

For the benefit of the hon. Member I may mention that Kashmir is a backward State to which the Central Government is giving its fullest support. The Fourth Plan of Jammu and Kashmir was fixed at Rs. 158.4 crores of which the Central assistance was Rs. 145 crores. Thus, over 90 per cent of the State Plan outlay is financed entirely by the Central assistance. The current year's Plan outlay is Rs. 36 crores out of which Central assistance is Rs. 32 crores. According to the budget estimates of this year, the revenue receipt of the State is Rs. 102.21 crores and revenue expenditure Rs. 107.52 crores, leaving a deficit on revenue account of Rs. 5.31 crores. The overall deficit is Rs. 2 crores which is expected to be covered by additional taxation and improvement in tax collection. With these words, I commend the Bill for the acceptance of the House.

MR CHAIRMAN : The question is :

"That the Bill further to amend the Public Debt Act, 1944, be taken into consideration "

The motion was adopted.

MR CHAIRMAN : Since there are no amendments, I will put all the clauses to the vote together. The question is :

"That clauses 2 to 5 stand part of the Bill "

The motion was adopted

Clauses 2 to 5 were added to the Bill.

Clause 1, the Enacting Formula, the preamble and the Title were added to the Bill

SHRI K.R. GANESH : I beg to move :

"That the Bill be passed"

MR. CHAIRMAN : Motion moved .

"That the Bill be passed"

श्री कर्णवीरप्रसाद शर्मा (मद्रास) : सभापति महोदय, इस बिल के सम्बन्ध में कुछ विशेष नहीं कहना है। यद्यपि हमने अभी कुछ दिन पहले ही सर्वोच्च न्यायालय के अधिकार क्षेत्र को जम्मू काश्मीर तक बढ़ाया और दूसरे भी अधिनियम पारित किए हैं। वहीं पर प्रस्तुत हुए जिनके द्वारा

उनके अधिकार क्षेत्र को बढ़ाया जम्मू काश्मीर तक वहाँ की उन्नति और प्रगति की दृष्टि से। लोक न्याय विधान के बारे में वहाँ की विधान सभा ने अपना संकल्प पारित कर इच्छा व्यक्त की और उसके अनुसार हमारी सरकार इन प्रावधानों को वहाँ लागू करने जा रही है। इन के सम्बन्ध में एक ही निवेदन करना चाहूँगा कि अच्छा हो यदि हम इस प्रकार अधिनियमों की सीमा बढ़ाकर वहाँ लागू करने की स्थिति लाने के बजाये प्रथम वहाँ के संकल्पों के बाद विधेयक लाकर विधानों में संशोधन करने के बजाये हमारे विधान में जो वर्तमान धारा 370 है उसको समाप्त कर दे तो समान रूप से सारे बिल और सारे अधिनियम जो भी प्रचलित हैं वहाँ भी लागू हो सकते हैं और उसमें किसी प्रकार की कोई कठिनाई नहीं होगी। इतना ही मुझे इस बिल के सम्बन्ध में कहना है।

जहाँ तक इस बिल का सम्बन्ध है यह उस राज्य की प्रगति की दृष्टि से और वहाँ की जनता की भलाई की दृष्टि से आवश्यक था, उपयोगी था और मैं इसका समर्थन करता हूँ।

SHRI K.R. GANESH : As the House is aware, and as has been discussed in this House many times, the special provisions of article 370 are there. Still, as the hon. Member knows, progressively many of the provisions of the Constitution have been extended to the State of Jammu and Kashmir. A new climate has emerged in that State, a new temper is there in the country, and it is with the co-operation of the people and Government of the State of Jammu and Kashmir and the people of India that this matter will finally be decided.

MR. CHAIRMAN : The question is :

"That the Bill be passed"

The motion was adopted.

16 20 hrs.

TAXATION LAWS (AMENDMENT) BILL

THE MINISTER OF FINANCE (SHRI YESHWANTRAO CHAVAN) : Mr. Chairman Sir, I beg to move :

[Shri Yeshwantrao Chavan]

"That the Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Gift-tax Act, 1958, as reported by the Select Committee, be taken into consideration."

Sir, the Taxation Laws (Amendment) Bill, 1971 was introduced in this House on the 12th August, 1971 and was referred to the Select Committee on the 17th November, 1971. The Report of the Committee was presented to this House by its chairman on the 10th May, 1972. The Committee held 13 sittings, scrutinised a number of memoranda and representations received from various individuals, professional associations, trade organisations, etc. and also heard evidence of various individuals, associations, etc. I would like to heartily congratulate the Select Committee on the thoroughness with which it has dealt with this important Bill.

The Bill, as it has emerged from the Select Committee, has undergone improvements in several directions. The Select Committee has spelt out the reasons for the changes made by it. I do not, therefore, propose to take the time of the House by going over the entire ground again. I would, however, like to explain the objects of the Bill and the main changes recommended by the Select Committee.

As Hon'ble Members are aware, the device of understanding the sale price of immovable properties in sale deeds is being widely used for evading taxes. The consideration paid in 'white money' is recorded in the transfer deed and 'black money' is passed in cash under the counter. This enables the purchaser to utilise his untaxed income and reduce his liability in respect of stamp duty. The seller is able to avoid his liability for capital gains tax and obtain funds for investment outside the books of account or for the purposes of lavish personal expenditure. One of the principal objects of the Bill is to counteract tax evasion through this device by empowering the Central Government to acquire immovable properties, including agricultural lands, at prices which correspond to those in sale deeds. The Bill also contains provisions for improving the administrative set up and arrangements for valuation of buildings,

lands and other assets for purposes of the direct tax laws and for bringing about better regulation and discipline over non-official valuers. Finally, in order to discourage *benami* holdings of property with a view to tax evasion, the Bill seeks to make provision in the Income-tax Act debarring persons from enforcing their claim in a court of law to any property held in a *benami* name, unless they have disclosed the same before tax authorities.

I would now deal with some of the important changes made by the Select Committee in the provisions relating to acquisition of immovable properties. Under the provisions in the Bill as introduced, immovable property could be acquired only in cases where the property was transferred by way of sale. It would, therefore, have been possible to circumvent the provisions for acquisition of property by effecting the transfer in the form of exchange, that is, by paying the consideration for the transfer partly in cash and partly in kind or wholly in kind. The Select Committee has, therefore, recommended that transfer of immovable property by way of exchange should also be brought within the ambit of the provisions in the Bill. The change suggested by the Committee is, indeed, very desirable and I would commend its acceptance by the House.

Under the Bill as introduced, the expression "immovable property" was defined to cover only buildings or lands or any rights therein. The Committee is of the view that this definition is somewhat narrow in its scope and may not cover transfer of a part of a building or composite transfers of land, building, machinery, plant, etc. In order to ensure that the provisions relating to acquisition of immovable property are not defeated by transferring only a part of a building or by making composite transfers of land, building, plant, machinery etc., the Committee has proposed an enlargement of this definition so as to cover such cases also. Here again, the change suggested by the Committee plugs a lacuna in the Bill and is to be welcomed.

