इस को पढ़ने से ऐसा नहीं मालूम होता है कि किसी भी राज्य का जो स्वार्थ है वह सेल्स टैक्स से टकराता है और कोई नुकसान पहुँचता है। मैंने इस बिल को पढ़ा है और अभी माननीय स्टैंफन जो तर्क दे रहे थे उन में कोई जान नहीं मालूम पड़ती थी। His way of expression was very convincing but there was no merit in the argument itself. तो जो उन की भ्रान्तिया वह निर्मल है। उन्होंने इस बात पर जोर दिया कि वडे बिजनेस हाउसेज और एक्सपोर्ट हाउसेज को इस से बड़ा एंडबान्टेज होगा। मैं कहना चाहता हू कि आखिर विदेशों में माल भेजने के लिये एक्सपोर्टिंग की जरूरत होती है जिस को हर एक नहीं कर सकता।

SHRI VAYALAR RAVI (Chirayin-  
all): Can you say which are the items  
which are benefited for export?

श्री हरी सिंह : यह बिल बहुत ही उद्देश्यपूर्ण है। लेकिन इतना जरूर कहूंगा कि सेल्स टैक्स से सम्बन्ध में जो बहुत सारी स्थानीय विषयक पड़ती है वह यह कि एक तो प्रसेसमेंट जल्दी नहीं हो पाता। 4, 5 दिक्कतें ऐसी हैं जिन को वजह से सेल्स टैक्स का निपटारा आसानी से नहीं हो पाता। अफील केसेज बहुत बिना तक पड़े रहते हैं, ठीक से प्रसेसमेंट नहीं हो पाता। इस के अलावा सेल्स टैक्स को लागू करने और जाँच करने के लिये जो आस वजह पर आधारित होता है वह इन्स्पेक्टर ही होता

है। मेरा निवेदन है कि उस की जाँच करने के लिये कोई प्रचीरटी होनी चाहिये। सेल्स टैक्स का जो भी टोयर सिस्टम है उस में नीचे के लेबिल पर जो काम करने वाला है उस पर हायेस्ट प्रचीरटी का ध्यं नहीं पहुँचता है। अफील के मामले जल्दी निपटारे चाहिये। टैक्स इवेजनों के मामले बहुत दिनों तक अवा-  
लतों में लटके रहते हैं कई अवालतों में मुख्य-  
चलते रहते हैं जिस के कारण देर लगती है टैक्स वसूल करने में इसको भी सरकार को रेगुलेट करना चाहिये ताकि सेल्स टैक्स के मामले जल्दी से निपटा दिये जायें।

साथ ही साथ सेल्स टैक्स रेवेन्यू का गैर हिस्सा होता है इसलिये इस को आसानी से ओवरलुक नहीं कर सकते। सेल्स टैक्स ऐडमिनिस्ट्रेशन टोप हूँगी है, इस को कम करना चाहिये। आज कल जो सर्वेज और सेल्स टैक्स के रेडस हो रहे हैं इन को वजह से वसूलयायी बढ़ गई है। इस काम को बढ़ाना चाहिये और वह तभी सम्भव हो सकता है जब सेल्स टैक्स विभाग चौकता हो कर के इस काम को पूरा करने में जुट जाय। जो सेल्स टैक्स के बहुत सारे पेडिंग केसेज हैं उन को जल्दी से निपटाना चाहिये।

केन्द्रीय सेल्स टैक्स की वसूली में यह बिल बड़ा सहायक होगा, और इस में राज्य का कहीं टकराव नहीं मालूम पड़ता।

इन सवालों के साथ मैं इस बिल का समर्थन करता हूँ।

SHRI D. K. PANDA (Bhanjanagar):  
Sir, as far as this Bill is concerned,  
there is nothing new. The parent Act  
is being amended as has been done in  
the past. But it affects many States  
and their Revenues. These questions  
have been raised long ago, prior to the  
last Sales Tax (Amendment) Bill which  
was referred to a Select Committee in  
1972. At that time it was proclaimed



[Shri D. K. Panda]

to the world, including the Select Committee, that it is a very comprehensive sales tax law under which the poor people will not be affected, the essential commodities will be supplied to people who are at the subsistence level, such commodities will be exempted from tax and that a huge amount will be collected as sales tax from the big traders and monopoly houses.

When the Sales Tax Act came into force, there was a case in which the Orissa High Court gave a judgment which was appealed against in the Supreme Court by Sarajuddin. It is pending for the last ten years. Government should take into consideration these aspects when they are going to amend the law. At least in the Select Committee stage in 1972 they could have done something, but nothing was done. The judgment of the Supreme Court was delivered on 16th April, 1975 and this Bill is being brought before the House on 26th August, 1976, that is, after a delay of one year, 4 months and 10 days. Why was there such a big lapse? This shows the seriousness which Government attach to these cases in spite of all what they say.

There may be many such Sarajuddins, big traders and monopoly houses, which take matter to the Supreme Court and succeed. Here I am one with Shri Stephen. Only Shylocks and big traders are getting the benefit, not even the State, what to speak of the ordinary people. The State is not going to be benefited.

Take, for example, Orissa. Minerals like manganese and ferro-vanadium are being exported. It is done mostly by private traders, private mine-owners, some export houses, and they can sell it even to some individual. They may or may not sell it in a foreign country. Yet these big traders, mine-owners and export houses are going to be exempted from sales tax.

The argument given is that because we want to earn fore foreign exchange and because there is fierce competition in the international market, we want to give more concessions, more incentives to the big traders. If at all you want to give some incentive, it should be to some selective items, and that also when dealt with by the public sector. Unless the State is going to be benefited no such exemption should be given, and certainly not to the big traders. That is my first submission.

Secondly, I want to point out that three points were raised in that very judgment. It says.

"The contract in each case between the appellant and the Corporation is inextricably bound up with the export. The sale between the appellant and the Corporation and the export by the Corporation to the foreign buyer constituted one integrated transaction. Second, the Corporation has been interposed by the statute for a limited purpose between the appellant and the foreign buyer. Export cannot be made except by the Corporation. The Corporation could not have diverted the goods to a buyer in India without violating export and import control order. Therefore, the sale is in the course of export. Third, the contract between the appellant and the Corporation being on f.o.b. basis, the property in the goods passed only on shipment when the goods were in the stream of export. There is thus no sale in the taxable territory."

We know how these people are resorting to under invoicing and over-invoicing. If they had given the articles to some other person and not to the foreign buyer, they would have violated the law, but who is going to catch them. We are not able to catch everybody, and they violate the law at every point.

Therefore, this is the argument placed by Sirajuddin in this Orissa High Court case, and now we are going to uphold the contention of the Sirajuddin. So, Sirajuddins and others like him are now going to be benefited by this Bill. I am confident that the Government will definitely not be in a position to state categorically that this is the foreign exchange we are going to earn, this will be the national benefit, this will help the development of our national income in this way. Definitely not. If the hon. Minister can please to show in what way we are going to be benefited, let there be a table or some statement, but there is nothing to show how we are going to be benefited. As I have said, it is Sirajuddin who is going to be benefited and so many others like him.

As Mr. Stephen has pointed out, there will be absolute anarchy. Therefore, firstly there must be sales tax levied on those traders who are selling to some export houses. Secondly, different items should be selected whereby the State would not be put to any loss of revenue. Thirdly, the time has now come for having a fresh look at this Act and bringing forward comprehensive amendments to it.

I want to point out how these big traders are cheating. The foreign companies, multi-national corporations like Hindustan Lever Ltd., have evaded sales tax through various dubious means. I will give only one instance. Recently the Branch Manager and Branch Accountant of Hindustan Lever were arrested for certain irregularities and misappropriation of sales tax. They were released on a bail of Rs. 50,000 and Rs. 25,000 respectively. No press published this news. So, there are so many loopholes in the present Act, and they are taking the maximum benefit of them. They not only evade tax, but they also misappropriate moneys. Therefore, my suggestion is that there should be a comprehensive Bill and, specially, essential commodities should not be brought within the purview of this Bill.

MR. DEPUTY-SPEAKER: Now, this is obviously a very important Bill. Mr. Stephen has raised very important and valuable questions supported by other Members. But we have allotted just two hours for this Bill. We have nearly finished one hour out of that. I still have about 10 more speakers on my list. I am sure, they all will make important points and the Minister has also to answer all these points. I really do not know how we are going to do that within the next remaining one hour. I do not want to fight every Member, giving him just five minutes, because this is an important Bill. I am just putting it to the House. I will give each Member the minimum of 10 minutes because I really do not believe that he can make effective points in less than that much time.

Shri D. N. Tiwary.

श्री डी० एन० तिवारी (गोपालनगर) :  
उपाध्यक्ष जी, सेल्स टैक्स प्रमेंडमेंट बिल जो अभी यहां पर धाया है उसका कारण यह है कि कोर्ट्स ने उसके प्राविजन्स को बिल्दा वायर्सन डिक्लेयर किया। ऐसा मालूम पड़ता है कि हमारी ला नेक्विग मशीनरी में या ला इन्फिटिंग मशीनरी में कोई ऐसी कमजोर जगह है जहां हम ऐसा कानून डाफ्ट नहीं कर सकते जोकि कोर्ट्स की स्कुटिनी में टिक सके। इस गलती की वजह से कितने ही लोगों को तकलीफ हुई और गवर्नमेंट का भी कितना पैसा खर्च हुआ इस बिल को फिर से लाने में—इसके कोई फायदे तो हैं नहीं लेकिन मैं समझता हूं यहां लाखों में हो जायेगा। मैं मंत्री जी से कहूंगा कि फ्रान्सेशियल बिल्स की पूरी स्कुटिनी होने के बाद ही हाऊस में उनको धाना चाहिये ताकि ऐसा कोई नुकसान मिल सके जिसकी वजह से कोर्ट्स उसको टर्न डाउन कर दें और फिर जो भी टैक्स उस वक्त तक रिवेन्यू इकटिया गया हो उसको वापिस करने की बात उठे जिसके लिए फिर से बीएचको बिल लाना पड़े। यह बड़ा सैबी प्रोत्साहन है। एक दो और केसेज में भी ऐसा हुआ है। इसलिये

[श्री जी० एन० शिवारी]

जो भी मशीनरी हो उसे ठीक करना चाहिए जिससे इन बातों की पुनरावृत्ति न हो।

उदाहरण जी, सेल्स टैक्स सरकार की रेवेन्यू का एक बहुत बड़ा जरिया है। सेल्स टैक्स के मासमें में बड़ी घावली भी होती है—उसकी वसूली में भीर उसके प्राविजन में कामान्वयन में भी बड़ी फोर्टिज्म हो करने की आवश्यक है। जिसको भी चाहे छोड़ दे और जिस पर चाहे लगा दें। इस तरह से जो हमके इन्वॉमेंटेशन की मशीनरी है उसको भी दुबस्त करना है। रेवेन्यू कमेटीग मशीनरी में आसकर इन्कस टैक्स सेल्स टैक्स और सेंट्रल-एक्साईज—इन तीनों जगहों में बड़ी घावली चलती है स्टेट्स में जो हेइस आफ डिपार्टमेंट होते हैं। उनका लिफ सेक्टेरियट तक होता है। वह बड़ी घावली करते हैं। अगर कदा कोई शिकारन होता है ता जल्द उनकी इन्वायरी नही होती है। इन्वायरी होती भी है तो डिबेड तरीके से होती है जिनमें उसका महत्व हो समान हो जाता है जैसे हमो हाउस में सट्टन एफ ईड के सम्बन्ध में बांज लगाया था, निब्रर दिया था जिसको 4-5 महीने हुए गए लेकिन कोई इन्वायरी नही हुई। इसी तरह से आप सेल्स टैक्स में भी देखेंगे और यह करेगे तो घालूम होगा कि स्टेट्स में डिस्ट्रिक्ट सेजिन पर जा आपके कर्मचारी हैं वह किसको घावली करने हैं। इसी तरह से सारांशों की तक्रारफ होनी है और आपका रेवेन्यू की मारा जाना है। इसलिए आपको यह भी देखना होगा कि इस तरह कि बावें न हों। सेल्स टैक्स को, खासकर एक्सपोर्ट की ऑर्जों में, आपने सिम्प्लिफाई करने की कोशिश की है। लेकिन जहां तक प्राविजन का ताल्लुक है, बहुत ठीक है, आपकी जिम्मे। मैं ऐसा समझता हूँ कि इन सब से कुछ होने वाला नहीं है, जब तक आप की मशीनरी ठीक नहीं होगी,

टैक्स की वसूली ठीक नहीं होगी, काम नहीं होने वाला है।

सेट्ट, भाटा, घान और आबल इन के बारे, मैं आप ने कहा है कि एक ही जगह टैक्स लगेगा, ऐसा नहीं होगा कि घान पर भी टैक्स लग गया उस के बाद आबल पर भी टैक्स लग गया। मुझे ऐसा लगता है कि इस में एक चीज छूट गई है, उस को याद आप ने नहीं देखा है। जैसे बना है—लोग बना लेते तब टैक्स लगता है। और जब वह दाल बन कर भाटा है तब फिर उस पर टैक्स लिया जाता है—इस तरह से दो बार टैक्स लग जाता है। मैं आप से अनुरोध करूंगा कि इसके सम्बन्ध में भी आप विचार करें और ऐसी व्यवस्था करें कि उस पर दो बार टैक्स न लगे।

आप ने हम में स्टेट्स की आमदनी को भी बचाने का प्रयत्न किया है, कानूनी दाव पेच की वजह में जो उन की आमदनी खरम हो रही थी उस को बचाने का कोशिश हम में की गई है, लेकिन आप को स्टेट्स की मशीनरी को भी देखा होगा। स्टेट्स के अन्दर सेल्स टैक्स और एन्टरटेनमेंट टैक्स में इतनी गड़बड़ी होती है जिन का कोई हिसाब नहीं है—अगर उस मशीनरी को भी दुबस्त कर दिया जाय तब हम का लाभ हो सकता है। किस-किस आइटम पर सेल्स टैक्स लगता है या नही लगता है—यह बहुत महत्व की बात नही है, लेकिन उस की वसूली ठीक से हो आप की मशीनरी ठीक से काम करे यह बहुत महत्व की बात है।

कोर्स वेज पर टैक्स है—यदि आप उस को छोड़ देते तो उस से गरीबों को राहत मिल जाती। मैं समझना हूँ कि इस से बहुत ज्यादा मुक्तान नहीं होगा। आप इस की देख कीजिये—क्योंकि कोर्स सेत बाबू लोग का अपनी लोग इस्तेमाल नहीं करते हैं, गरीब लोग इस्तेमाल करते हैं। अगर इस को आप एक्साइज्ड कर सब से इस से आप गरीबों को राहत दे सकेंगे।

**SHRI N. SREEKANTAN NAIR** (Madras): Mr. Deputy-Speaker, Sir, in the morning I raised a point of order bringing out the unconstitutionality of the amendment, especially amendment of section 5. In the Statement of Objects and Reasons, Government says:

"This would make our exports uncompetitive in the fiercely competitive international markets."

That is given as the reason for amending section 5. But there is one aspect of this question. There are the conventional items of export which have existed there all along and which continue to exist without any help or any additional incentive from the Government of India. Such articles do not face any competition because they are virtually monopolistic. Why should Government bring them in here? The hon. Minister says that, if he excludes them, he will have to exclude the others also. That is not a fair approach to the problem. If it is only a question of increasing the possibilities of export or the quantum of export, those items whose export would not be affected by the sales-tax should not be included. This is my first point.

My second point is this. The statement of objects and Reasons says that this would result in enhanced exports by bringing down prices. Is this enactment going to serve that purpose? What he is now doing is, he is preventing the State from levying a single-point duty and is driving the State to levy a multi-point duty, which would raise it ten-fold. And you will have either to scrap the Constitution or do away with the States in order to prevent the States from levying a multi-point duty. Instead of at one point if the State Government raise it at 4 or 5 points, beginning with the cultivation. Then where will the price be at the final stage? The system of levying a tax at the final point has been introduced because we did not want any harassment of the poor producer. We will have to appoint so many officers, an of officers that would be necessary to collect the tax. So, the State Gov-

ernments decided to have it at the final point. If the hon. Minister says, Don't do it of course, our people in the State will be benefited. Thousands of officers will be appointed to collect the tax. But there will be harassment of tens of thousands of small traders. Above all, both the export price as well as the price of consumption articles inside India will also shoot up. So, the very object of this enactment of this amendment will be defeated at least in the case of clause 5.

There is another aspect to the question also. It is going just counter to the 20 point programme which says that prices will be controlled. They are allowing by this indirect method a levy of an indirect tax which would make the prices of essential commodities go up and naturally, poor people will suffer. At least, therefore, in the case of Clause 5, the traditional articles of exports which do not face such a competition in the international markets may be excluded. Or else, at least the Government should take the power to exempt such articles as are very necessary from the point of view of the State. The Government should take the power to exempt them so that at a later stage they may discuss with the State Governments to find out whether it is reasonable or not to exempt such goods from the provisions of section 5(3).

**सरदार स्वर्ण सिंह लोखी (जमशेदपुर) :**

इस बिल का मैं स्वागत करता हूँ। यह बहुत अच्छा बिल मिनिस्टर साहब लाये हैं। इस एमेंडमेंट की जरूरत क्यों पड़ी? सुप्रीम कोर्ट के दो जजमेंट हुए हैं। एक तो हुमा या बेमका एंड कम्पनी वर्सस स्टेट गवर्नमेंट आफ महाराष्ट्र। यह 27 फरवरी को हुमा या। दूसरा सेराजुद्दीन वर्सस स्टेट आफ उड़ीसा। यह 16 अप्रैल, 1976 को हुमा या। इन जजमेंट को मैंने पढ़ा है। सेक्शन 5 और सेक्शन 9 दोनों के बारे में अलग अलग जजमेंट्स थे। सेराजुद्दीन के जजमेंट में अपील डिस्मिस् हुई और बेमका वाले में अपील एलाउ हुई। दोनों में ही गवर्नमेंट के तार्किक

### [सरदार स्वर्ण सिंह सोबी]

दिवक्त पैदा हुई थी। इस वास्ते प्रिंसिपल एक्ट को एमेंड करना जरूरी था। इससे जो लूपहोल और लेकुने हैं वे प्लग हो जायेंगे। मैं समझता हूं कि अगर माननीय सदस्य इस सब को अच्छी तरह से पढ़ेंगे तो सारी चीज साफ हो जायेगी।

हमारे अपोजीशन के दोस्तों ने कहा कि उनकी स्टेट एक छोटी स्टेट है। इससे उनका बड़ा नुकसान होगा। मैं कहना चाहता हूं कि ऐसी छोटी स्टेट्स हिन्दुस्तान में और भी बहुत सी हैं। इससे क्या सारा कारोबार बन्द हो जायेगा? सेंट्रल सेल्स टैक्स एक्ट 1956 के चैप्टर 2, सेक्शन 3 ए ए पार्ट में लिखा हुआ है :

“...occasions the movement of goods from one State to another or is effected by a transfer of document of the title of the goods during their movement from one State to another State.”

यह जो चीज है इसको आगे जाकर सेक्शन 5 में एमेंड किया गया। अब आप आपस में 3, 4, 5 और 6 से लेकर नौ तक सेक्शंस तक को पूरा पढ़ेंगे और उसके साथ इन एमेंडमेंट्स को जोड़ेंगे तो यह सारा मामला साफ हो जायेगा और सारा मतला हल हो जायेगा। पिछला रुपया जो वसूल हो चुका है उसको वापिस करने की बात नहीं है। सब रुपया वापिस करने की बात नहीं है। पैनलटीज वगैरह जो लगाई गई हैं थोड़े से पीरियड को छोड़ कर बाकी वापिस नहीं करनी पड़ेंगी। अगर एमेंड न करें तो करोड़ों रुपया गवर्नमेंट को उनको देना पड़ेगा। इस वास्ते यह जो एमेंडमेंट लाया गया है यह बहुत अच्छा एमेंडमेंट है।

अब मैं यह बताता हूं कि सेंट्रल सेल्स टैक्स में इवेज्ज न कैसे होता है। ट्रांसपोर्ट वाले यह करते हैं कि अपने ही नाम पर कन्साइनमेंट ले लेते हैं। ट्रांसपोर्ट वालों को थोड़ा सा ज्यादा पैसा दिया और अपने ही नाम कन्साइनमेंट ले लिया। इस सेल्फ कन्साइनमेंट

की वजह से करोड़ों रु० का सेल्स टैक्स इवेज्ज न होता है। मेरा कहना है कि इसको रोका जाय। अब नेशगल परमिट हो गये हैं इसमें और खुली छूट हो गई है। कोई भी ट्रक देश के किसी कोने में जा सकती है। ट्रक वालों को जहां थोड़ा सा ज्यादा पैसा मिला और उन्होंने गलत काम किया। मेरा निवेदन है कि जगह जगह पर सरकार को इस तरह से टैक्स इवेज्ज न को रोकने का इंतजाम करना चाहिए जिससे टैक्स इवेज्ज न न हो।

आप दिल्ली में ही सदर बाजार में देख लीजिये। यहां काफ़ी बिज़नेस होता है, देश के कोने कोने से व्यापारी माल खरीदने आते हैं। व्यापारी क्या करते हैं कि 10,000 रु० के माल की जगह 1,000 रु० की रसीद बनाते हैं और यहां से माल ट्रक पर रखा और सीधे जमशेदपुर ले गये। इस चीज को रोकना चाहिए क्योंकि इससे सरकार को काफ़ी नुकसान होता है।

बड़ी बड़ी कम्पनियां भी टैक्स इवेज्ज न करती हैं। बिहार स्टेट में एक मिनिस्टर ने जा करके टिसको द्वारा टैक्स इवेज्ज न पकड़ा उन्होंने सेंट्रल सेल्स टैक्स ही नहीं दिया। ऐसे बड़े लोगों पर भी ध्यान रखिये कि वह क्या करते हैं। आप जब रजिस्ट्रेशन कराने जाते हैं तो अफसर की मर्जी पर है कि वह कितना रुपया आप से ले ले। वगैर रुपया दिये 'सी' फार्म ही नहीं देते। इसको बन्द करना चाहिए।

मेरा सुझाव है कि जो सेंट्रल सेल्स टैक्स आप 4 प्रतिशत लगाते हैं इसको एक जगह लगाइये। जहां चीज मैन्युफैक्चर होती है वहीं आप को टैक्स मिल जाय। इससे लोगों को राहत मिलेगी। आप ने इनकम टैक्स में 70,000 रिड्यूस किया तो सरकार को ज्यादा टैक्स मिलने लगा। इसी प्रकार आप भी सोर्स पर टैक्स लगाइये जिससे जनता को राहत होगी। स्टेट और सेन्टर के अधिकारियों में कोऑर्डिनेशन होना चाहिए। इन शब्दों के साथ मैं इसका समर्थन करता हूं।

**SHRI Y. S. MAHAJAN (Buldana):** Mr. Deputy Speaker, Sir, the Central Sales Tax Act, 1966, came into force on 7th January 1967, with the exception of section 15 which was introduced from October, 1968. It was enacted under Article 286 of the Constitution. It provides for the levy, assessment and collection of tax on sale of goods in the course of inter-State commerce and trade. The proceeds of the tax have to be assigned to the States under Article 269(g) of the Constitution. They are retained by the States from which goods move as a consequence of trade. This Act has proved to be a source of increasing revenue. The yield of the tax in 1960-61 was about Rs. 23 crores; in 1970-71 it was about Rs 137 crores; and it is rising rapidly.

The Central Sales tax Amendment Bill seeks to make important changes in Sec. 2 to 9 and Sec. 14 and 15 of the original Act. The definitions of terms such as dealer, business and customs frontiers of India have been clarified and elaborated or re-drafted and made comprehensive so as to avoid difficulties experienced in the operation of the Act. For instance, a Government whether or not, in the course of business, buys, sells supplies or distributes goods for cash, commission, remuneration or other valuable consideration, shall be deemed to be a dealer for the purposes of this Act, except in relation to any sale, supply or distribution of surplus, unserviceable or old stores or materials. The word Customs Station which is now used in the amending Bill shall, in future, have the same meaning as in the Customs Act of 1962. The old expression Customs frontiers of India was interpreted to be coterminous with the extent of the territorial waters.

Exported or imported goods are checked in the customs station and not at the edge of the territorial waters. The interpretation put on the old expression gave rise to practical difficulties. And therefore the new definition

gets over the awkward situation. Section 3 of the amending Bill is very important because it enables you to get over a very serious difficulty created by the judgement of the Supreme Court in the case of Mohd. Serajuddin versus State of Orissa. (Interruptions) The Supreme Court held there that the sale of an Indian exporter from India to the foreign importer alone qualifies as a sale under the Inter-States Sales tax Act.

Now, according to Section 5 of the original Act, the sale or purchase of goods can qualify as a sale or purchase in the export of goods out of the territory of India and get exemption from the sales tax only if the sale or purchase has either occasioned such exporters or is by a transfer of documents or title to the goods which have crossed the customs frontiers of India.

The Supreme Court held otherwise. The export business requires a lot of very specialised knowledge. It requires knowledge, for instance, not only of the detailed conditions of trade obtaining in foreign countries but also knowledge of laws regarding transport of goods by land, sea, air, insurance and sale of goods. Therefore, very few people are able to conduct the export trade of the country, in spite of the fact that in our country we have the Institute of Foreign Trade for training the people to carry on this export trade. It tends to be concentrated in the hands of agencies like the STC or export houses. In the case of small scale industries and medium type industries; they are completely dependent on such agencies, since they cannot afford to keep in touch with the foreign dealer which is beyond their means or employ experts in the field.

To export goods you have first to arrange for sale to a canalising agency such as the STC or an export house which in turn arranges for their export to the foreign importer in compliance

[SHRI Y. S. MAHAJAN]

with an existing contract or order. Hence both the transactions i.e., first, the sale to the S.T.C. or export house, and second, the sale by the S.T.C. or export house to a foreigner, have to be considered as inextricably connected with or in the course of the export of such goods. Both the transactions have to be exempted as we want to boost our exports.

This point has been clarified by Section 4 of the amending Bill. These two sections, that is, three and four are to be given retrospective effect from 1st April, 1976 and will thus have the effect of slightly lowering the prices of export goods by the amount of the tax.

Sir, some of the hon. Members have preceded me, if I may say so, have spoken from the provincial point of view. It is the Centre which has to look after commerce, that is, the imports and exports position. Due to four-fold increase in oil prices we were dealt with a severe blow and our balance of trade position became critical. In spite of tremendous efforts to boost exports the year 1975-76 closed with a deficit of more than Rs. 1050 crores. If the deficit continues at this rate the country cannot remain in a solvent condition. It is, therefore, from this point of view that both the transactions should be exempted from the sales tax. The amendments that are proposed will in my view reduce the cost of exports, make them more competitive in the international market and have an appreciable effect on closing the gap in our balance of trade which is always a factor of crucial importance in the growth of an under-developed economy.