Under a special rule of evidence contained in the Bill, it had been specifically provided that where the property has been transferred for an apparent consideration which is less than its fair market value,

it shall be presumed, unless the contrary is proved, that the consideration for such transfer as agreed to between the parties has not been truly stated with the object of tax evasion by the transferor or the transferee. The Committee is of the view that in order to ensure effective operation of the provisions in the Bill, it would be necessary to modify and strengthen this special rule of evidence. The Committee has accordingly recommended that where the fair market value of any property exceeds the consideration for its transfer as declared in the deed by more than 25% of such consideration, this should be deemed to be conclusive proof of the fact that the consideration for the property has not been truly stated in the instrument of transfer. The other presumption, namely, that the understatement in the value of the property was made with the object of facilitating tax evasion will, however, remain rebuttable. I am in respectful agreement with the views of the Committee. I believe that unless the rule of evidence is modified and strengthened in the manner recommended by the Committee, the provisions in the Bill may fail to secure the desired objective. I, therefore, whole-heartedly commend the acceptance of the changes proposed by the Committee in this behalf.

While the Committee has suggested various measures for ensuring the effective operation of the provisions in the Bill, it has also recommended certain safeguards to protect the legitimate interests of the citizens against possible misuse of powers of acquisition. The Committee has accordingly proposed that the competent authority should record his reasons in writing before initiating acquisition proceedings and that these proceedings should not be initiated unless he has reason to believe that the fair market value of the property exceeds its apparent consideration by more than 15% of such consideration. Further, with a view to enabling the parties to determine the period of limitation for initiating proceedings for acquisition of property with greater certainty the Committee has proposed that the period of limitation should be reckoned from the end of the month in which the instrument of transfer is registered and not with reference to the date of receipt of requisite information from the registering officer or the transferee. The Committee also felt that the period of limitation for

filing objections against the initiation of acquisition proceedings was not adequate and has accordingly suggested an extension of this period. Another very important change made by the Committee is in regard to appeals against orders of acquisition made by the competent authority. Under the provisions in the Bill as introduced, an appeal against such orders could be preferred to the Central Board of Direct Taxes. The Committee is of the view that such appeals should not lie to an administrative body, but to a Judicial and independent forum. The Committee has, therefore, recommended that appeals against the orders of the competent authority should lie to the Income-tax Appellate Tribunal. While the decision of the Income-tax Appellate Tribunal would be final in regard to questions of fact, the parties concerned would have the right to file an appeal to the High Court on any question of law arising from the order of the Appellate Tribunal. I am inclined to think that the modifications suggested by the Select Committee would be widely welcomed as providing adequate safeguards for the fair and impartial administration of the provisions in the Bill.

I would now briefly refer to some of the points raised by the two Hon'ble Members in their Minutes of Dissent. Under the provisions in the Bill, proceedings for acquisition can be initiated only in cases where the fair market value of the transferred property exceeds twenty-five thousand rupees. Shri Baladhandayutham has proposed the removal of this condition on the ground that this will provide a loophole for circumventing the provisions in the Bill through piecemeal transfers of immovable properties in parts not exceeding twenty-five thousand rupees in value. The removal of this condition will, however, unduly extend the scope of these provisions and generate enormous work in scrutinising a large number of transactions in respect of immovable properties of even very small values. The suggestion made by the Hon'ble Member is, therefore, not feasible on administrative considerations. Government will, however, keep a close watch on transactions of immovable properties and if it is noticed that the provisions of the Bill are being circumvented in any manner, necessary corrective action will be taken. I am also unable to agree with the suggestion of the Hon'ble Member

[Shri Yeshwantrao Chavan]

that there should be no time-limit for the initiation of acquisition proceedings. The acquisition of immovable property is a drastic step and it is only fair that the buyer of the property should know within a reasonable time whether Government propose to take over his property under the provisions in the Bill. I will, however, like to allay the apprehensions of the Hon'ble Member by assuring him that Government will take suitable administrative steps to ensure that proceedings for acquisition of immovable property are initiated, wherever necessary, within the period of limitation and do not get barred due to negligence or collusion. The Hon'ble Member has also suggested the deletion of the provision for the payment of a solatium of 15% over and above the consideration stated in the transfer deed. He has observed that this provision has been retained on the "flimsy argument" of abundant caution to meet possible risk of challenge to the constitutionality of the proposed legislation. I really fail to understand how the Hon'ble Member can regard a matter affecting the constitutional validity of the whole legislation as a flimsy ground.

Hon. Member Shri Piloo Mody has made two points. He has observed that the expression "fair market value" should be clearly defined and the criteria and guidelines for its determination laid down in unambiguous terms. Under the provisions in the Bill, the expression "fair market value" in relation to immovable property transferred has been defined as the price that the property would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer. This definition is broadly on the lines of the definition of this term contained in the other direct tax laws and has come to have a definite and well-understood connotation. It is also not possible to lay down in the law any rigid set of criteria for ascertaining the fair market value which will necessarily have to be determined on the facts and circumstances of each case by applying well-established principles of valuation. The other point made by the Hon'ble Member is that a provision should be made in the Bill to enable a seller to get an advance ruling from the Income-tax Department as to the fair market value of the property

proposed to be transferred. The suggestion is not practicable as it would require the setting up of a vast administrative machinery at enormous cost to deal with numerous requests for the prior clearance of agreements for transfers of immovable properties. The honest citizen has, however, nothing to fear because if properties are transferred at the correct fair market value, I am sure, there will be no occasion for the competent authority to initiate acquisition proceedings under the proposed provisions. To sum up, therefore, I am unable to commend for acceptance the suggestions made by the two Hon'ble Members in their Minute of Dissent.

The Bill also seeks to make provisions for the reference of the valuation of any capital asset or property by the assessing authority to a Valuation Officer. With a view to avoiding any arbitrariness on the part of the tax authorities in making such references, the Committee has recommended the spelling out of certain guidelines on the basis of which such references may be made. The guidelines suggested by the Committee would provide a salutary check on the exercise of the discretion by the tax authorities and I would, therefore, commend their acceptance.

The Select Committee has recommended several other changes which constitute a distinct improvement over the provisions in the Bill as originally introduced. I would, however, not tire the Hon'ble Members by going into the details of these changes. The objects behind the proposals in the Bill are laudable. The Bill constitutes a significant step forward in our fight against tax evasion and I earnestly hope that it will receive full support from all sections of the House. With these observations, Sir, I move

MR. CHAIRMAN: Motion moved:

"That the Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Gift-tax Act, 1958, as reported by the Select Committee, be taken into consideration."

SHRI VIRENDRA AGARWAL (Moradabad): Mr. Chairman, black money is a growing menace and it has greatly hampered the national economy. If it is analysed, then one can say that it has

become a source for immorality. The Wanchoo Committee, while analysing it, has described black money that it puts integrity at a discount and placed a premium on vulgar and ostentatious display of wealth. There are no two opinions in this country that all efforts must be made both by the State and the people to check black money. We should not only check black money, but we should see that the factors responsible for its further generation are brought under control.

While taking all these measures, we should also see that as a nation, we do not reduce ourselves into a Police State.

Sir, I support this Bill, particularly the objectives inherent in this Bill. It is a noble objective, and, as the hon. Finance Minister said, it is a laudable objective. I agree, we must do everything possible to unearth black-money in this country.

The hon. Minister has said that the Select Committee has done its best to improve it in so many ways. Unfortunately still there are many loopholes, or I may call, certain lacuna, in this Bill. It was pointed out repeatedly that it will grant sweeping powers to the tax administrative machinery and these powers would be unparalleled in the history not only of this country but of any part of the world. Secondly, it would open up the doors of corruption to an extent which would be far greater than what we are going through now. Thirdly, it would certainly give a set-back to the building activity. While we as a nation are committed to guarantee basic minimum to the people and while we want that the housing activity is encouraged in every possible manner, and that as a nation we should give the basic minimum to the people, I feel, this measure may bring the building activity to a standstill. There is a backlog of twelve million houses; we need at least four million houses every year. I wish to submit that this measure should be implemented without in any way impeding the building activity in the country.

I congratulate the Finance Minister in that he has accepted the concept of a Tribunal in the Select Committee and that has certainly given an impression that there

would be a fairdeal to all, including those who indulge in black money.

The limit in this Bill is Rs. 25,000. It has been suggested repeatedly that the value should be raised to Rs. 50,000. The hon. Finance Minister does not think it practical and proper. He has argued that it need not be reduced either. I had an impression that the hon. Finance Minister would agree to remove this limit of Rs. 25,000. I would propose, Sir, that this limit of Rs. 25,000 should go and there should be no limit whatsoever. The Finance Minister feels that the temper of the nation is that they would not agree to raise this figure. I hope he will agree with us. This fair market value is a very doubtful phenomenon. I really do not know how the tax experts or the tax machinery would evaluate the fair market value, and I fear whether it would really not open the flood-gates of corruption in a big way. For the last twenty years, laws are being made and amended in such a large number of ways that we see that the tax evasion is growing every year. Let Government go into the whole disease and find out why our tax laws are not able to check black money in the country. I feel that so long as shortages in the market continue to grow, nobody and no law on earth would be able to check black money.

The Wanchoo Committee has very rightly said that it is the tax rates which are known to be the highest in the world which are largely responsible for creating black money in this country. Therefore, I would urge the Finance Minister to go into the disease and find out how we can really check black money.

It has been pleaded that the best thing would be to accept the concept of auction, because the moment a property is auctioned everybody would know exactly what the fair market value is. But that was not accepted for many reasons. But now there is the question of constitutional validity, and as also pointed out by the hon. Minister, both the Finance Minister and the Law Minister are satisfied that this law will not relate to the acquisition of property and therefore, we must satisfy article 31(2). If that is to be satisfied, then the proposed aquisition must be for a public purpose. This cannot be expropriation but on payment of compen-

[Shri Virendra Agarwal]

sation. The question is whether these two tests are satisfied. When the property is acquired by Government or by the State, what will the State do with the property? That question has remained unanswered. If the property is acquired by the State or utilised for public purposes, then, of course it can be justified.

This Bill deals only with one aspect of black money while so many other aspects of black money have remained out of the scope of this Bill. I would plead with the Finance Minister that they should bring forward a comprehensive Bill which would cover all aspects of black money, whether it be property or trade or anything else so that the nation knows that those who hold black money would be treated as criminals and they cannot be spared. Unless Government brings forward a comprehensive and a detailed Bill, I do not think that we can go very far on this question.

Ultimately, the solution for checking black money does not lie in these measures. These are temporary in nature. The ultimate solution lies in the sort of economic policies that we are to pursue in this country, whether those economic policies are such as would produce honest and efficient men or corrupt, dishonest and inefficient men.

I feel that so long as we do not consider the Wanchoo Committee's recommendations in detail and bring forward suitable measures, we shall not be able to achieve the laudable objectives.

With these words, I support the Bill.

SHRI B. R. SHUKLA (Bahraich): I extend my wholehearted support to the provisions of this very radical measure which would prevent effectively the tax evasion practised by a very large number of assesses in this country.

Black money is no doubt a very widespread phenomenon in this country, and various measures have been suggested from time to time to put an end to the increasing menace of black money. I think that the present measure is one of the effective ways to curb the operation of black money

and at the same time to bring in more money to the coffers of Government by acquiring the property which such tax-dodgers acquire by malpractices and by misuse of the law.

One of the ways is that a person who has acquired a property for an apparent consideration which is less than 15 per cent of the fair market price of it has to lose that property under this Bill. Now the point has been raised by one hon. member that it might open the floodgates of corruption. Whenever a power is given to a certain authority or officer, there is always an inherent danger of its misuse. But that is not valid argument for not conferring powers on that authority. Where there is power there is apprehension of its misuse. How the misuse is to be curbed or prevented is a matter to be considered at the administrative level. The point we are concerned with is whether the measures we are going to adopt in the shape of this Bill are the proper ones or not.

I would illustrate how this Bill is going to be very effective. A person has got Rs. 40 lakhs or a crore of rupees. He is not disclosing it. At the same time, he does not want that this unaccounted money undisclosed to the assessing authority should remain idle or unproductive. So he enters into a shady transaction with another person and acquires a property the market value of which is Rs. 40 lakhs or Rs. 1 crore. But he does not want to show that amount in the transfer deed. Therefore, he shows a price far below it. Thereby he shows to the authorities that he has invested an amount which is only an apparent consideration, not the real amount which is much more than the apparent value mentioned in the deed.

In his budget speech, the hon. Finance Minister said that at least once he is going to believe the dishonest man, take his statement at its face value as mentioned in the transfer deed and pay him something more to acquire the property that is, 15 per cent more. Although I agree with the object set out in the Bill, I am afraid the Bill may be struck down on the ground of constitutionality either in the High Court or the Supreme Court. My reasons are as follows. Under art. 31, no person shall be

deprived of his property save by authority of law which provides for the payment of compensation and also provides that it is going to be acquired or requisitioned for a public purpose. Under this Bill, two conditions are satisfied, namely that, the property is going to be acquired by the authority of law and secondly compensation is also going to be whether it is going to be provided for. But I doubt acquired for a public purpose because the very objective of the Bill is to acquire property for checking evasion of tax. So the objective does not state that it is going to be acquired for a public purpose.

AN HON. MEMBER : Public purpose.

SHRI B. R. SHUKLA : It may be for a public purpose. In every measure you say that it is for a public purpose. Whenever we pass any law for the benefit of the public, by presumption and implication, it is of course said that it is for a public purpose but when you say in your objectives that this measure is going to be passed in order to curb the menace of tax evasion, that may be indirectly a public purpose, but not, as I consider it, it is a public purpose. So, I have suggested an amendment which may come in due course of time. Last year, we had adopted another amendment to the Constitution, and that is, article 31C. That article says that if the legislature, that is, Parliament, declares in that very enactment that this is a measure to be enacted in order to secure the State policy as contained in article 39 (b) and (c), then the validity of the measure shall not be questioned in a court of law. Therefore, my submission is that though, as my friend says, the provisions of this Bill fully ensure that the property is to be acquired for a public purpose, we must have a law which is still more foolproof by putting down that declaration contained in article 31C so that there may not be any further room for contention by the party interested in defeating the provisions of the law.

I would also go to the extent of saying that the time limit for initiating the proceedings is very limited. That is in respect of the six months period. Supposing a clerk in a certain office has slept over the matter and the proceeding has not been initiated within six months, what happens?