Clause 6 of the amending Bill has also been necessitated by the judgement of the Supreme Court in Khemka Co. Pvt. Ltd. versus the State of Orissa. The court held that the provisions of the State sales-tax laws as

to penalties did not apply for the purposes of Central Sales Tax. The original Sales Tax Act had in fact empowered the State sales-tax authorities to assess, re-assess, collect and enforce payment of the Central Sales Tax law and authorised them to exercise all the powers which they had under these laws in their respective States.

Lastly, Section 14 of the Central Sales Tax declares certain goods to be of special importance. It provides that if they are taxed in any State the rate of tax shall not exceed 4 per cent of the sale or purchase price of the goods, secondly it shall not be levied at more than one stage and thirdly if such declared goods are sold in the inter-State trade or commerce the tax so levied shall be refunded to such person in such manner and subject to such conditions as may be provided in any law enforced in that State. It is a good thing that clause 7 of the Bill declares certain cereals and pulses to be such goods of special importance in the inter-State commerce but they have included crude oil also. I am doubtful about the utility of including this item.

Our Deputy Leader raised so many objections to the Bill. As regards the constitutional validity, it can be looked after by the Supreme Court. But he said that the result of this Bill will be that the finances of State Governments would collapse. This is an absolutely wrong statement. The finances of States depend on the yield from State sales taxes and not the Central sales tax. (Interruptions). I know what I am talking about. The yield from the Central sales tax is divided between States, but the main income of the States is from the State sales tax.

SHRI SHIVAJI RAO S. DESHMUKH (Parabhani): Central sales tax is not divided among States.

SHRI Y. S. MAHAJAN: It is.



There is one more point I would like to raise and that is whether it is advisable for the Central Government to impose an inter-State sales tax because, I think, it offends against the tenet of free trade within a Federation.

**SHRI RAJA KULKARNI** (Bombay-North-East): Mr. Deputy-Speaker, the Central Sales Tax (Amendment) Bill while trying to remove the anomalies or difficulties arising out of different judicial pronouncements has created, or is likely to create, certain strains in Centre-State relationship due to the financial earnings of the States being affected. There is no doubt about it. I am not going to go into the details of such strained relations that might be caused. I am sure the Minister in charge of the Department of Revenue and Banking will take care of it, but there should have been more thought given, and more consultations held with the State Governments concerned who are likely to be affected.

I am aware that the views of certain Governments were invited and there were detailed discussions in respect of certain goods which are of special importance, special crude, to which I am going to refer. There are certain States which are likely to be affected because crude oil is now to be categorised as a declared good. Now, what will be the result of it? So far as imported crude is concerned, it has been exempted and the problem will not arise even in future. But as regards indigenous crude, whether it is in Assam, Gujarat or Maharashtra now, because of Bombay High, these States are likely to be affected. Now 80 per cent of the crude produced is taxed at the State sales tax rate of 8 per cent. Now when this is going to be categorised as a 'declared good' under this legislation, it will be 4 per cent, and so these States, specially Maharashtra where within the next three or four years the production is expected to be 10 million tonnes as

against 5 or 6 million tonnes in Gujarat and 4 or 5 million tonnes in Assam, are likely to be affected. We would like that they are compensated for this in some way or other. The Minister should take care of this and at least assure the State Governments on account of the loss likely to be caused to their exchequer.

15.29 hrs.

[**SHRI G. VISWANATHAN** in the Chair]

The other point is about sales which go into export and the exemption given to them under cl. 2. It is true that now whether there are two transactions or three transactions or one transaction, from the manufacturer to the wholesaler, from the wholesaler to the exporter, whether the last exporter is the State Trading Corporation or the export house, all these transactions are now to be exempt from payment of sales tax. Yet, it would have been better if there had been a further qualification to it that even for the last exporter there should be a time limit. Such a time limit is there in the Bombay Sales Tax Act also. If the last transaction does not take place occasioning exports, if exports do not take place within nine months of sales, it is subject to sales tax. So if exports take place within 9 months, they are exempt even under the Bombay Sales Tax Act. We should like that such calculations should be considered. The Maharashtra Government had given their suggestions that their provision should have been accepted. Even at this late hour, the hon. Minister should consider the suggestion that there should be a time limit and then alone it should be exempt.

**SHRI VAYALAR RAVI** (Chirayinkil): The hon. Minister is shouldering the cross which had been handed over to him by the Commerce Ministry. They are giving also retrospective effect. I am afraid the hon. Minister may not have gone into the details. It is inevitable; it is a courtesy on the



[Shri Vayalar Ravi]

part of the central government to consult the Chief Ministers of the State Governments in the proper form before making an amendment which seriously affects the economy of the States. I regret that the Central Government has not done this; this Bill has come before us one fine morning as a bombshell and this is going to affect the States adversely; especially my state will be affected very severely. Mr. Stephen has pointed out that out of a total revenue of Rs. 119 crores, at one snatch Rs. 23 crores are being taken by the Central Government and given back to the exporters and export houses in this country. The statement of objects and reasons says:

"In other cases also, manufacturers of goods, particularly in the small scale and medium sectors, have to depend upon some experienced export house for exporting the goods because special expertise is needed for carrying on export trade. A sale of goods made to an export canalising agency such as the STC or to an export house to enable such agency or export house to export those goods in compliance with an existing contract or order is inextricably connected with the export of the goods. Further, if such sales do not qualify as sales in the course of export, they would be liable to State sales tax and there would be a corresponding increase in the price of the goods. This would make our exports uncompetitive in the fiercely competitive international markets."

I am prepared to accept their argument. Could be point out which are the items which are going to be benefited by this? Which items will suffer in international market today because of sales tax. One fine morning by this Bill Rs. 400 crores are being taken away from different States and given—to whom?—to private exporters in the name of STC. Then this is being given effect to retrospectively from 1962 onwards. How much will be the savings for STC?

Which are export items today in international market? Pepper and cardamom are monopoly items. Only two countries produce pepper; it is almost an Indian monopoly. Cardamom also—only India and Guatemala; it is also almost a monopoly of India. We were exporting marine products worth Rs. 80 crores; our export of marine products jumped from 80 crores to Rs. 118 crores with sales tax. Tamil Nadu, Kerala and Andhra have introduced sales tax. With a sales tax of five per cent, to marine products exports have registered an increase from Rs. 86 crores to Rs. 118 crores. Did they suffer because of sales tax? Have they suffered because of sales tax? No. CCI is importing cashew from African countries paying Rs. 250 per tonne. CCI is making a profit of 30 per cent and selling it to the Indian exporters. Yet, the export is going up. They are objecting to the Kerala Government taking 5 per cent sales tax! Is the minister against any tax on any raw material which is converted into exportable commodity? Suppose there is two point sales. Then sales tax will come. You are objecting to one point sale, saying the price has to be controlled. But what about two point sales? So, the argument is not convincing.

It is blatantly admitted that this is to boost exports. But the fact remains that it is only the monopoly export houses who are going to benefit to the tune of Rs. 400 crores, apart from the other benefits they are enjoying. In the Serajuddin case, the Supreme Court never said that there is anything wrong with the Constitution. Article 28 says:

"(1) No law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place—

(a) outside the State; or

(b) in the course of the import of the goods into, or export of the

goods out of, the territory of India.

(2) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1)."

It says, you should not tax something which is exported. But it does not prohibit a State from imposing sales tax before that. This Bill is being brought to defeat the whole interpretation given by the Supreme Court. To protect whom? On the pretext of helping STC, it is monopoly export houses who are going to get the benefit. It is to them that the government is showing sympathy. The Bill says this is to help the small and medium entrepreneurs. Where are they? I saw an advertisement in the *Times of India* where an export house is inviting everybody to export through them. We know what is happening in the fishing industry today. The big monopoly houses are eating up the small entrepreneurs, by saying "You export in my name". As Mr. Stephen pointed out, this is being done at the cost of the State revenue. My State is suffering today. We produce agricultural commodities. But the monopoly houses are clever enough to evade taxes. Big companies like Good Year, Firestone, Dunlop, etc., are not making any sales in Kerala; their sales are all outside Kerala. So, my State is losing 40 per cent of the total sale of rubber and we are not getting any taxes. So, they know how to evade the tax. By introducing this law, the hands of the State Governments are being tied. It is not merely a question of Kerala. Maharashtra, Gujarat and even poor Assam will be affected, because it exports tea.

I can say that this is not going to boost up the exports. During the last three years, the prices have gone up and the quantum has gone down, so far as our exports are concerned. It is not because of recession in industry,

but due to other reasons. Will the minister come forward next year and say, "Because of this concession, our exports have gone up by this much."? Can he identify the items which are going to be benefited by this?

So, I would appeal to the hon. Minister that instead of rushing through this Bill in the name of the STC and the public sector, he should have patience enough to consult the State Governments, because they are being adversely affected by this measure. Of course, Parliament can enact law on this subject. On the one hand, the Central Government are writing to the States to raise finances for the Plan; on the other hand, you are taking away the entire revenue of the State. For a poor State like the Kerala, sales tax is a big revenue, and if you take away that revenue, it will be very difficult even to sustain. So, finally, I would appeal to the Minister to postpone consideration of this measure pending consultation with the Chief Ministers, rather than trying to help the monopoly houses at the cost of the State revenue.

SHRI K. P. UNNIKRISHNAN (Badagara): Mr. Chairman, I speak more in sorrow than in anger, because of the act that my esteemed friend, Shri Pranab Kumar Mukherjee, for whom I have great affection and high regard, had thought it fit to bring forward such a Bill. I have nothing against the principles of the Bill, but he has chosen to rush through this Bill without due consultation with the State Governments and, if I may be permitted to say so, without even giving due time to this House.

I do not want to get involved in a legal battle, the issue has been very ably argued by the Deputy Leader of my party, Shri C. M. Stephen, and others. But I think it involves many more fundamental considerations than the mere legal questions involved. Because, admittedly, it imposes a crippling blow to the State finances in general, and to my State in particular.

[Shri K. P. Unnikrishnan]

So, while I would not argue on the point of it being unconstitutional or otherwise, I would undoubtedly say that this was certainly not the assumption underlying the Constitution of the Union-State relationship, of the Union-State financial relationship. Whether it was contemplated under the Government of India Act, 1935, or not, historically speaking and politically speaking, there were certain valid assumptions behind our Constitution, when we called it a Union of States, when we demarcated the functions between the Union and the States and also divided the finances of the Union and the States. So, it would be wrong to say or proceed under the assumption that this is a unitary State. In spite of some legislation here and there, I would say that it would be historically untrue to say that this has ever been a unitary State! If it comes to that, I can say there is no State known as India. What is the concept of India? There is no State known as India from Badrinath to Cape Comorin, from Dwarka to Manipur. This vast country of ours has been historically conditioned as an assemblage of regions, as a quasi-federation. Whether politically and constitutionally it is a federation or not, what the federal features are, that is an entirely different question. So, I am unhappy, extremely unhappy, that this bill strikes at the very root of such healthy relationship between the Centre and the States. I will come to that later on.

I do not want to get involved in the Serajuddin case, the legal implications of it and so on. But, apart from the Supreme Court judgment, one of the main considerations mentioned in the Statement of Objects and Reasons is that it would promote exports. I have nothing against it, I am all for it. If there is an element of subsidy in our Exports, it will certainly have an inflationary impact, and all sorts of people will

try to take advantage of the subsidy. We should try to avoid it. It is said that we have to make our goods competitive in the world so that we can meet our requirements of foreign exchange for industrialisation, maintenance imports and so on.

I do have certain objections and reservations to the kind of strategy of export-led growth that is being tom-tommed by some of the officials of the Commerce Ministry, with in-built import content, because that will ultimately lead only to erosion of our own foreign exchange reserves! This was also done by the Ministry of Petroleum and Chemicals at one time. At that time nobody paid attention to what was being said in Parliament, but now it is realised that petroleum was not such a thing to be wasted or burnt away. I do not want to go into that.

I accept the promise that our export goods must be made competitive in the international market. Probably it has relevance to steel, engineering goods, textiles, man-made fibres and any number of manufactured goods which we are trying to push through in the international market, but I cannot say that it is true of our traditional exports. I cannot say that it is true of goods which have been exported since time immemorial, goods which have undoubtedly been on the international market with an Indian stamp. There, if we suffer, if we cannot compete the causes must be traced elsewhere, whether it is coir or pepper. Take pepper, 99 per cent of the pepper in India is produced in Kerala. India ranks with Indonesia as the only producer of pepper, and if we lose in pepper, it is not because of the cost advantage or disadvantage, it is because of other reasons. Take coir. If other countries are looking for substitutes and there are certain substitutes entering the market to compete, it is not because of the inherent price disadvantage of

coir. Or take ginger or cardamom where we compete only with Guatemala, or lemon grass oil or marine food exports. Is it only because of the price factor? If you withdraw this item and deprive the State Government of this revenue, are they so plastic that exports will go up immediately? I think no case has ever been made out hereby the Commerce Minister at any time that an advantage of this kind as is being contemplated in this Bill is going to help the exports of this country for pushing forward the exports of these types of commodities. I would like the hon. Minister, if he has any facts, to share them with the House and tell the States and the House whether this is true or not. Otherwise, I would say no case has been made out and these claims are fallacious.