Properties worth lakhs would be involved in such cases. A petty official may get away or ignore the rule, and a huge, decent sum may be taken as bribe to see that the provisions of the Act are defeated in their purpose. My submission, therefore, is that the period of six months should be extended to at least three years, so that the assessing authorities who are responsible for the implementation of the provisions get a sufficient time to initiate the proceedings, because such a limited period of six months is not enough to properly implement the provisions of this law.

There is another feature of this Bill. Supposing the proceedings for acquisition have not been started or the property is not acquired for some reason or the other, but the apparent consideration falls short of the fair market value. What should be done? My submission is that the law of income-tax and wealth-tax should take care of the such situations. What is to be done? The difference between the fair market value and the apparent consideration should be deemed as undisclosed income of the assessee and it should be added to his income and in the cases of an assessee who is liable to wealth-tax, the difference should be deemed to be the capital asset of that assessee. Therefore, the appropriate provisions of the gift-tax, wealth-tax and income-tax laws should apply and the provisions with regard to penalty and forfeiture should be applicable to such cases where the property for some reason or the other is not acquired under the provisions of this law.

It has been argued by an hon. Member that the whole economic system should be created in such a way where only honest persons should live. My submission is that criminals and tax-evaders and tax-dodgers have been co-existing for a very long time. Howsoever idealistic society may be created, and howsoever idealistic laws may be enacted such persons, whatever may be their percentage, will remain.

In order to check their activities these laws have been enacted. I should not be misunderstood because I am voicing a different opinion on certain points. My only purpose is that law should be effective

[Shri B. R. Shukla]

there should be no room for any tax evader to defeat the provisions of law by taking a matter to the highest court in this country.

This is my submission. I only submit that if my suggestions are found worthwhile they may be incorporated in this Bill

SHRI DASARATHA DEB (Tripura east): It seems that this Bill has been brought forward with the intention of dealing effectively with the tax evaders. I do not think that the Bill as it is would be able to check tax evaders. We know the pernicious effect of black money on Indian economy. It is one of the interesting characteristics of the capitalist economy. India is silently building up capitalist economy though there is a tall talk of socialism. The pernicious effects of black money had not been arrested in these years but it is encouraged more and more.

A Bill with stringent measures is long-overdue to deal with black money but I am sorry to say that the form in which this Bill had been placed even after consideration by the Select Committee is disappointing and it will not serve the desired purpose. It cannot arrest the operation of black money, rather black money will be in operation in full swing in the Indian economy. If you want to stop tax evasion the first and foremost thing would have been to declare demonetisation. Otherwise you cannot catch tax evaders. This Government is unwilling to demonetise. It seems that the Government is out to have only some propaganda, some eye-wash.

It is obvious that the party which is largely dependent for its survival on the mercy of big-money bags, the tycoons of black money in India cannot be expected to declare demonetisation or to take steps against their monarchs and lords. The ruling party subsists on black money and they expect to fill their coffers for winning elections. The present Bill is a gesture or attempt to hoodwink the public by saying that they are going to arrest tax evasion.

In the Bill the definition of the term 'immovable property' is very much defective. Housing co-operative societies have been

left out of the purview of the Bill on the plea that the transfer is not of flats but of shares. The hon. Member Shri Baladayudham has raised this question in his minutes of dissent and I quite support him. He is quite correct. According to my opinion, housing co-operatives should have been brought within the purview of the this Bill.

This Bill is confined to acquisition of immovable property in certain cases. But all properties under-valued in assessment in order to evade tax should be acquired. Otherwise, under the pretext of the so-called "under-valued", tax evasion will continue and such evaders will go on unpunished because the provisions of this Bill cannot touch their harrs.

17 hrs.

It has not been made legally obligatory to acquire any property transferred simply because it is less than fair market value of the property. This provides sufficient loopholes. The Government under the pretext of this provision may spare some people from being brought under the operation of this law if such persons are their favourites. Any transferred property, simply because it is less than the fair market value for an apparent consideration should not be left out of the scope of this provision of the Bill and such a property should be acquired. It should be made binding on the the Government by law to enforce this legislation in letter and spirit. Otherwise, the tax-evaders will go unpunished.

Only property exceeding Rs. 25,000 is taken into consideration for being acquired. Section 269 (c) (1) of chapter XX contemplates that any property of a fair market value exceeding Rs. 25,000 only can be liable for initiation of proceedings for the acquisition of such property, transferred for an apparent consideration, less than the market value by 15 per cent. This will leave loopholes and the property may be transferred piecemeal. People who want to evade this legislation can do so by transferring his property in parts, in such a manner that each part is of the market value of less than Rs. 25,000. You see the case of land. Before the ceiling came into force, they fragmented their land and transferred it in such a way that they still keep the entire

property intact though in different names. In this case also it will happen, because people are clever enough to evade this law. You are giving them ample opportunity to transfer their property piecemeal and they will not be touched by this Bill. That is why I oppose it.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI K. R. GANESH) : This matter was gone into very extensively by the Select Committee and the definition of "property" has been expanded to take care of the apprehensions he has expressed.

SHRI DASARATHA DEB : I am not questioning the wisdom of the Select Committee, but I differ from their judgment. What the hon. minister says is not there in the Bill. Hence the words 'exceeding Rs. 25,000' must be removed from this Bill.

The provision for not taking any action after the expiry of six months of the registration of transfer is a defect. This is very surprising and funny. If within 6 months any proceeding has not been instituted against that person who transfers the property, he will not be brought under the purview of this Act. The big people have sufficient money. They can corrupt the particular officer who is dealing with the case and with his collusion defraud the government of its due. In the mean while, the time will elapse. So, people will be able to evade these taxes. That is why I say that this provision must go and there should be no time limit. If at all there is any time-limit, it should be three years and not six months. Because, six months are not sufficient to start a proceeding against a person. To provide that no proceedings shall be instituted after the expiry of six months of the registration of the transfer of property, coupled with lack of any provision to deal with want of delays, again opens out the way for evading this legislation. Therefore, I fully agree with the suggestion made by Shri Balachandrayutham.

Then the provision that compensation has to be paid fifteen per cent in excess is also unwarranted. Why do you want to give compensation to those people who wanted to evade the taxes? Why should any mercy be shown to the accused, to the culprit?

Some people say that it may lead to complications and they may go to the court. If the judiciary comes in the way, it should be stopped by suitable legislation. After all, we have enacted so many legislation just to avoid intervention by the judiciary. So, this compensation clause should not be there.

Then, the term "fair market value" is confusing. There must be some guidelines. Otherwise, it will depend upon the sweet will or mercy of the officer assessing the value or the market price, and the government will be the loser.

SHRI K. R. GANESH : If only in the Select Committee the hon. Member had seen to it that his representative in the Committee had strengthened the views held by a section of the members of the Select Committee, many of the problems which he is raising would have been solved.

MR. CHAIRMAN : But that does not preclude him from expressing his views.

SHRI K. R. GANESH : I am only pointing out that all these points were discussed in the Select Committee in all seriousness. Many views were expressed in the Select Committee; Government themselves had some views in the matter as a result of the experience gained in the implementation of the Act. So, I am only saying that a little more seriousness will help us to have better laws.

SHRI DASARATHA DEB : It is true that my representative was there. Even if it was not raised in the Committee, that does not preclude my raising it here.

So, this particular clause is highly objectionable and our party cannot support this.