Now, it has been stated that it will help export houses. Well, if that is the strategy of the Government, if they want to help the export houses, I have no quarrel, if they want to make Birlas grow bigger! We know where we began, with an investigation of the Dutt Policy Committee, and we know where we are today. If that is the policy, I have no quarrel, but I do not know whether that is the policy. If it is the policy to push in DCM, Union Carbide and other international cartels into the marine food exports and allow the pioneers, all those who have struggled on the Kerala coast, to be eaten up by these big sharks, if that is the policy of Shri Pranab Kumar Mukherjee, of this Government, I have no quarrel, but the facts should be taken as facts.

I am immediately concerned more with the consequences for my own State. Virtually, out of a revenue of Rs. 200 crores for 1976-77, Rs. 23 crores are going to be directly affected with the passage of this Bill. We will lose Rs. 23 crores out of it straightway, and several crores by way of refund. There might be other States who might lose more or less. But I am here to say that we will lose Rs. 23 crores.

Are we going to be penalised for our topography, because we produce the kind of agricultural commodities which are primarily exported, because the high ranges of Kerala produce plantation crops, because the middle lands of Kerala produce other cash crops and because our coastal area provides marine products? Are we going to be penalised for that?

That is why, as I said earlier, the basis of Centre-State relations is to be clearly understood. We must try to promote the cause of the Union and assumptions underlying the concept of the Union, rather than trying to strike at the roots of the Centre-State financial relationship. Now, this will only result in depriving the State coffers of their revenues and affect their financial solvency. The States have been exhorted by the Centre, by Minister after Minister of the Centre, to mobilise the resources and, rightly, so. The Planning Commission has been lecturing to them about the need for mobilising resources. Under the present constitutional arrangements, whatever might be the pattern tomorrow, there is a large area of responsibility, like, agriculture, education, forestry and minor irrigation vesting with the States. Today, I am sad to say that this Bill will only promote uneven development because we in Kerala have concentrated on education and social services, I do not know whether it is the intention of the Centre or the Minister that we should be walking on the crutches provided by him instead of mobilising our own resources.

The most important point that I would like to make before I conclude is this. One of the most important factors in slow growth as well as a very serious malady of the Indian economic development has been the regional imbalances. I am sure, the Minister has read a small book written about his own State. "The Agony of West Bengal", written by a distinguished journalist, Mr.

[Shri K. P. Unnikrishnan]

Ranajit Roy. I do not want to go into the details as to how industrial licences have been distributed and how certain States or certain pockets have cornered industrial licences and, consequently, growth has taken place in certain pockets, trade and industry has developed in certain pockets, and consequently employment opportunities have come up in certain pockets and, also, there has been a marked increase in the State revenues in respect of certain States.

Is it the policy of the Union Government to promote regional imbalances because, ultimately, this kind of a legislation is only going to promote regional imbalances; instead of trying to make the States more solvent so that they can mobilise more resources? This kind of a legislation will only lead to under-development of a kind and also transfer of incomes which will strike at the very roots of the present Centre-State relationship. It will also lead to such distortions and their long-range implications have not been studied or probably understood. So, I would urge upon the Minister to exempt such agricultural commodities as are necessary, as are exported, so that it will bring in these revenues to the State Governments even if it calls for an amendment to the Constitution later. Also, if Parliament is empowered under article 286 to frame principles, I do not understand how it cannot provide exemptions. If Parliament has the power to frame such principles as are necessary under article 286, I do not understand why necessary exemptions cannot be provided. Of course, I am not a lawyer. Mr. Somnath Chatterjee, Dr. Seyid Muhammad, Mr. Trivedi and a large number of other legal luminaries are here. It is for them to discuss and decide. I cannot understand how exemptions cannot be provided. It should have been better if it had gone to a Select Committee and if proper consultations had been held earlier. At least,

at this stage, I would request him to listen to the agony of the States. If we want to re-structure the Centre-State relationship, particularly, in the economic sphere, greater thought will have to be given to such legislation at least in the future. I hope, he will at least agree in principle that the States are going to lose.

डा० कंसास (दक्षिण बम्बई) :

समापति जी, मैं समझ नहीं पा रहा हूँ कि माननीय मंत्री जी, श्री प्रणब मुखर्जी को बघाई दूँ या यह कहूँ कि आप बोड़ी जल्दबाजी में कुछ निर्णय लेकर इस बिल को सूँ भाये हैं तो इसमें कोई प्रतिबन्धोक्ति नहीं होगी। बघाई के पात्र तो वे इसलिए हैं कि अगर आप बिल के सेक्शन (5) और (6) को देखेंगे तो उन्होंने रिट्रास्पेक्टिव इफेक्ट 1-4-76 से दिया है जिससे कि राज्य सरकारों को कुछ रुपये वापिस न देना पड़े। उसी प्रकार से सेक्शन (9) में जो राज्य सरकारों ने पीनल ऐक्शन लिया था उसको भी वापिस न करना पड़े। इन बातों के लिए तो वे बघाई के पात्र हैं लेकिन मैं समझ नहीं पा रहा हूँ कि उन्होंने राज्य सरकारों की पूरी तरह सलाह न ली, खास कर जिसमें ऐसी गम्भीरता हो, क्यों इस बिल को जल्दी लाने का प्रयत्न किया। महाराष्ट्र के मुख्य मंत्री दिल्ली में हैं, महाराष्ट्र के वित्त मंत्री दिल्ली में हैं, उन्हें चिन्ता है कि आपने जो एक यह परिभाषा "कटेगोरीज" की है "डिफ्यूज्ड गुड्स" की उसमें सीरियल्स और पल्सेज को लेकर आये हैं। यद्यपि महाराष्ट्र सरकार ने सीरियल्स और पल्सेज के लिए भी सलाह दी थी कि कोई हर्जा नहीं है अगर वह टिन्ड प्रवस्था में बेचे नहीं जा रहे हैं तो उन पर कोई सेल्स टैक्स लगाया न जाये। उससे महाराष्ट्र सरकार को कुछ नुकसान तो होगा लेकिन उसे वह सहन कर सकती है। लेकिन जब हम देखते हैं कि बाम्बे हाई से "कू" दिनोंदिन बढ़ता चला जा रहा है और वह दिन भी आ जायेगा जहाँ सब बघाई से

10-15 विभिन्न टन "कूड" निकाल सकेंगे, जिसे ऑपरेटिवी। जब रिफायनरीज को बेचते हैं तो कुछ चार्ज करते हैं लेकिन महाराष्ट्र सरकार उस पर अब सेल्स टैक्स नहीं लगा सकेगी। मैं मानता हूँ मंत्री जी यह उत्तर दे सकते हैं कि उन पर महाराष्ट्र को रायल्टी मिलेगी लेकिन रायल्टी मैं मानता हूँ मिल नहीं सकेगी और सेल्स टैक्स से बिल्कुल आमदनी नहीं होगी। आप आमदनी की गणना या हिसाब इन प्रकार से नहीं कर सकते कि आमदनी रायल्टी से हो जायगी। केन्द्रीय सरकार या की तरह से है और स्टेट गवर्नमेन्ट्स बम्बों की तरह से हैं। यह भाषा की जाती है कि केन्द्रीय सरकार राज्य सरकारों की पैसे से और एक्सपोर्ट प्राप्तिनियम देकर मदद करेगी न कि यह कि जो राज्य सरकारें स्माल स्केल इंडस्ट्रीज के द्वारा स्टेट को कुछ ऊँचा उठाने का प्रयत्न कर रही हैं, उनको एस०टी० सी० के नाम पर हानि पहुँचायेगी। यद्यपि मैं हमेशा पब्लिक सेक्टर को बढ़ाने के हक में हूँ। यही नहीं मैं उन व्यक्तियों में से हूँ और विश्वास करता हूँ कि एस०टी०सी० का कार्य-क्षेत्र बढ़े तथा ठीक प्रकार कार्य करे। लेकिन वह एस०टी०सी० जो 30 परसेन्ट का मुनाफा लेकर काम करती हो यह ठीक नहीं। अब उसके नाम से और एक्सपोर्ट हाउसेज के नाम से अर्थात् टाटा, विडला और ब्रिटेनिया बिल्कुट्स—इन लोगों के नाम से राज्य सरकार को नुकसान पहुँचाये तथा अमीरों को फायदा।

16.00 hrs

इस लिये मैं श्री प्रणव कुमार मुखर्जी साहब से प्रार्थना करता हूँ कि आप ने इस बिल को यहाँ लाने में थोड़ी जल्दबाजी की है। हमारे काबिज के मित्रों ने भी आप के सामने इस प्रकार की दलीलें रखी हैं, जो शायद आपकी समझ में भी आ रही हैं, लेकिन आपके हृदय बँधी हुए हैं। इस लिये मेरा

सुझाव है कि आप इस बिल को अगले सेशन के लिये पोस्ट पोन कर दें, जिससे इस बीच में इस पर फिर से विचार किया जा सके। आप जानते हैं—केरल के फाइनेंस मिनिस्टर यहाँ मौजूद हैं, हमारे महाराष्ट्र के मुख्य मंत्री और फाइनेंस मिनिस्टर यहाँ मौजूद हैं। हम सब यह महसूस करते हैं कि इसमें जल्दबाजी न की जाय। कूड से हमारी स्टेट को 8 परसेन्ट सेल्स टैक्स मिलता था, आप उसको सिर्फ 4 परसेन्ट पर ले आये हैं और वह भी हमें नहीं मिलेगा क्योंकि वह केन्द्र का होगा। यह ठीक है कि इस से आसाम को फायदा होगा। आसाम को फायदा हो, मैं चाहता हूँ कि आसाम को ज्यादा रुपया मिले, हर प्रान्त को ज्यादा फायदा हो, लेकिन इसका यह मतलब नहीं है कि जो हमारी "कास्टी-टूशनल" कमाई है उसको आप इस तरह से कम कर दें।

श्री प्रणव कुमार जी बहुत बुद्धिमान और संजीवा दिल के धावमी हैं, मैं उम्मीद करता हूँ वे अपने साथियों से और प्रधान मंत्री जी से इस विषय में बात करके इसको पोस्टपोन करने का प्रयत्न करेंगे। इस बिल के प्रावज ही पास न होने से कोई आसमान नहीं गिर जायगा। मैं मानता हूँ कि सुप्रीम कोर्ट के फैसले की वजह से उनको इस बिल को यहाँ लाने की जल्दी थी, तो आप उतना ही इसमें रख लेते जिसका सुप्रीम कोर्ट के फैसले से ताल्लुक था, अब भी आप ऐसा कर सकते हैं और बाकी बातों के लिये राज्यों के मुख्य मंत्रियों और वित्त मंत्रियों से बातचीत करने के बाद आने वाले सेशन में ले आये, जिससे न राज्य सरकारों को कोई नुकसान हो और न केन्द्र सरकार को कोई नुकसान हो। हमारी जो स्माल स्केल इंडस्ट्रीज हैं, एस०टी० सी० हैं, इनको भी कोई नुकसान नहीं होगा चाहिए, लेकिन जो बड़े-बड़े एक्सपोर्ट हाउसेज बैठे हैं, जो एक्सपोर्टर्स कहलाते हैं, उनको फायदा होता हो तो स्वाभाविक है कि सब को कुछ होगा।



[डा० कैलस]

इन शब्दों के साथ मैं इस बिल का समर्थन तो दे रहा हूँ क्योंकि बहुत सोच समझकर लाया गया है, लेकिन हाऊस में आप ने हम सब के विचार सुने हैं तो आप उस पर अवश्य विचार करेंगे... चैटर्जी साहब आप हंसते हैं, इस लिये कि आप की पार्टी डिस्प्लिन में विश्वास नहीं रखती। इस में हंसने की कोई बात नहीं है क्योंकि पार्टी का डिस्प्लिन कायम रखना हमारा पहला कर्तव्य है। मैं इस बिल का समर्थन कर रहा हूँ इस लिये भी कि हमारे मंत्री मंडल की श्रीमती गांधी जैसी बुद्धिमान तथा कुशल प्रधान मंत्री हैं तो यह बिल बड़ी सोच समझ कर लाया गया है।

SHRI SHIVAJI RAO S. DESHMUKH (Parabhani): While rising to congratulate the hon. Finance Minister for bringing forward a Bill which claims to plug so many loopholes, simultaneously I would like to draw your attention that it has left so many holes free through which the revenues can leak on a much larger scale than he proposes to stop the leakage.

It is true that the export trade of this country has to be encouraged, the foreign earnings and foreign exchange accumulation have to increase, but it does not mean that the earnings of foreign exchange by the Centres should necessarily be at the cost of the States because we cannot take a position in a Union and particularly a federation like ours that those States who produce goods which are only meant for domestic market are free to levy any amount of sales tax which they wish and those States who, in order to help the patriotic cause of exports, indulge in the luxury of manufacturing the export promotion goods are denied the basic advantage and basic right which any other State Government anywhere in India should ordi-

narily be given. Therefore, if there are any means of promoting foreign exports, this Bill, in fact, if I may say so—the hon. Minister will please excuse me—is the most unfair cut and it is the unkindest cut on the practically precarious balance of payments position of the States and will go a long way in denying the under-developed States their rightful claim.

Besides this, when I started my speech, I said that it leaves so many loops with so many holes. One of the basic holes is:

When you think of sale for export there is no end to it and nobody knows where this will stop. This is left undecided, undefined and if I may say so, it is in a mess of confusion because there is no means to find out whether the sale is meant for export or for domestic use or for self-consumption and so on. The Bombay Sales Tax Act says that if you fail to export within a specified time then you will be liable to State sales-tax. You are liable to pay sales-tax at a fixed rate which is fixed by the State. But here this basic element is being denied under the spacious plea of foreign exchange accumulation, foreign trade promotion and so on. I don't know whether it will promote foreign trade or accumulate foreign exchange, but I know that it will accumulate greed, tax-evasion and mischievousness. It will result in denial of rightful revenue by the State Government. So, the Minister should do some re-thinking about it. Heavens are not going to fall if we don't pass the Bill today. All the loopholes should be plugged. The provision relating to sale for export should be redrafted properly with great care to see that this does not lead to tax evasion. Any federation has to promote inter-State trade. It is the duty of the august House to hold the balance equal. Our Government and our Finance Minister cannot do himself in the proverbial role of a monkey trying to hold the scales equal and in the process if one pan goes up, trying to eat but-

ter from the other! That sort of role is not expected of a federal government. You cannot use this guise to deny certain rightful revenue to the State Government.

Assam, Gujarat and Maharashtra are the three oil producing States. Maharashtra trails third because of Bombay High. We have recently passed a legislation to say that all the territorial waters constitute Union Territory. Oil is taken from the Union Territory of India and not from the territory of Maharashtra. There is no question of payment of royalty to Maharashtra as such. Therefore I beg to differ from my friend Mr. Kailas when he said that union government will give royalty to the State of Maharashtra for crude taken out from Bombay High.

DR. KAILAS: I said that the Minister might say so. That is what I said.

SHRI SHIVAJIRAO S. DESHMUKH: What is the use of Minister assuring you something which he cannot enforce later? Millions of tonnes or barrels of crude coming out from Bombay High will help us earn any amount of foreign exchange. It will make us independent of crude imports but it will not add a farthing to the coffers of the State Treasury of Maharashtra! The ONGC sells crude to refineries or manufacturers. Therefore, the State Government of Maharashtra is entitled to levy local sales tax on such sales but under Central Sales Tax even that right will be restricted to the Central Rates. The sale by ONGC is at 6 to 7 dollars. So, there is already the element of subsidy in the tax-levy because of the lowering of sale price. On top of it, the State Government of Maharashtra is denied its right to levy the sales-tax at their own rates. They may include it in the schedule of essential commodities but the rate of taxes should be the same as at the commencement of the Bill. I have given notice of an amendment

that even if it is declared as an essential commodity and scheduled under the Central Sales Tax Act, the levy of tax should remain at the same level as at present.

On commencement of the Act, whatever, rates of sales tax may be there, it should be the same. And that is the purpose of the amendment which I have moved. This is a most innocent one. I think it may not cause any serious damage to the reputation and, more so, may not cause any damage to our hon. friend sitting here and who is in charge of this Bill.

The question is: whether the Bill proposes to plug the loophole relating to the protection of the State Governments. The enforcement of this simple Act—federal legislation—of Central Sales Tax was supposed to be done by the State Governments. In the enforcement of the act, the State Government levies a certain penalty or a certain compounding fine or certain fee. The Supreme Court judgment came in the way to say that the State Government, while administering the States Sales Tax cannot levy the penalty and cannot order compounding the fine and all that. In this respect the States have been protected. So far so good.

But, Sir, the other factor is relating to the dealer's right to demand the deposits from them. This has not been correctly put as it ought to have been done ordinarily. I would broadly divide this Bill into three aspects namely the foreign trade and foreign exchange promotion, inter-State trade promotions by means of declaring certain commodities as essential commodities and the third is the crude oil. I feel and I would urge upon the hon. Finance Minister to wait and see that this Bill is referred to the Joint Committee to give their valuable suggestions after deliberations and on the basis of their suggestions, the interests of the State Governments and the Federal Government and also the interests of the international trade can be better safeguarded.



[Shri Shivaji Rao S. Deshmukh]

This reminds me that our hon. Finance Minister, whose name appears to be Shri Pranab Kumar, at present, in charge of this Bill, unfortunately exposes himself to the charge of pranay kumar by this sort of lawmaking which is to the detriment of the State Government. I think this will not serve the purpose though the objective of the Bill may be laudable.

Therefore, I would earnestly urge upon the Minister again to see that the consideration of this Bill is postponed and is referred to the Joint Committee and after deliberations therein and after such amendments as the Joint Committee may have to suggest, this Bill might be taken up at the next session. Only then, I think, this House will, in all probability, be entitled to pass this Bill.

With these words, I reluctantly support this Bill with a hope that it will be referred to the Joint Committee.

**DR. HENRY AUSTIN (Ernakulam):**  
Mr. Chairman, Sir, the changes contemplated in the Bill are by and large consequential in nature following certain recent judicial pronouncements. It is also a fact that this great country, if it is to prosper and progress, has to accelerate its exports.

This consideration had prompted the Finance Minister to introduce this amending Bill. To that extent, the bill is most welcome and I support this. But, when one analyses the various clauses, one finds that sufficient exchange of views has not been made on this issue, it affects first the States and Centre relations. It affects also the inter-State relations. In that way, it also affects the totality of interests concerning the Union and the State Governments. The country being so diverse in nature with all its complexities in taxation, it affects the relations of States. Take for instance my own State. We had a taxation scheme known as multi-point levy system. But we found that a large

number of small traders have been affected by that. We found that it was almost impossible to identify the real points of sales and purchase and also the real dealer. It was in this context that we thought in terms of a single point levy system as the basic scheme of our Sales Tax Act and by this we have been able to really identify the real point at which the transaction takes place. It was this broad identification that enabled the State Government to mop up resources to the tune of Rs 23 crores. Now, if this whole scheme is upset, I am sure, the entire scheme of the State Sales Tax will be affected.

Sir, several members seem to be of the opinion that the considerations of the States arising from the complexity of the situation have not been taken into account when this Bill was formulated and that this Bill has been hastily rushed through. It is important that preparatory to bringing a Bill of this nature, we had adequate exchange of views. From the criticism and the cross-section of opinions that have been expressed, it is evident that that process has not been undergone.

Lastly, Sir, in my own State if this Bill becomes a law the monopoly interests will have an upper hand. I have no doubt that a large number of export companies will declare or will manipulate their records in such a way as to make every intermediary of theirs an employee. After the passing of this Bill they will become employees of the exporting companies and, as such, their transactions will be exempted from the operation of this Act. This will deprive the State of so much of revenue and tax evasion will become easy. This will only enrich the coffers of the monopoly sector. I, therefore, request that the Finance Minister takes a second look at the Bill. This, I understand, is the general feeling of the House. However, as the Minister feels that it is important that the Bill should be taken into consideration, I suggest, he finds out

some viable alternative so that he may satisfy the various points of view raised in this House.

With these suggestions, I support the Bill.

**श्री मूलचन्द ठापा (पाली) :** सभापति महोदय इस सदन के बहुत से अनुसूची और बड़े योग्य सदस्यों ने, जिन में श्री स्टीफन और डा० हेनरी आस्टिन भी शामिल हैं, जो विचार प्रकट किये हैं, उन को देखते हुए यह जरूरी है कि भले ही इस बारे में विषय इस्मू किया गया हो, लेकिन इस बिल पर एक बार फिर विचार करना चाहिये। मुहम्मद सिराजुद्दीन के मुकदमें में सुप्रीम कोर्ट के जजमेंट ने मंत्री महोदय के डिपार्टमेंट में गड़बड़ पैदा कर दी है। लेकिन मेहरबानी कर के वह इस सवाल पर गहराई से सोचें। निर्णय करने के पहले दो तीन बात सोचनी होंगी। एक उमाने मे सिक्स्थ फाईनेंस कमिशन के चेयरमैन श्री ब्रह्मानंद रेड्डी जी से वह भी इस समय हमारे आप के सामने बैठे हुए हैं। उन्हें मालूम है कि राज्यों की आर्थिक हालत बहुत गिरी हुई है और राज्य अपने तरीके से अपनी आर्थिक हालत सुधारते हैं। आपने कहा था कि राज्यों को आत्मनिर्भर बनना चाहिए। सेल्फरिलाईस की बात आप बार बार करते हैं। मैं जानना चाहता हूँ कि राज्यों को सेल्स टैक्स के द्वारा जो आमदनी होती है क्या केन्द्रीय सरकार उस आमदनी की पूर्ति करेगी? यह मेरा पहला प्रश्न है।

दूसरी बात मैं यह रखना चाहता हूँ कि निर्यात के मामले में जो आप कहते हैं कि जो हमारा माल बाहर जाता है उस का निर्यात बढ़ेगा और निर्यात बढ़ाने के लिए सेन्ट्रल सेल्स टैक्स में थोड़ा अर्नेडमेंट करना पड़ा तो कितना निर्यात आप का इससे बड़ा जायदा या कम हो जायेगा; यह आकड़ा भी आप को देना चाहिये। जैसे देर: के अंदर 23 बरीड का चाटा बतलाया और राजस्थान में भी जो माईल बाहर जाता है उस को एक्सपोर्ट करने के लिये जो एजेंसियाँ

होती हैं और एजेंट होते हैं वे इस का लाभ उठाएंगे। आप ने एक बात आपने बिल में कही है कि स्टेट ट्रेडिंग कारपोरेशन जो है एक तो वह और कुछ और लोग जो इस निर्यात का धंधा जानते हैं, जो विदेशों की हालत को समझते हैं वही निर्यात कर सकते हैं सब नहीं, उन लोगों को जो निर्यात करना पकड़ है उस में बढ़ि होगी। उस निर्यात से क्राउन एक्सचेंज की कमाई होती है लेकिन उस के अंदर यह देखना पड़ेगा कि राज्यों को कितना कितना आर्थिक नुकसान भुगतना पड़ेगा।

सेल्स टैक्स के मामले में हमारी निश्चित राय है कि जो उत्पादन प्वाइंट है उसी पर टैक्स लगना चाहिये। हम दूकानदार के पास जाते हैं दूकानदार यह कहता है कि रसीद मत लो और सेल्स टैक्स हम नहीं लगाएंगे, उससे कम में हम तुम्हें यह दे देंगे। तो आप भी सेल्स टैक्स की चोरी आम होती है। खरीददार दकानों से चीजें खरीदते हैं लेकिन दूकानदार उन को सेल्स टैक्स की रसीद नहीं देता। तीसरी बात यह है कि खाद्य पदार्थ और आवश्यक चीजों पर सेल्स टैक्स कम होना चाहिए। जितने खाद्य पदार्थ हैं या स्कूलों में पढ़ाई करने वाली किताबें हैं उन पर सेल्स टैक्स कम किया जाना चाहिए।

बहुत बड़ी बड़ी बातों में न आ कर मैं यह कहूंगा कि इतने माननीय सदस्यों ने जो बात आप की सेवा में रखी उस में एक बात आप यह बतलाएं कि सिराजुद्दीन का केस देखने के बाद आप के दिमाग में यह आया कि बाहर का निर्यात बढ़ाने के लिए हमें इस प्रकार की इप्पूटीज को खत्म करना पड़ेगा सेन्ट्रल सेल्स टैक्स से तो कितना उस से आप का व्यापार बढ़ जायेगा यह आप हमें बतलाएं। एच टी सी ने आप के सामने कौन सा डेटा दिया है कि बिना के व्यापार पर आप कहते हैं कि इन इन चीजों का निर्यात नहीं हो सकेगा अगर बिना मंत्रालय ने यह काम नहीं उठाना बिना मंत्रालय को यह बात पार्लियामेंट के सामने रखनी चाहिये

[श्री नरनाथ शिंगी]

कि इन इन चीजों का निर्यात नही हा सकेगा और अंतर राष्ट्रीय आधार में हम चढ़े नहीं रह सकते अगर यह कदम नहीं उठाया गया ? एक तो यह बात हमें मालूम होनी चाहिए ।

'दूसरी बात में यह जानना चाहता हूँ कि राज्यों को जो क्षति होगी आर्थिक रूप से केन्द्रीय सरकार उस की पूर्ति करेगी ?

तीसरी बात जो ग्रामदनी सेल्स टैक्स से हो रही है, निर्मात से उस के मुकाबले में हमारी कितनी ग्रामदनी बढ़ जायेगी । अगर हम जान ले कि निर्यात से इतनी ग्रामदनी बढ़ जायेगी तो भलग भलग राज्यों के लोग अपनी इप्टी जीवने के लिये तैयार हो जायेंगे । यह पूरा डेटा हमारे सामने हो तो हम निर्णय ले सकेंगे कि मानता हूँ कि पार्टी का अनुशासन है लेकिन पार्टी के सामने हमें यह भी रखने का हक है कि हम आपसे कहूँ कि कुछ बातें जिन्हें हम आवश्यक समझते हैं वह हमें बताई जायें । बाज के बजाय पाच दिन बाज भी इस बिल को लाया जा सकता है, धाने भी लाया जा सकता है, धाने शेषान में भी लाया जा सकता है । लेकिन इस पर एक बार सारी पार्टियों के लोगों के विचारों को सुन कर आप गौर करें । सेल्स टैक्स के मामले में आपने एक कमेटी मुकर्रर की है और आपने कहा था कि हिन्दुस्तान में हमें एक बहुत बड़ी बात सोचनी है और सेल्स टैक्स के मामले में हमें नये कदम उठाने हैं । तो एक बार आप इन बातों पर बड़ी गहराई के साथ विचार करें और जो बातें मैं ने उड़ाई हैं उनका उत्तर देने का कष्ट करें ।

SHRI VASANT SATHE (Akola): Although I have such esteem, regard and appreciation and admiration for my hon. friend Shri Pranab Kumar Mukherjee, Mr. Deshmukh claimed him to be Pranay; I do not understand why he was so much enamoured of pranay—today he is emer-

ging as Pranay Mukherjee for the States. You are going to spell pralay for their tax structure. I have not been able to understand this urgency. Why are you rushing through this Bill? I shall come to my points shortly. But I have to register a fundamental objection to this. This is an important Bill which affects the revenues of States and a large number of Members feel about this Bill. I am not saying any secret; it has been stated even by the Leader that Bills like this must be discussed at least in our party meetings. Day before yesterday you circulate the Bill and today you are bringing it. We have had absolutely no opportunity to study the Bill and discuss the consequences with you. Except clause 9 which is being amended to give retrospective effect to certain provisions which were being made difficult due to certain legal decisions and probably clauses 5 and 6, I do not see any benefit in this Bill.