Thirdly, even if we pass this Bill, we cannot stop blackmoney. As I said in the beginning, the first and foremost task which you have to attend to is demonetisation. Then, at least, you may get some money. Otherwise, you cannot get it. . . .

SHRI K. R. GANESH : That money has gone into these channels; that money is not available.

SHRI DASARATHA DEB : You will get it. It will come out in the open market.

[Shri Dasaratha Deb]

With these words, I conclude my speech.

SHRI G. VISWANATHAN (Wandiwash): Mr. Chairman, Sir, this is a Bill which is the outcome of the Interim Report of the Wanchoo Committee. Though we are to see the outcome of the Wanchoo Committee Report, we are yet to see the Interim Report of the Wanchoo Committee. Sir, as a Member of the Select Committee, you also wrote to the Minister that a copy of the Interim Report of the Wanchoo Committee should be circulated at least to the Members of the Select Committee which was not done by the Government in its own wisdom. Now, fortunately, Mr. Joytrimoy Bosu has given us a copy of the Interim Report of the Wanchoo Committee. I do not know whether it is authoritative or not. It is upto the Government to challenge it.

As far as the Bill is concerned, I am in complete agreement with the object of the Bill, that is, to counter evasion of tax through under-statement of the value of immovable property, to check the circulation of black money and to curb the practice of *benami* holding of property with a view to evade tax. But to wipe out black money, we have to see that black money in circulation is prevented and also, in future, the creation of black money should also be prevented. For that, I suggest, an effective way and that will be that all the payments which we make, say, for example, above Rs. 100 or Rs. 200, should be paid only by cheques or drafts. That is to say, all the liquid cash should go through the bank. Only then we can wipe out black money from circulation.

Another positive way that I would like to suggest is this. At present, our income-tax rate is so high as expressed by the Wanchoo Committee—it is 97.75 per cent that a man who earns some income would like to evade tax and keep something for himself. I think, the Government must seriously consider the suggestion of the Wanchoo Committee to bring down the highest rate of tax but, at the same time, enforce the law very vigorously and strictly.

Now, I come to the main question, namely, the constitutional validity of this

Bill which has been discussed in the Select Committee in a very lengthy way. When one of the leading lawyers of the country, Mr. Setalvad, appeared before the Committee, he argued that, in pith and substance, this Bill is not a law relating to taxation but is a law relating to acquisition of property and hence, it must apply with the constitutional requirements, namely, article 31(2) of the Constitution. It reads:

“No property shall be compulsorily acquired or requisitioned save for a public purpose.”

Mr. Setalvad argued that if it is going to be held that it is not a law of taxation but a law of acquisition of property, then “public purpose” should be established. But the Law Minister, Mr. Gokhale, argued before the Committee that it is not a law relating to acquisition of property and that it is only a law relating to taxation. He said :

“A taxation law may not impose a tax but may provide for the machinery to plug loopholes.”

Hence, he said that it is not a question of acquisition and, even if it is considered as a law relating to acquisition, he said that the public purpose will be the stopping of tax evasion and the curtailment of black money. That will constitute a public purpose.

Again, it has been argued that under Entry 42 of the Concurrent List read with Entry 82 of the Union List, the Union Government is empowered to acquire property throughout the country.

It has also been argued by the Law Department that the public purpose has been defined as :

“The phrase, whatever else it may mean must include a purpose, that is an object or aim, in which the general interest of the community, as opposed to the particular interest of individuals, is directly and vitally concerned.”

“Hence, the presence of the element of general interest in the Bill must be regarded as public purpose.”

They have also referred to the Constitutional provision article 31(5)(b)(i), that 'Nothing in Clause (2) shall affect the provisions of any law which the State may hereafter make for the purpose of imposing or levying any tax or penalty' and they say that the provision is a precautionary measure and will protect the Bill as far as this is concerned. I think, the Supreme Court may not agree with this far-fetched argument. Once it is held that this particular law is a law relating to the acquisition of immovable property, we will have to establish that there is a public purpose for this acquisition. Hence, the Law Secretary was wise enough to suggest—and he agreed with my view and suggested—inclusion of a provision in the Bill to the effect that the property acquired will be used for a certain specific public purpose. I do not know why the Government did not agree with the Law Secretary and have not included any or some of the public purposes in the Bill. Hence, I have my own doubts that, if it is challenged, it may not withstand in the Supreme Court.

Another point that I would like to emphasize is getting prior clearance for a purported sale. This has been taken up in the Select Committee. If there are innocent buyer and seller, they can get prior clearance; after entering into the agreement, they can apply to the competent authority and if the competent authority says that there is nothing wrong and they can go through the sale, they can go through the sale and they can, without attracting the sword of Damocles, namely, acquisition of property, enjoy the property as a whole. The Law Secretary is inclined to agree with this view.

Finally, as the members have already pointed out, this is no doubt a drastic power which is going to be vested in the officials. As has been pointed out already, there is a tremendous scope for corruption in this Bill because we are going to deal with lakhs and lakhs of rupees worth of property, whether it is house or landed property. Government should be aware of this and should take precautionary measures while implementing this measure.

With these words, I support this Bill.

SHRI K. BALADHANDAYUTHAM
(Coimbatore): The Bill on amendment of

Taxation Laws is based upon the interim report of the Direct Taxes Inquiry Committee given by Mr. Wanchoo. It was not wise on the part of the Government to have given the privilege to a member to leak the interim report.

17.19 hrs.

[SHRI K.N. TIWARY *in the Chair*]

It was still more unwise for the Finance Minister to have attempted to explain as to why the interim report was not published or released to the public or placed before the House. Even if he had remained silent on that account, he would have been wiser. By trying to explain or give reasons for not publishing the report—which were not convincing to us—he has also created more suspicion, and it has become a matter of questioning everywhere—not only by the members of the House but even by the Press which had to comment that the reasons given by the Minister were unconvincing. Now why do I take up this Interim Report? It is because this Bill is based on the Interim Report. One of the recommendations made in the Interim Report is being sought to be implemented here in this Bill. But, of all the recommendations made in the Interim Report this is one of the smallest recommendations. The other two recommendations are more important and particularly, demonetisation was really one of the most effective ways of dealing with black money.

The second one also, with regard to ceiling, if the report, as leaked out by the Member is true, with regard to ceiling on cash one can keep with himself, can be very effective. This is only dealing with the matter in piecemeal and this particular recommendation, however welcome and however good a step in the right direction, is not adequate.

So, at the outset, I want to say that this is a very piece-meal legislation. The Bill is very much restricted in its scope and as such, it is not going to be very effective.

Now, this is a Bill on evasion of taxes. I want to go on record that if a Bill on tax evasion should proceed against further evasion, a Bill which is against tax evasion

[Shri K. Baladhandayatham]

should not lend itself to evasion. That is why I brought forth my three suggestions. . .

SHRI DINEN BHATTACHARYYA (Serampore) : Double scope for evasion.