Take the provision about declaring certain goods as being in the category of declared goods. I shall take only two points. First, crude oil I can understand very well if you say: as a nation we are going to benefit by depriving the State of its right. Then I can understand; it goes into the same kitty. If the nation benefits we can say that from that benefit the States also will share. 10 million tonnes of crude will be produced from Bombay High and it is being distributed all over. How is it going to benefit the centre by reducing the sales tax? By reducing sales tax from 8 per cent to 4 per cent, will production increase? What is the logic of this? I can appreciate that in Assam the increase from 2 to 4 per cent will benefit. But why should Gujarat and Maharashtra be deprived? Maharashtra is going to be deprived of nearly Rs. 24 crores. Bombay High crude oil production is going to be about 10 million tonnes per year from 1980 onwards. At a price of \$ 10 per barrel, the value of 7.5 million bar-

rels of crude oil is going to be about Rs. 600 crores. This 4 per cent reduction will deprive Maharashtra of a potential revenue of Rs. 24 crores per year. What is the rationale in this and how are you going to compensate the States? We are one of the lowest irrigated States in the country and we want to have more irrigation, but we have no resources. For cotton purchase, even as a commercial proposition, the Reserve Bank was not allowed to give us money. Our farmers starve. Cotton production last year came down from 17 lakh bales to 3 lakhs. What is the policy of the Centre? Do you want to help the poor States by giving them some assistance or to deprive them of even the little they can raise by themselves? In energy production, we will be short by the end of the fifth plan to the extent of 1600 MW. We do not have money and you do not give us money. If we try to raise some money, you want to snatch it away.

Take the second point of encouraging exports. This is one of the weakest statement of objects and reasons I have seen. I sympathise with the minister, but I am sure he is carrying somebody else's baby, although he is very good at carrying babies, I know. This is going to be like a hot ball in your hands. After referring to the STC, the statement of objects and reasons says—there comes the cat out of the bag:

"In other cases, manufacturers of goods, particularly in the small and medium sector, have to depend upon some experienced export house for exporting the goods, because special expertise is needed for carrying on export trade. Further, if such sales do not qualify as sales in the course of export, they would be liable to State sales tax and there would be a corresponding increase in the price of goods. This would make our exports uncom-

petitive in the fiercely competitive international market."

Will the minister give some statistics as to how many items have become uncompetitive in international market because of sales tax? Now our exports are going up in spite of the sales tax. So, could you say that our exports would go up by this much percentage, if the sales tax is not there, in the case of traditional items and manufactured goods like engineering goods, electronic and other sophisticated items or even in garments? I can understand it if you say that our sales tax is depriving us of the earning of foreign exchange and if it is reduced or abolished, our export earnings will go up in the case of some particular items. In that case, we will agree to it because it is in the national interest to earn foreign exchange. At the same time, we should bear in mind that there is the normal annual increase in trade. For instance, 18 per cent may become 20 per cent. For heaven's sake, do not take credit for it by saying that this normal increase is due to the abolition of the sales tax. You have to show substantial increase in trade and foreign exchange earnings in respect of some particular items on account of the abolition of sales tax.

After all, who is going to get the benefit of this measure? After some years, if the increase in the earning of foreign exchange is not commensurate with the loss suffered on account of the deprival of sales tax, you will come forward and say "we tried; what could we do; our exports did not pick up; therefore, we could not help it."

If you give an assurance that you will compensate or make good the loss that the States are going to suffer from the deduction of sales tax from the increased export earnings, I can understand it. Otherwise, who is going to get the benefit of this

[Shri Vasant Sathé]

measure? It will mostly be the so-called experienced export houses, including your STC. I do not want to say too much about the STC. Although in terms of amount the export through STC has gone up, if you closely scrutinise it quantitatively, it has not gone up substantially. So, I do not want to give too much of credit to the STC, which in some cases is the sole canalising agent. Of course, in some fields it has done well and all kudos to it.

So far as this limited question is concerned, you have to satisfy us how this measure is going to benefit the States and the nation as a whole. Unless that is done, I am afraid rushing a Bill like this will only land us in difficulties and will result in all-round dissatisfaction.

Perhaps, somebody sitting somewhere in the STC, wanted to push through this measure through the Finance Minister, and he has become a tool, and allowed himself to be used, without studying its implications, without taking his own colleagues into confidence.

**SHRI SOMNATH CHATTERJEE** (Burdwan): So, you now unwillingly support it!

**SHRI VASANT SATHE**: Therefore, I must honestly submit that I cannot support the Bill in its present form, except section 9.

I would plead with the hon. Minister to postpone consideration of this Bill. Heavens are not going to fall if it is taken up in the next session. After all, by section 9 you are giving retrospective effect. Therefore, whether it is done today or one month hence, nothing is going to be lost. Therefore, as far as other matters are concerned, please see the consensus here. It is

practically a unanimous view expressed in this House by State after State that this Bill needs a second look, a closer consideration. And you being such an open-minded person, as we have known always, open to reason and consideration always, I am sure you can appreciate this appeal from us. Kindly agree to have a second look, nothing will be lost. There is no prestige involved. It is not a constitutional amendment or any such thing. Therefore, I would beg of you to put this off for some days and let us consider it coolly so that we can have the mistaken therein corrected, so that the States may not feel that their interests are not being properly safeguarded or looked after by the Centre.

**SHRI SOMNATH CHATTERJEE** (Burdwan): I am thankful to you for giving me this opportunity.

I must come to the rescue of the hon. Minister whether he likes it or not, because I feel that hon. Members, in their espousal of a right cause, have somewhat deviated from the scope of this Bill. When I say "espousal of a right cause" I mean that the States must be given greater and greater revenues and sources of revenue. We know and realise that sales tax is the best source of revenue, as our former Finance Minister sitting here will admit, and I believe that at least excise has been keeping pace with sales tax. Therefore, we want that there must be additional sources of revenue.

Now, the difficulty lies, so far as the Central Sales Tax is concerned, because of the constitutional provision. The Central Sales Tax, not primarily but actually, deals with sales in the course of inter-State trade and sales in the course of export or import. Under the Constitution, the States are debarred from imposing sales tax on such sales. Therefore, even if you want on behalf of

the States larger revenues in respect of sales, can you get it in respect of such transactions? That is the point.

My hon. friends there are now so much enthusiastic about changing the Constitution. Mr. Sathe is a Member of that Committee which is bringing about "revolutionary" changes in the Constitution. Therefore, why don't you think of amending article 286 of the Constitution and give powers to the State Governments to impose sales tax in respect of such sales? I would support you there. No, you are not thinking of that, you are thinking of catching hold of those responsible for so-called anti-national activities, that is the point.

Therefore, the object of this Bill, as I said, is to do certain things ...

**SHRI SHIVAJI RAO S. DESHMUKH:** We are talking of scheduling of goods, not canalisation of goods, and therefore, the question of sales tax does not arise.

**SHRI SOMNATH CHATTERJEE:** I am not the author of the Constitution. It says:

"No law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place—

(a) outside the State; or

(b) in the course of the import of the goods into, or export of the goods out of, the territory of India."

The position is this. In view of the system of canalising of exports which has been evolved in this country, every exporter, big or small, has to go to an export house. So, instead of amending the Central Sales Tax Act, they could have done away with the canalisation system.

If I want to export to a party in England or America, wherever may be, previously, I could do directly. This would have been direct sale and that would have been exempted from the sales tax. The State would not have been able to levy any tax because of the Constitution of India.

What happens is that the Commerce Ministry brings in this system of canalisation. One has to go to the S. T. C. or the M. M. T. C. or any such of the organisations. Previously, it was held to be not a taxable transaction between the M. M. T. C. and the exporter although the exporter enters into a contract with the foreign importer. The M. M. T. C. just comes in between and takes a commission. Whether it is doing good to the export trade of the country is not the scope of discussion. Therefore, when you are maintaining the canalisation system, you are bound to come with a law like this. The constitutional mandate is that those sales should not be subject to taxation. That constitutional mandate was being frustrated because of an interpretation put by the Supreme Court that when you are giving the goods to the M. M. T. C. or the S. T. C., as at that time the custom frontiers have not been crossed, it is an inter-State sale and, therefore, the State is entitled to levy tax. If you say, you do not mind the export prices being increased and allow the State authorities to levy tax and, if you feel that you have reduced the prices of goods exported by States, you have to bring such a legislation.

What the hon. Members feel and I also feel in principle is that in a proper federal structure there have to be greater and greater powers given to the States for their improvement. That is my fundamental belief. We do not want an all-powerful, all-pervading Centre, including the power to send the C. R. P. and para-milli-

[Shri Somnath Chatterjee]

tary forces to the States. We want that the States should have greater and greater capacity to develop on their own, on their own resources. Now, the resources of the States are being dried up. I quite see it. I am as much agitated as the other hon. Members. For espousing that cause, you will not have to get full support from us. So far as the principle behind it is concerned, the question is, how to do it. By amending the Central Sales Tax Act or not amending it, you cannot achieve it. That is the point. Therefore, when the Supreme Court gave a particular construction to a particular Section or to a transaction between the canalising agency and the actual exporter, once the Government has stepped in, and when you say that you do not mind a rise in the export price of goods, then this law is not necessary. But if you feel that the export prices must be kept in control, to be able to compete in the export markets, that is another thing.

I am not an expert on that. I cannot say whether the hon. Minister has made any study or my hon. friends have made any study with regard to the actual position regarding the export of goods, how far they can bear additional taxation, whether this must be passed on the actual foreign importer or the M. M. T. C. should bear a portion out of its commission. All these are matters to be worked out. But I should have thought that this law has to be brought about for the purpose of keeping the object of the Constitution in view. I am not trying to give an impression nor that is my view that I do not want the State revenues to be increased. They must be increased. But ways and means must be found out lawfully to do it.

The other aspect of the Bill is about the goods of national importance. What is the position? That is also

according to the Constitution. The Constitution says that once certain goods are declared to be of national importance, the State has to carry out the laws made by Parliament with regard to those goods so far as the imposition of sales tax is concerned. The Central Sales Tax Act, 1956, subject to subsequent amendment provides that the State can impose the maximum 4 per cent, the present rate of sales tax. That is an inter-State tax. As we understand, the principle is that there are some goods on which additional amount of tax should not be there and that there should be a single point of taxation so that the prices do not increase. As to what goods should be declared as goods of national importance, that is a matter of controversy. I agree with my friends here that some of the goods may not be given an exemption in the form of being declared as goods of national importance and some may have to be given an exemption. What are those goods? Certainly, this is a matter to be discussed. But once certain goods are declared to be goods of national importance like paddy, coal, etc., then the Constitution immediately comes into the scene, and once this declaration is made, the maximum limit is there. For that, the Central Sales Tax Act further provides, which is not being amended, that in cases of those goods which are declared to be goods of inter-State importance or national importance, if they are subject to inter-State transaction, that amount has to be refunded back to the person who sells the goods. These are the existing laws. Therefore, I would make this request to my hon. friends—they will be participating very joyfully and joyously and willingly in the Constitution amendment process: why don't you bring an amendment there. You will get our moral support at least for one clause. Article 286 requires modification and re-thinking. There is not a single proposal in your Constitution Amendment Bill to increase a single power of the States,



either politically or in any other sphere. You are not thinking of States' power because you think that the power is entitled to remain only in Delhi.

The position being so, I would request the hon. Minister to take the sense of the House into consideration and see that the States' resources are substantially increased, that power is given to the State so that it can increase its revenue lawfully, and for that reason, if you may have to amend the Constitution, you should not hesitate to do so.

THE MINISTER OF STATE IN CHARGE OF THE DEPARTMENT OF REVENUE AND BANKING (SHRI PRANAB KUMAR MUKHERJEE): Mr. Chairman, Sir, I am thankful to the hon. Members for making their observations, though they have not supported the Bill. But I would like to make one thing clear at the very beginning. What Mr. Stephen wanted to point out was about the special and particular problem of Kerala. From that, some hon. Members came to the conclusion that these provisions of the amending Bill would debar the State Government from imposing sales-tax on each and every item at each and every stage. Kerala, because of its peculiar character, because of its single-point taxation nature, the point of identification where they are imposing taxes, will be debarred by the provision of section 3. There is no denial of that fact. But the Sales-Tax Act of Maharashtra, the State from where hon. Member Mr. Vasant Sathe comes and who is championing the cause of State revenue, provides much more incentive to the exporters: any sale taking place for a period of nine months prior to the actual export and at whatever point it may be is entitled to enjoy exemption from the sales-tax. Many other State Governments have multi-points where they are imposing taxes. Therefore, this is not

a fact that we are debarring the States, by bringing this piece of legislation, from imposing tax even on the exportable items at all points...

SHRI VASANT SATHE: Why don't you follow Maharashtra?

16.55 hrs.

[SHRI ISHAQUE SAMBHALI in the Chair]

SHRI PRANAB KUMAR MUKHERJEE: You were talking about giving concession to the monopoly houses and exporters. We are giving them much less concession. The last sale prior to export would be debarred and the State would not have the right to impose sales-tax. That right originates from article 286 as has been pointed out by Mr. Somnath Charterjee. We are not debarring States from imposing sales-tax. We are only exercising the rights given to the Central Government, to the Government of India, under article 286 and that too in the context of a judgement given by the Supreme Court. The Supreme Court has said that the transaction which is taking place between the buyer in the foreign country and the exporter in the country, except that transaction, any other transaction would be subjected to the sales tax. To my understanding, and I would explain in detail how, it would affect the exports. We are demanding more and more canalisation of items through STC. If we leave the position as it is, after the interpretation of the Supreme Court, the construction which they have made is that even if the STC purchases a particular item for exports to parties in foreign countries, they will have to pay sales tax as per the interpretation of the Supreme Court in the Serajuddin case. We are saying that when STC is purchasing or any other exporter is purchasing from a person, by establishing the nexus that this is meant for export and that an agreement and order has already been entered into earlier, by establishing



[Shri Pranab Kumar Mukherjee]

that, when the exporter will purchase from a party, in that transaction, in that last sale, he will be exempted from the sales tax. This is the provision of clause 3...

SHRI VASANT SATHE: Later on, if it is not exported?

SHRI PRANAB KUMAR MUKHERJEE: If it is not exported, he is violating the contract, he is violating the law and it will have to be taken into account.

In this connection, Mr. Stephen raised the question as to what about a transaction which is taking place in inter-State forum. Clause 4 is taking care of that. When somebody is selling and selling on the bona fide faith that this is for export and seeing to the document either the contract or order, whatever it may be and if it is an inter-State sale, it will be covered by clause 4 which reads:

"Provided that a dealer shall not be liable to pay tax under this Act on any sale of goods which, in accordance with the provisions of sub-section (3) of section 5, is a sale in the course of export of those goods out of the territory or India."

Therefore, the question of sales tax does not arise because it is an inter-State sale and he is selling it on the bona fide belief that it is for export. Therefore, the question that arises at a subsequent stage, as pointed out by Mr. Stephen, would not arise and it will be protected under clause 4 of the Bill.

The whole question came out: why should we have it and whether we can make some exception in respect of certain particular items. My submission is that so far as the present provision of the law is concerned, as it has been interpreted by the Law

Minister in an earlier case in 1974, we have no power. It is for the Parliament to determine the principle governing the sale or purchase and it is for the Parliament to determine what should be the principle and not for Government by issuing orders or notifications. I would quote the observations of the Law Minister in this connection. It is slightly lengthy. Because this particular point has come and it would come subsequently in the form of amendment, I want to quote it. This is the view of the Law Minister given on 24th April, 1974 when a particular item in the form of aviation fuel was drawn to their attention....

SHRI C. M. STEPHEN: Is it the Law Minister or the Law Ministry?

SHRI PRANAB KUMAR MUKHERJEE: The Law Minister, Mr. H. R. Gokhale. If you want to see the signature, I can show it.

SHRI C. M. STEPHEN: We believe it.

SHRI PRANAB KUMAR MUKHERJEE: It is 24th April, 1974. I quote:

"The proposed amendment to the Central Sales Tax Act is related to the power conferred on Parliament by Article 286 (2) of the Constitution. This enables Parliament by law to formulate principles for determining when a sale or purchase of goods takes place outside the State or in the course of the import of goods into or export of goods out of the territory of India. Thus, Parliament can formulate general principles which would be applicable to all sales and purchases. But it would not be open to it to lay down a principle applicable only to one commodity or a class of commodities.

Consequently, any legislation cannot relate only to aviation fuel. It would have to be general in its terms and would necessarily relate to transactions relating to all goods. The object underlying the proposed amendment is to exempt aviation fuel from the high level of *ad valorem* sales tax which is being levied in two States. But, once an amendment is made, since it can only be general in its terms, it would apply, when it comes into force, to all fuels, lubricants, stores and all other commodities taken on board an international carrier, whether operating by air, land or sea."

Somebody suggested whether traditional items of agricultural products like ginger or pepper could be exempted from the operation by making some enabling provision in the Act itself and whether the State Government would be allowed to impose sales-tax. As per the interpretation of the Law Minister, Government has no such power. Parliament will have to determine the principle.

SHRI C. M. STEPHEN: Am I to take it that if the law permits, the Government will have no objection to assume the power for exempting articles? If an amendment is brought forward and if the law permits as a matter of Government policy, am I to take it that Government will have no objection to assume power so that certain articles or certain class of articles may be exempted from this provision?

SHRI PRANAB KUMAR MUKHERJEE: That is a separate issue. I have myself asked my colleague in the Law Ministry, Dr. Seyid Muhammad to examine this. Therefore, we are not having a closed mind on this aspect. But, as it stands, so far as the advice of the Law Minister is concerned, it does not allow me to bring any amendment in this Act to

enable a particular class of commodity to be kept outside the purview of the provision of the Act.

Various points were raised about federal structure and so on. I am sorry to say that the scope of the Bill had been enlarged because somebody thought that we are denying the right of the State to impose sales-tax. In the multiple stage of taxation you will find this in no stage except the last preceding stage and even in Kerala it should be applicable in case of cashew; when cashew is crushed, for getting it processed, at that time, at that processing stage, you could have the power to impose sales tax on it or purchase tax or any other tax if you like to impose on it, but difficulties are there and I had discussion with some Members of Kerala also.

Then the question arose as to what happens when the exporters would purchase directly and treat the purchasers as their agents. How to take care of that? But, I do feel that the State Governments can find out the modality by which these people could be brought within the purview of the law. That is an area which we can consider. (Interruptions).

SHRI SHIVAJI RAO S. DESHMUKH: Why can't we do it ourselves?

SHRI PRANAB KUMAR MUKHERJEE: The Central Sales-tax Act itself is administered by the States and not by us. The proceeds are appropriated by them. We simply pass the law. In the name of Parliament this piece of legislation has come. Therefore, it is for the States to administer.

In this connection, somebody raised a question of the rationality of bringing in their the declared goods. It also provides that by Clause (c) of Art. 286, such articles would be brought under declared goods.

[Shri Pranab Kumar Mukherjee]

would not like to mention the names of the States. The hon. Members would appreciate if I quote some figures on how distortion on sensitive items like paddy and rice are taking place. In one State, the purchase tax from paddy is 7 per cent; the purchase tax from rice is 4 per cent. In another State the purchase tax from paddy is 7 per cent while the sales tax from rice is 4 per cent. I would not like to mention the name of the State. The question has come when we are bringing in this piece of legislation without consulting the State Governments. This was a matter which had been taken up with the State Governments at least for the last five or six years. At least half a dozen meetings had taken place. Not merely me—I myself had a meeting with the Chief Ministers and—Babuji himself had a meeting with the Chief Minister and the Agriculture Minister. Simply they did not agree. The hon. Member will agree with me that we wanted to sort out the issue of the Delhi Sales tax with the neighbouring States. We could not arrive at any conclusions. It is quite desirable to say, why don't we have discussions? But, after all, at some point of time, we will have to come to some decision. Discussion is all right; exchange of views should be there. But, if in regard to the rice or paddy or pulses which are of sensitive nature and which are consumed all over the country we want to bring some sort of uniformity and we bring them under the category of declared goods, then I find there is no objection. But, one hon. Member has raised an objection to that even  
(Interruptions)

My hon. friends from Kerala have conveniently forgotten that this will give some advantage to them because it is a deficit State. All deficit States will get the advantage of it. All surplus States producing rice and paddy will be at a disadvantage. They can get more revenue. Take for instance

Punjab and Haryana. They will suffer.

Similarly, the question arises. We took up this point with the State Governments. It is not that we do not take up the matter. It is known to all the hon. Members that regarding the crude, an award has been given regarding the royalty by no less a person than our Prime Minister herself. This was also taken up with Gujarat and Assam. Gujarat is having its crude oil processed in the refinery of its own. But Assam is in a disadvantageous position because the crude of Assam has to come to Barauni and, as a result, it becomes a commodity of inter-State importance

So, they cannot impose more than 4 per cent as sales tax. Because of the fact that refineries are established within the State itself, certain State Governments want to make good of both ends. If we want to bring some sort of uniformity in that respect, I do not see that there is anything wrong in it.

As a result of bringing in uniformity of 4 per cent, each and every State will get the benefit. Otherwise it may happen that in certain commodities it has happened in one State the sales tax is 15 per cent and in another State it is 10 per cent and in yet another State it is 12 per cent. Therefore, the commodity which affects the life of all-India, should be treated as a commodity of sensitive nature and that should be brought under declared goods. Otherwise there should be some kind of uniformity. If a particular commodity is taken in many areas, you will find that some distortion takes place at some place or the other.

Sir, another question has been raised why we did not take into account and what would be the effect on export. Here I would like to submit for the information of hon. Members the figures which I have re-

ceived from my colleague in the Commerce Ministry. One hon. Member said that these are monopoly items and we are enjoying monopoly in the world market. The fact is not like that.

As regards cashew kernel during the year 1974-75 our export was to the extent of 65,000 tonnes whereas in the year 1975-76 it has come down.

SHRI C. K. CHANDRAPPA (Tamil Nadu): The Minister is deliberately trying to mislead the House.

SHRI C. M. STEPHEN: The Minister will kindly understand that this is a re-export item.

SHRI PRANAB KUMAR MUKHERJEE: Sir, the hon. Members have made their observations. I have listened to them. I want protection from the Chair. I am not yielding. This is the figure which has been given to me by the Commerce Ministry. In all fairness I must place it before hon. Members on the floor of the House. The other item is Pepper. In 1974-75 its total export was 26,000 tonnes. In 1975-76 it came down to 24,000 tonnes. Similarly, in the case of Cori it has come down from 42,000 tonnes to 36,000 tonnes. My only contention is that it is not a fact that as you have enjoyed monopoly for some time, so for all time to come you can enjoy that monopoly. You will have to take stock of the international situation and you will have to adjust your strategy accordingly.

Now, the question is to what extent the benefit of exemption from sales-tax would give you relief. It would give relief to the extent as per the interpretation of the Supreme Court in the *Serajuddin* case. The STC if it purchases will have to pass on the sales-tax to the consumer. If any exporter purchases then also he will have to pass it on to the consumer—whatever may be the element of tax, maybe 4 or 5 per cent. Today

you are talking of five per cent. But if you make an analysis of the sales-tax in various States, you will find the State Governments went even beyond the elastic limit to increase the sales-tax so as to mop up additional resources. In some States they had gone up to as high as 15 per cent. Today there is no guarantee that it would remain confined to five or six per cent. There are previous instances. If the hon. Members make an analysis of the enhancement of sales-tax in various States over the last ten years they will find that it has increased by almost 100 per cent. That point will have to be taken into consideration.

SHRI VASANT SATHE: But the Minister will realise that the remedy lies somewhere else.

SHRI PRANAB KUMAR MUKHERJEE: This is a provision which we are making not to justify the past action but what would happen in future if I do not take these measures. If I do not protect the organisations like STC or other exporters today and if I do not provide them the facility it would be difficult for them to compete in the international market.

SHRI VASANT SATHE: You have not explained what is the nexus between that and this.

SHRI PRANAB KUMAR MUKHERJEE: They will have to establish the nexus when you are demanding exemption that this is a sale.

SHRI VASANT SATHE: For example, if you said that the cashew nut export has come down so much because of the sales tax, I could understand it.

SHRI PRANAB KUMAR MUKHERJEE: I have not yet brought that piece of legislation. How could I tell it? Still it is taxed.

**SHRI K. P. UNNIKRISHNAN** (Badagara): He has only been given figures by the Commerce Ministry.

**SHRI PRANAB KUMAR MUKHERJEE**: The position is that still they are charging the taxes. As I have already explained, many of the State Governments will have the option to readjust their own sales tax laws in such a way that at certain points they would be in a position to identify this. I do agree Kerala has a particular point here because it is single-point taxation, but you cannot equate this case of Kerala with all India. There are certain other States; export items are coming from other areas. Therefore, if there be any particular difficulty with regard to a particular State, would you like that to be an all-India feature?

Therefore, the problem of Kerala, its ways and means problem, the problem of its deficit in revenue, cannot be sorted out in this way. It could be taken care of when the Finance Commission takes into account the amount State Governments are losing on account of this. They will have to take account of that. The way grant-in-aid has been extended is there. (Interruptions).

**MR. CHAIRMAN**: Please do not interrupt him. Mr. Mukherjee, please address the Chair.

**SHRI PRANAB KUMAR MUKHERJEE**: On the question of ways and means, if you permit me, if a State is having a deficit of, say, Rs. 46 crores, we shall take that into account. There is no denial of that fact. I have already taken it up with State Governments. This is not the only exception; there are many States whose ways and means are not good. The Government of India are to take care of it. We shall have to see in what way they can meet their ways and means position, how we can provide them adequate assistance to maintain the tempo of their

plans. Therefore, on that count, I can assure hon. members, particularly those from Kerala, that they are losing, there is no denial of it; as a result of this enactment, Kerala will lose some revenue, but in what way we could make good or what would be the alternative agencies, that we shall have to look into.

With these words, other points having been supported by hon. Members...

**SHRI VASANT SATHE**: One point remains. I had referred to that good thing which you said Maharashtra had of putting a limit of 9 months. As you know, 9 months is a very good period. Therefore, if in 9 months they do not deliver by exporting, then you should allow, as in Maharashtra, the State to put a tax. Why don't you accept this as a universal proposition for all, as you yourself had said it is a praiseworthy thing?