SHRI K. BALADHANDAYUTHAM :

So I suggested that the stipulation with regard to the minimum amount and the stipulation with regard to the minimum time for initiation of proceedings can be deleted. But the Finance Minister, while introducing the Bill, seems to be convinced that there is some point in what I said that with regard to the minimum there is scope for evasion by dividing the property and disposing it off piecemeal and with regard to the minimum period also collusion is possible that officials and, especially, big sharks are capable of and have got the means to influence and corrupt officials so that the period stipulated may elapse and they may go scot-free. Now, this is our apprehension. But the Minister was trying to convince the House that with regard to the minimum amount, that is, Rs. 25,000 regarding valuation of property, if it is not there, there will be too many cases and administrative difficulty was the plea taken by the Finance Minister. If it is only the question of administrative difficulty, is it not possible for the Government to initiate policy that the Department need not go into cases which are below the value of Rs. 25,000 and only concentrate upon those properties which are above that? You can have a policy, but if you put it in the Bill, then it becomes a handle for those who can evade and who want to evade. But, if it is a policy, you can provide against it and at the same time, see that there is no administrative difficulty because of accumulation of so many cases to be dealt with. There, I appeal to the Finance Minister even now to deal with the question as a matter of policy and not as the letter of the law as part of the Bill.

With regard to the minimum period also, if they want to see that people who have had some transactions are not anxious about what is going to happen to them and in order to ease their mind you want to provide a minimum period, I would suggest that you can administratively enforce this. You see that the Department acts in time and every

case is apprehended within six months and proceedings are initiated within six months. It is one thing for you to bring about the efficiency in the executive and another thing to give this loophole and if the period of six months elapses, then can get away with it and go scotfree.

With regard to the second provision also, they can make... ..

श्री लाल जी बाई (उदयपुर) : सभापति महोदय, सदन में गणपूर्ति नहीं है।

MR. CHAIRMAN : The bell is being rung

Now, there is quorum. The hon. Member may continue.

SHRI K. BALADHANDAYUTHAM: Sir, the claim of the Government has been that this Bill is a Bill of penalty, —that is, that the property that is acquired, is acquired as a 'penalty' for people who evade taxes. It is not odd, Sir, that in a Bill of penalty, you reward the guilty with a solatium of fifteen per cent? With regard to this very matter, I raised an objection and I gave out my dissent but this was dismissed very casually by the Finance Minister, on flimsy grounds. It was pleaded before the Select Committee that the Courts may hold that this is a discriminatory Bill, if the acquisition is done under Land Acquisition Act, they have to pay a solatium of 15 per cent and if this Bill acquires property without paying that solatium, the Court may hold it discriminatory. This was the plea advanced; this was the argument, which I may respectfully submit, a flimsy, argument, —which was advanced, based upon which the Select Committee was persuaded to accept the 15 per cent solatium, but otherwise, the consensus was and continues still to be that we need not reward the guilty by paying 15 per cent solatium. Anyway, the consensus in the House, I am sure is this, that if this 15 per cent solatium could be avoided, that would be welcome. Nobody is keen that this 15 per cent should be paid. What is the plea? The plea is only the constitutionality on the point of discrimination. My point is, if you pay 15 per cent and acquire the property, after all the difference between the market value and the apparent consideration has to be only 20 or 25 per cent. You acquire

property; you pay 15 per cent more. You acquire property at market value very nearly. Where is the penalty? Penalty is supposed to be the black-money exchanged under the table.

If this is the way it is going to be a deterrent, only if you acquire the property by succession, it is not going to solve the problem. I can understand if this Bill includes all immovable property which is assessed under less than the market value for payment of taxes. In that case I can understand this Bill. But what happens is, this is only a piecemeal attempt. It is only a deterrent; it wants to prevent the passing of black-money at the table, while selling of the property or the buying of the property takes place. In a Bill of this nature which has to act as a deterrent, the deterrent can be there only if it frightens the man away from entering into these transactions. But we find that Government are going to pay apparent consideration plus 15 percent. Apart from the amount that they pay, they are going to pay solatium also as if it is an ordinary or normal transaction and there is no penal aspect about it. I submit that this is not conducive to the objective. I would strongly urge that this clause under which Government would be paying a solatium should be deleted. I would like Government themselves to come forward with an amendment, or else accept the amendment which I have tabled for dealing with this aspect at least, because this is Bill which is attacking black money and transactions in black money and it is for the first time that acquisition of property by Government is being resorted to as a matter of penalty for tax evasion.

It has been argued that this is not acquisition for a public purpose. I submit that it is not a Bill for acquisition for a public purpose, but it only a Bill of taxation. If it is a law of taxation which contains a penal provision, then I think that the provision regarding solatium should go. If that particular clause is not deleted, I feel that the Bill will become a very normal Bill and it will not be a deterrent and this provision will vitiate the very principle of this Bill and will also defeat its very purpose.

In conclusion, I would say only this that this is only a piecemeal legislation and is a very restricted one. However restricted

it may be, I welcome this Bill because it is a step in the right direction. However, I would submit that this Bill is a half-hearted one, and in its implementation, there are going to be so many difficulties. I am also afraid of corruption which has been referred to by my hon. friend Shri G. Viswanathan from the DMK.

To prevent corruption on the part of a valuer, there is a provision to the effect that a valuer who is found guilty of wilfully wrong valuation shall be imprisoned or fined. I tried my hardest to see that it was only imprisonment, because where offices are concerned, they should be above board, and they should be above reproach and suspicion, and at least in the case of the valuers whose word is going to be taken seriously in dealing with properties, we thought that the clause must be more stringent and it must at least put the fear of God into them that if they deal with the matter casually or if they do it for other considerations, they will be dealt with very strongly by the law of the land. But that provision also is not there.

Ultimately, while welcoming this Bill, I would like to urge upon Government that there must be a comprehensive Bill dealing with the entire question of black money which would prevent black money in any form.

For that purpose, even now, I would like the interim report of the Wanchoo Committee to be published and placed on the Table of the House. I want the Wanchoo Committee's full report to be discussed in this House, and when a comprehensive Bill is brought forward, these things can become a part of that measure. Tackling this problem in a piecemeal way would not solve the problem effectively. Again, it would become one of the measures which would be disregarded and circumvented and made a mockery of by those who are continuing to accumulate black money.

With these words, I welcome this Bill and support it but I would like the amendments which I have referred to be accepted by Government, and if the Bill is passed with those amendments, it would take us in the right direction for dealing with black money.

SHRI K. NARAYANA RAO (Bobilii) : This is a meaningful measure which has introduced three novelties into the tax structure of this country. The three novelties are to detect and prevent the under-mentioning of the capital assets in the returns submitted to the income-tax authorities, secondly to prevent the purchasing of properties for an amount less than the market value and thirdly to see that black money is not invested in *benami* transactions.

So far as the three laudable objectives are concerned, there is no dispute about them and there is no difference of opinion also. But on certain details, the differences are bound to be there.

In this context, I would like to point out that there is a provision which says that when there is transfer of property for which the market value is more by 15 per cent, then the income-tax authorities can initiate proceedings and acquire the property for the consideration mentioned in the registration deed.

So this will, to my mind, operate as a salutary deterrent I would put it no more than that. It will be a deterrent on the man who sells and on the man who purchases. It is more a deterrent on the person who receives the property for a consideration shown in the document registering the deed as only an apparent consideration, not the real amount, because he knows that there is the possibility of Government acquiring it at the value which is mentioned in the document plus 15 per cent solatium. As I said, this is a double deterrent, both on the seller and on the buyer. To that extent, the amendment is meaningful and novel also.