**SHRI PRANAB KUMAR MUKHERJEE**: In my scheme, the time limit will be much shorter.

**SHRI VASANT SATHE**: Where is the scheme at all?

**SHRI PRANAB KUMAR MUKHERJEE**: In between 9 months, I identify only one particular stage. In the 9 months-scheme of Maharashtra, there may be many more intermediate stages. I would not like to extend the benefit to other stages; I would like to pinpoint it only to the sale preceding export.

**SHRI VASANT SATHE**: My point is: If export does not take place, what happens?

**SHRI PRANAB KUMAR MUKHERJEE**: If some hon. members have an apprehension and feel that some time schedule should be there, that is a matter which could be considered. But I would not like any other stages to come in between.

Regarding another point made by one hon. member that while preparing the draft, we had not taken into account the judgment, hon. members should be interested to know that even the Supreme Court Judges were sharply divided, two to two. Regarding the 5th Judge, he decided, because the Chief Justice was there, 'I shall agree with the Chief Justice'. Therefore, there are certain lacunae somewhere; there is no denial of it. Sometimes in law, it happens. In this particular case, even the Judges were sharply divided. But I do agree we should take care of the point in the drafting stage. With these words, I commend the Motion. I hope hon. members will not press their amendments.

SHRI C. M. STEPHEN: I must congratulate him for defending a very indefensible case. He put up a very able defence indeed.

MR. CHAIRMAN: The question is:

"That the Bill further to amend the Central Sales Tax Act, 1956, be taken into consideration."

*The motion was adopted.*

MR. CHAIRMAN: We take up clause by clause consideration. There is no valid amendment to clause 2.

The question is:

"That clause 2 stand part of the Bill."

*The motion was adopted.*

*Clause 2 was added to the Bill.*

MR. CHAIRMAN: There are some amendments to clause 3.

*Clause 3—(Amendment of Section 5)*

SHRI C. H. MOHAMED KOYA: I beg to move:

Page 3,—

after line 9, insert—

"Provided that nothing contained in this sub-section shall apply to the sales or purchase of hill produce, cashewnut, coconut fibre or its products or sea foods.

*Explanation.*—For the purpose of this proviso 'hill produce' shall include pepper green and dried ginger lemon grass oil, nuxvomica laurel oil, and kacholam; 'cashew nut' shall include cashew nut with or without shell; 'coconut fibre or its products' shall include coconut fibre, coir yarn and their products and 'sea food' shall include prawns, lobsters, frogs and frog legs" (3)

SHRI N. SHEEKANTAN NAIR: I beg to move:†

Page 3,—

after line 9, insert—

"Provided that the Government may give exemption to certain States to levy tax on selected items of commodities." (4).

SHRI C. H. MOHAMED KOYA: Even after the information given by the misguided Minister, I refuse to be convinced.... (Interruptions). He has been misinformed by the Ministry of Commerce about cashew nut industry.

SHRI PRANAB KUMAR MUKERJEE: Your amendments do not relate to cashewnut.

SHRI C. H. MOHAMED KOYA: It relates to clause 3. Kerala would be losing Rs. 23 crores. Now he says that the government would look after Kerala; after killing the goose that lays the golden egg, government comes forward and says that it will give us one egg a day. He was quoting from an old letter from the

†Moved with the recommendation of the President.

[Shri C. H. Mohamed Koya]

Law Ministry that we had no powers to accept this amendment. I think Parliament has got powers to accept this and I hope he will accept this amendment.

**SHRI N. SREEKANTAN NAIR:** I want to speak only a few words about my other amendment. The hon. Minister was saying that he could consider only a category of items for this Bill. I am referring to traditional items which were exported long before the present drive to increase exports: additional items may have developed industrial goods, small scale industries, etc. There is nothing which stands in the way of exempting traditional items.

**SHRI C. K. CHANDRAPPAN:** While supporting the amendment, I should like to ask the hon. Minister one question. He has himself stated that Kerala stands to lose in terms of revenue because of this enactment. This amendment has therefore been moved to provide some relief to Kerala. The hon. Minister was good enough to say in the concluding part of his remarks that he would take into account the problems of Kerala and the difficulties arising out of this enactment in Kerala. I should like him to explain it a little further. In what way is he going to provide relief to Kerala, whether he is going to discuss this matter with the Kerala government, now or later, whatever it is?

**DR. HENRY AUSTIN:** Sir, I have moved the amendment because I genuinely felt that the clauses incorporated in the Bill, if it stayed as they were, would certainly affect the financial interests of Kerala. I am glad that the hon. Minister was able to identify this aspect of the question taking particularly into account the economic background of Kerala. But I would like to know what steps he is contemplating to prevent the monopoly houses from establishing a nexus

with the dealers by making the intermediaries as their own employees. If that is allowed, with all the good will he has shown, it would deleteriously affect the interests of Kerala. With this suggestion, I withdraw my amendment.

**SHRI C. M. STEPHEN:** I had given notice of my amendment, but I was not entitled to move it because of lack of President's recommendation. It came too late. What I had suggested was a permissive provision, whereby I sought to invest the government with the power to spell out the goods which would be covered by sub-sections (1) and (2) of the section and not by sub-section (3). His objection was, the law does not permit. The question is whether it can be framed in the nature of a principle that in the case of commodities which are of a monopoly nature and which are dealt with by canalised agencies, this will apply and not for others. Rather than depending on what Mr. Gokhale said some years back, I would request the minister to examine the legal aspect of it, so that the Central Government can exercise their discretion in this particular matter.

He spelt out certain fall in export trade. As far as cashew is concerned, this is a case of manufacturers selling straight in the course of export. So, the cashew kernel does not collect any sales tax even under the present law. About other commodities, he says, Government can evolve some machinery whereby at a prior stage, they can collect the tax. You should see the nature of the commodities. You are dealing with. The agriculturists bring them to the markets wherefrom the sale takes place straightway on the import-export basis. So, there is only one intermediary stage between the exporter and the final seller. The result is there will be no intermediary stage at which the government can collect any tax. Taking into consideration the nature of the commodities, it will be absolutely impossible for the gov-



amendment to find out a point to collect tax. The entire tax will go down the drain and nothing will be collected. So, the Minister may kindly examine the legal feasibility, the constitutional viability and the legal permissibility of the amendment I have proposed rather than depending on what Mr. Gokhale said in connection with some other thing in a different context.

**SHRI PRANAB KUMAR MUKHERJEE:** I have covered most of the points in my reply to the debate. I agree with Mr. Stephen that apparently it appears that there may not be any stage where the tax could be levied. We would like to have some detailed studies made about this. Let us go through that exercise in consultation with the Kerala Government. Regarding the constitutional point and legal competence, I have already said that I have asked the Law Minister to re-examine it afresh.

About Mr. Chandrappan's point, I have said, when a State is losing certain revenue on account of a certain measure this is a matter to be taken into account by the Planning Commission, Finance Ministry, etc. while looking into the ways and means position of the State Government. We are aware of it. When the Finance Commission will go into it, this point will also be taken up by them so that a permanent solution could be sorted out. That is why those matters will have to be looked into. But, as I have explained earlier, I am unable to accept it in the form of an amendment.

**MR. CHAIRMAN:** I will now put amendment No. 3, moved by Shri Mohamed Koya, to the vote of the House.

*Amendment No. 3 was put and negatived.*

**MR. CHAIRMAN:** I will now put amendment No. 4, moved by Shri

Sreekantan Nair, to the vote of the House.

*Amendment No. 4 was put and negatived.*

**MR. CHAIRMAN:** The question is:

"That clause 3 stand part of the Bill."

*The motion was adopted.*

*Clause 3 was added to the Bill.*

*Clause 4.—(Amendment of section 6)*

**SHRI N. SREEKANTAN NAIR:** I beg to move:

*Page 3,—*

*after line 16, insert—*

"Provided further that in the case of traditional goods like Pepper, Coir etc. where sales-tax have never hampered the export of such articles the tax may be levied with the consent of the Government of India" (7).

I have already explained the reasons to the House. If traditional goods are exempted, it would be a class by itself, even if you take Shri Gokhale's legal opinion into consideration. So, it may be accepted.

**SHRI PRANAB KUMAR MUKHERJEE:** I have nothing to add to what I have already explained.

**MR. CHAIRMAN:** I will now put amendment No. 7, moved by Shri N. Sreekantan Nair, to the vote of the House.

*Amendment No. 7 was put and negatived.*

**MR. CHAIRMAN:** The question is:

"That clause 4 stand part of the Bill".

*The motion was adopted.*

Clause 4 was added to the Bill.

Clauses 5 and 6 were added to the Bill.

Clause 7— Amendment of section 14)

SHRI PRANAB KUMAR MUKHERJEE: I beg to move—

Page 4, lines 25 and 26, —

omit, "with effect from the 1st day of September, 1976" (1)

SHRI SHIVAJI RAO S DESHMUKH: About the scheduling of commodities, I nobody denies that cereals and pulses are commodities of all India importance and any steep variation in the levels of sales tax from State to State will add to the hardship of the consumer and, therefore, there should be certain uniformity. But the same cannot be said in the case of crude. I do not think in the near future India is likely to have crude in all the States. Crude happens to be available only in two States. It is available either off-shore or on-shore. If it is off-shore, under the Constitution the State is not entitled to any royalty. Under this Bill the right of a particular State to levy sales tax according to the old rate will be denied under the specious garb of declaring a commodity as an essential commodity. Therefore my amendment says, let the Government have the fullest liberty in the case of all India commodities for inter-State trade but the level of taxation, instead of being 4 per cent as under the Sales-tax Act, should be at the prevailing rates of taxes in the different States. As the hon. Minister himself stated Assam is entitled to levy sales tax at 4 per cent, but contents itself with levying only 2 per cent, because it gives it the right to plead with the Prime Minister that it should be given royalty at the rate Rs 45 per tonne, which is disproportionate, but since that benefit is denied to the State of Maharashtra, and the loss of revenue will be Rs. 24 crores if the estimate of crude from Bombay High is taken at 10

million tonnes per annum, this amendment is most necessary to avoid that substantial loss. Let it be fixed once and for all at the existing level of sales tax so that the commodity can be declared a commodity of national importance and yet the Government of Maharashtra will have the right to levy the tax at the existing rate and will have no option to increase the rate subsequently.

SHRI PRANAB KUMAR MUKHERJEE: So far as the present Sales Tax law is concerned, they can impose tax only at the rate of 4 per cent.

MR CHAIRMAN: The question is:

Page 4, lines 25 and 26,—

omit "with effect from the 1st day of September, 1976" (1)

The motion was adopted

MR CHAIRMAN The question is:

"That Clause 7, as amended, stand part of the Bill"

The motion was adopted  
Clause 7, as amended, was added to the Bill

Clause 8— (Amendment of Section 15)  
Amendment made

Page 5, line 30,—

omit "with effect from the 1st day of September, 1976" (2).

(Shri Pranab Kumar Mukerjee).

MR CHAIRMAN The question is:

"That Clause 8, as amended, stand part of the Bill"

The motion was adopted

Clause 8, as amended, was added to the Bill

MR CHAIRMAN The question is:

"That Clauses 9 and 1, the Enacting Formula and the Title stand part of the Bill".

The motion was adopted.

Cluses 9 and 1, the Enacting Formula and the Title were added to the Bill.

SHRI PRANAB KUMAR MUKHERJEE: I beg to move:

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

MR. CHAIRMAN: The question is:

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

The motion was adopted.

17.39 hrs.

STATUTORY RESOLUTION RE:  
CONTINUANCE IN FORCE OF PROCLAMATION IN RELATION TO THE  
STATE OF GUJARAT

THE MINISTER OF HOME  
AFFAIRS \* (SHRI K. BRAHMANNANDA REDDY): I beg to move:

"That this House approves the continuance in force of the Proclamation issued by the President on the 12th March, 1976, under article 356 of the Constitution, in relation to the State of Gujarat, for a further period of six months with effect from the 24th September, 1976."

As Hon. Members would recall, the Proclamation under article 356 of the Constitution was issued by the President in relation to the State of Gujarat on 12th March, 1976, after careful consideration of the report of the Governor and other information received in this regard by the Government. This Proclamation was approved by the Rajya Sabha on 22nd March, 1976 and by the Lok Sabha on 24th March, 1976, and will expire on 23rd September, 1976.

The Gujarat Assembly was, however, kept in suspended animation and it was hoped that the political situation in the State would get stabilised during the short spell of President's Rule lasting for six months but it has

not materialised so far to the extent so as to ensure formation of a stable Ministry.

A number of steps have been taken by the Gujarat Government to tone up the administrative machinery in the wake of President's rule. The drive to weed out inefficient and corrupt officials from the public services has been intensified. Since the inception of President's Rule, 238 Government servants have been retired, including 16 Class I and 15 Class II officers. Task forces have been constituted to look into specific aspects of administration so that the administrative machinery is geared to meet the challenging task of development. Some of the departments at the Secretariat level have been reorganised to make them into viable units. Concrete steps have been taken to ensure that the grievances of the public are attended to expeditiously and effectively.

The implementation of the 20-point programme has been assigned the highest priority and in that context the gearing up of administrative machinery for fulfilling the objectives of the new economic programme has assumed special importance. A High-Power Committee headed by the Governor and backed up by departmental and inter-departmental Committees has been set up to monitor the execution of the different facets of the programme. The Panchayati Raj Institutions at all levels have been fully associated with the implementation of the programme.

The State Government have been keeping a close watch over the price trends. A number of steps were taken to streamline the public distribution system. Simultaneously, raids and inspections were intensified which enabled the Government to hold the price line. The total number of raids conducted during the President's Rule is 3,762 and 43 traders who were found indulging in malpractices, black-marketeering and profiteering were arrested under MISA.