Then comes the question of *benami* transactions. The Bill provides that if any person claims in a court of law about the property, unless he has shown the income from this in his income tax return, he cannot have a cause of action in the court. That way, it is not possible for anyone to engage in a *benami* transaction so as to get away from the tax net. From the point of nicety also, there is everything to commend this provision.

But there are certain issues which have been raised, not only here but in the Select

Committee, of which I was not a member. One of the points raised, which has considerable force in it is, whether this enactment, particularly the transfer part of it, would be attracted by art. 31 (2).

There are three things involved under this article. One is that no person shall be deprived of his property without the authority of law. Secondly, there should be no acquisition or deprivation of private property save for a public purpose. Here comes the difficulty. There are two things. Is it necessary to take it that whatever property is compulsorily acquired must be used for a public purpose, that is to say, it should be used directly by Government? The point is whether the use which is to be put of it is to be viewed as a public purpose or whether the acquisition is to be for a public purpose or not.

I would like to illustrate the point to make myself clear. Suppose a particular piece of land is required for the purpose of construction of a school or a building or an industry. Government compulsorily acquire the land and give it to somebody else who puts up the school or industry. The Government do not directly do it.

So the concept of 'public purpose' must be viewed widely. Once you accept that wide connotation, there is no difficulty about it. Even otherwise, suppose you say that public purpose is to be construed as a purpose for which that property is to be utilised, then it can be covered, though it is not meant for a public purpose in the sense that it is used for a public purpose. The sum and substance, the direct result, of this particular acquisition is that it has nothing to do with that part, but it is more for the purpose of penal action against tax evasion. If you accept this, I do not think either way the matter will be open to doubt.

Coming to certain criticisms of the Bill, one related to the minimum amount of Rs. 25,000, mentioned by my hon. friend. The point here, as he also correctly stated, is that it is more as a deterrent that it is meant. And when you look at these transactions, the problem of administration is also there. The administrative problems are these. How are we going to manage each property.

unless it is property of a high magnitude? The administrative problems are there. Take, for instance, the property of Rs. 10,000 which is acquired. For that, we have to spend Rs. 10,000. So, if small properties are not going to be acquired for obvious reasons, and when you look at the problem in its proper perspective, when properties are compulsorily acquired for a public purpose, the administration of these things will itself become a big problem. I can understand the minimum, but there are two other things which agitate my mind along with that of other friends. About that also, I have tabled some amendments.

As the hon. Minister rightly stated, in the original Bill, the period of six months is to be counted from the time the information is got from the registration office to the income-tax department. It is good. But now they have substituted the provision and said that the period of six months shall be from the date of registration in the registrar's office. The original provision was meaningful in the sense that there was a period of six months after the income-tax authorities received the information. Now, that period is also further reduced by virtue of certain alterations in the wordings in the Bill. It is everybody's knowledge, how the department works. Of course, the hon. Minister gave us an assurance that he would see that all these things would be expedited, but if only he goes to the lower level, he can see what types of devices are adopted to see that a particular thing does not go into the desk.

My submission, therefore, is this. When once your basic objective is to achieve a certain thing, why amend the original provision? Nothing is going to happen. I submit that a period of one year would be meaningful, because, after the registration, the matter is to go to the concerned authorities, and the concerned income-tax authority has to verify whether this particular property is there and whether the amount mentioned in the sale-deed is in excess of 15 per cent of the market value or not. For the satisfaction of the authority, certain enquiries have to be made and only then, can come to the conclusion that the particular property mentioned in the document exceeds or is less than 15 per cent of the market value. Therefore, my submission is

that the Government has to accept that there must be at least one year. Let us all be fair enough to see that whatever we do, we should not have any limitation. Anyway one year is substantial.

Similarly, about 15 per cent, actually, what is happening? When will the initiation of the proceedings for the acquisition of property take place? What is the guideline? The guideline is, when the market value is more than 15 per cent of the amount mentioned in the sale-deed, then alone, the proceedings have to take place. If the amount is below that, no proceedings can take place. If the competent authority comes to the conclusion that the market value of the particular property is about 16 per cent that is, the property is more than what is mentioned in the document, what is the point in paying 15 per cent? Or, let it be just 15.1 per cent. What does one get out of it? Apart from the percentage, what is the tremendous amount of expenditure, by virtue of this thing, that is involved here?

Now, you are having what are called value-officers.

AN HON. MEMBER : Valuers. (*Interruptions*)

SHRI K. NARAYANA RAO : You are having a new system by having value-officers. This is the first time that they are introducing, apart from the registered valuers, what are called value officers. You have to maintain them. There is litigation; and thereafter, even for the properties you acquire, you do not know the use thereof.

Sometimes the money stands idle on that particular property until you put it to beneficial use. Therefore, paying fifteen per cent, the logic or the legality of it is not understandable. I submit: let it be below 15 per cent. Instead of 15, I have asked for 12 per cent in my amendment. With these remarks, I welcome this Bill and support it.

SHRI C. M. STEPHEN (Muvattupuzha) : As could be expected, I rise to support this Bill. I have no doubt that the basic policies which motivated the drafting of this Bill will receive general acceptance from all sections of the House, though some amendments may be moved. I want to remind the House that this measure was

[Shri C. M. Stephan]

contemplated by the Finance Minister even in 1971 as is evidenced by his observations in the Budget speech in May 1971:

"Undervaluation of property has been one of the means of evading wealth tax, capital gains tax and some other duties. It has also been an important avenue for the circulation of black money. This practice could be greatly discouraged if Government had the power to acquire properties at prices that correspond to what is recorded in the saledeeds. Accordingly we propose to move a Bill during the current session to acquire the power. I hope it would not be considered dishonourable to take an honest man at his ownword."

An attempt has been made to make out as though this step was proposed by the Wanchoo Committee. I quoted the budget speech of the Finance Minister only to emphasise the fact that the step was contemplated long before Wanchoo committee ever thought of it. Anyway it is now taking concrete shape.....*(Interruptions.)* I am not here opposing the dissenting note of Mr. Baladhandayutham; I am in sympathy with some of the propositions he has been propounding.

As was cogently pointed out, this measure being a penalty measure, the solatium that can be granted has got to be minimum. The money that is going to be paid but concealed under the transfer deed will be more for the purpose of protecting the transferee than for the purpose of protecting the transferor. False deeds are taking place so that black money could find a place for investment. To increase the value to the extent of 15 per cent may defeat the purpose of the Bill considerably. Once it is conceded that the property is worth really more than what is spent not in the deed, what should be done? We proceed when we assume that it is at least 25 per cent less than the real value. Therefore, it is conceded that the value of the property is higher than the figure spelt out in the deed. Therefore, it may not be constitutionally viable if an attempt is made to take over the property without paying what may appear to be a reasonable compensation

What is spelt out in the deed will be good enough, but if constitutionally that is not possible, something more may have to be done. It is in that spirit that this amount has been spelt out. Even there, there is sufficient discouragement for the investor. We step in when the margin is 25 per cent. 15 per cent is the solatium we are giving. He is losing 10 per cent. But 25 per cent is the minimum margin. Actually it may be more. So, the transferee will be losing substantially even if 15 per cent is given. Therefore, it has to be conceded that a solatium will have to be stipulated if it is to stand constitutional scrutiny. Whether it should be 15 or 10 or 12 per cent is a matter of minor judgment. Once an assessment is made that he has really paid money more than what is evidenced by the sale deed, there will certainly be further proceedings against him, asking him where from he got the money and so on. This may be just the beginning of further proceedings against that man. There is no doubt that this is an effective, well-intentioned step of going ahead to net in black money. This was contemplated even $1\frac{1}{2}$ years back.

The next point raised by Baladandayutham was this 6 months period. The Finance Minister in his opening speech has dealt with that. I do not say there is no force in the argument of Mr. Baladpandayutham, but there is the other aspect of the matter. supposing the transferer for the purpose of concealing his income and making a profit out of the value of the property, sells it, and supposing I purchase it in a *bona fide* manner at a bargained price, should there not be some certainty for me to possess that property? If the Damocles sword is hanging over me all the time, would I care to work and improve that property? To a certain extent, for a certain period, this uncertainty can continue. But it should not be for all time to come. So, a time has to be stipulated. Whether it should be 6 or 9 or 12 months is again a matter of detail. The important matter is whether a time stipulation must be there or not. I feel it has got to be there. If the Government could on its own come to the House with a legislation asking for power to take over a property almost around the price which is spelt out in the transfer deed, the *bona fides* and earnestness which prompted the Government to do so will certainly enable the

Government to come before the House again if they find that this six months' period is too short and persons are escaping from the net. The important point is, an earnest effort is being made to face this malady of black money. Much has been said about the interim report. I do not know why so much noise is being made about it. What is contained in the interim report, that broad proposition is already there. Even in 1971 this was spelt out clearly. It is not as if some new big discovery has been made by some body and so repeatedly demand is being made and much noise is made about a discussion here. It would say that in the interests of the general dignity of the House it is better not discuss it here. That would be the path of sanity, even though incessantly, repeatedly *ad nauseam* demands are made for its discussion.

Three propositions were put forth. They are being implemented. There is no hide and seek about it. Does anybody think that the government, as it is constituted today, does not want to fight black money? It has got to fight black money if it wants to exist, if it wants to implement its policy. It is a question of "To be or not to be". Certainly, the government which is in charge of the administration of the country today, is much more anxious, much more earnest, much more subjectively interested in fighting black money, because if it fails to fight black money then it will not be able to achieve the economic reconstruction of the country. So, let no one come forward as the champion of the fight against black money. If that demand is pressed too much, there will be a microscopic enquiry which will reveal things which will not be palatable even to those persons who make that demand. Therefore, let us forget all that.

Now this provision has been brought forth. I must compliment the government for giving concrete statutory shape to the promise which was spelt out in the first speech made on the floor of the House. Defects, deficiencies and shortcomings have got to be detected by experience. It has got to be done step by step; a forward move has got to be made. But when we make the move, we also have got to be careful that

the move is not scuttled by judicial scrutiny. Secondly, in our enthusiasm we should not forget the necessity of giving a sense of security to people who are purchasing property because it may result in deliberate abandonment of purchase of property if insecurity conditions prevail. Although there is quite a lot of sense in what Shri Baladhandayutham said, we have to approach the proposition from these two angles and these two points of view have to be given their own weight and they have got to be supported. With these observations, I support the Bill wholeheartedly.

श्री सतगल कपूर (पटियाला) : चेयरमैन साहब, मैं मिनिस्ट्री ऑफ फाइनेंस और चव्हाण साहब को इस बिल के लाने के लिए मुबारकबाद पेश करता हूँ। वाचू कमीशन के रिपोर्ट के सिलसिले में यह एक बहुत स्वस्टेन्शल-स्टेप है, ठोस कदम है ब्लैक मनी को खत्म करने के लिए एक बहुत बड़ा कदम है। जहाँ तक हमारे मुल्क में ब्लैक मनी का ताल्लुक है, प्राइवेट सेक्टर में उसको जिस तरह से बिल्ड किया है, जिस तरह से बे लोग ब्लैक मनी के सिर पर हमारे मुल्क की सारी एकानमी को इस्ट्रॉय करने का एटेम्प्ट करते हैं, जिस तरह से इन-डायरेक्ट-वे में छाने की कोशिश करते हैं, जिस तरह से हमारी तमाम स्कीमों को अपने ढंग से, अपने अन्दाज से फेल करने की कोशिश करते हैं, उस लिहाज से इस बिल का यहाँ पर आना बहुत जरूरी था।

आज कीमतों का सवाल आता है, राइजिंग प्राइस का सवाल आता है, उसके पीछे भी ब्लैक मनी को पैदा करने वाले लोग, प्राइवेट सेक्टर के अलम्बरदार, प्राइवेट सेक्टर के हिमायती नजर आते हैं। इस बिल के जरिये उस तरफ एक ठोस कार्यवाही की गई है। इस बिल के अन्दर साफ तौर पर पर हम कुछ देखते हैं—हम सब को मालूम है, अभी हमारे जनसंघ के भाई विरेन्द्र अप्पलाल बोले थे, उन्होंने बिल के बारे में कहा कि वह इस बिल को सपोर्ट करना चाहते हैं, लेकिन जब उन्होंने अपनी

[श्री सतपाल कपूर]

तजवीजें दीं, वे तमाम तजवीजें ऐसी थीं, जिनसे यह बिल नाकारा हो जाय... (व्यवधान) ...

18 hrs.

कमी यह है कि ट्राइब्युनल बन जाये, प्रापर्टी की प्रोपर्टी बज बूकरें करे, प्रापर्टी दो लाख की लै और उसका कम्प्लेन्टेशन बीस लाख दिया जाये—यही आप चाहते हैं। आज सारा जो बर्कमनी का काम है वह इसी स्प्रिट को सपोर्ट करता है। आज प्रापर्टी खरीदी किसी कीमत पर जाती है और जो किसी कीमत पर की जाती है। इस सेकुना को यह बिल पकड़ता है। इस बिल का मेन प्रकसद ही यही है। हमारे बीरेन्द्र अग्रवाल ने यहाँ पर यह कहा है कि एक ट्राइब्युनल हो जाये—बसेसिंग एषारिटी, बल्यूयस की जगह पर और वह फैसला करे कि इस प्रापर्टी की प्रसली कीमत क्या है। अगर यह तजवीज मान ली जाये, एक जूडिशियल एषारिटी बन जाये तो फिर सरकार हर बात में कार्ट में जाये। उससे

तो इस बिल का प्रकसद ही खत्म हो जाता है। इसलिए मैं समझता हूँ यह बिल एक कम्प्लेन्ट-हेसिव बिल है, बहुत ठीक है और इस प्रकसद में ऐसे बिल लाने बहुत जरूरी है। और भी इस किस्म के बिल यहाँ पर लाने चाहिए ताकि इस मुल्क से बर्कमनी को खत्म किया जा सके। मैं फिर एक बार इस बिल को सपोर्ट करता हूँ।

MR. CHAIRMAN : The hon. Minister he may speak tomorrow.

SHRI YESHWANTRAO CHAVAN : will be in possession of the House when reply tomorrow.

MR. CHAIRMAN : The House stands adjourned to meet again at 11 A. M. tomorrow.

18.01 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Friday, August 18, 1972 | Sra vana 27, 1894 (Saka)