

whether to the United States, or the Soviet Union, or France, or China or Britain, or any other country. Our position in this respect is quite clear. Under the present convention, to which we have subscribed and to which Shri Krishna Menon alluded to, the naval ships of any country are entitled to go about in the high seas. At the same time, whatever may be flaws in the present law, the presence of any naval ships, even though it may be juridical justifiable or based on any such convention and as such, something to which we cannot legally object, if it creates tension in the region, then the littoral countries in the region are perfectly entitled to raise their voice. We will continue to raise our voice to ensure that the Indian Ocean region is maintained an area of peace and tranquillity.

**SHRI SHASHI BHUSHAN** (South Dehli): I referred in my speech to the Portuguese Bishop's domination over Goa.

**SHRI SWARAN SINGH**: Shri Shashi Bhushan mentioned yesterday that the Catholic Bishop in Goa today is in their hierarchy under some Cardinal in Portugal. I must confess that this is a thing which came to my notice only yesterday. I think, on the face of it, this is something undesirable. We will see whatever we can, in consultation with the Christian community in Goa, to ensure that this type of thing is replaced by something which is more palatable to the people in that region.

14.19 hrs.

#### INCOME-TAX (AMENDMENT) BILL

**MR. DEPUTY-SPEAKER**: The House will now take up consideration of the Bill further to amend the Income-tax Act, 1961.

**THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI K. R. GANESH)**: Mr. Deputy-Speaker, I move:

"That the Bill further to amend the Income-tax Act, 1961 be taken into consideration."

This short Bill seeks to amend the Income-tax Act with a view to removing certain practical difficulties experienced in the administration of the provisions relating to acquisition of

immovable properties. As the hon. Members are aware, the Income-tax Act was amended last year to empower the Central Government to acquire immovable properties in cases where the consideration declared in the instrument of transfer is less than the fair market value of the property. The Central Government is required to pay compensation of an amount equal to the consideration stated in the instrument of transfer plus fifteen per cent of such consideration. The power can be invoked only where the fair market value of the property exceeds twenty-five thousand rupees and there is reason to believe that the consideration agreed to between the parties has not been truly stated in the instrument of transfer with a view to facilitating tax evasion by the transferor or the transferee. These provisions represent an important step taken by us in recent years to combat tax evasion and check the circulation of black money. The implementation of these provisions has, however, brought to light certain practical difficulties in their administration.

The power to initiate proceedings for acquisition is vested in the Assistant Commissioner of Income-tax, who is designated as the 'competent authority' for the purpose. Under a specific provision in the law, no registering officer can register any document for the sale or exchange of any immovable property, unless a prescribed statement in respect of the transfer is furnished to him. The registering officer is required to forward these statements to the 'competent authority' in fortnightly batches, along with a return in the prescribed form. On receiving these statements, the competent authority has to make preliminary enquiries and collect relevant material in order to come to a *prima facie* conclusion whether any property has been transferred for a consideration which is less than its fair market value. For this purpose, he has to often obtain the expert opinion of the Valuation Officer regarding the market value of the property in question. If, on the evidence collected by him, the competent authority comes to the conclusion that the estimated fair market value of the property exceeds its apparent consideration by more than fifteen per cent, he can initiate the acquisition proceedings in respect of property by publication of a notice in this behalf in the Official Gazette. The notice is required

[Shri K. R. Ganesh]

to be published in the Official Gazette before the expiry of a period of six months from the end of the month in which the instrument of transfer in respect of the property is registered under the Registration Act. Unfortunately, however, it has been found that in a large number of cases, notices sent to the Government of India Press were published in the Official Gazette after the expiry of the period of limitation. The acquisition proceedings in some of these cases have been challenged by way of writ petitions in various High Courts, *inter alia*, on the ground that the relevant notices were not published in the Official Gazette within the statutory period of limitation. The practical working of these provisions over the last one year has, therefore, shown that the period of initiating acquisition proceedings under the law is rather inadequate. It cannot be denied that the initiation of acquisition proceedings involves a number of steps which are time consuming, such as, making preliminary enquiries, collecting relevant material and referring the question of valuation to the Valuation Officer, where necessary. Besides, the competent officer has to send these notices to the Government of India Press sufficiently in advance. In view of these considerations, the Bill seeks to raise the time limit within which acquisition proceedings can be initiated from six months to nine months from the end of the month in which the instrument of transfer in respect of the property is registered. With a view to protecting past cases where notices have not been published in time, the amendment is proposed to be made retrospectively from the date of coming into force of the relevant provisions. To place the matter beyond doubt or dispute, the Bill also seeks to make a specific provision validating past action in cases where the notices for initiation of acquisition proceedings were published in the Official Gazette after the expiry of six months, but before the expiry of nine months from the end of the month in which the instrument of transfer was registered. The Bill also contains consequential provisions to allow extension of time for filing objections, etc. in cases proposed to be validated.

As stated earlier, no registering officer can register any document purporting to transfer any immovable property unless the prescribed statement

in respect of such transfer is furnished to him along with the instrument of transfer. Under the existing provisions in the law, the statement is required to be furnished in respect of every immovable property regardless of its value, even though acquisition proceedings can be started only in cases where the fair market value of the property exceeds twenty-five thousand rupees. The requirement of furnishing the prescribed statement was made applicable in respect of all transfers, regardless of value, primarily with a view to countering possible attempts at circumventing the provisions for acquisition by declaring unduly small values in the instrument of transfer. It has, however, been observed that the number of transfers registered by the registering officers is very large. In view of the position that acquisition proceedings can be initiated only in cases where the fair market value of the immovable property exceeds twenty-five thousand rupees, it appears that the administrative burden cast on the registering officers by the existing requirement of collecting and forwarding the prescribed statements to the competent authority in every case is not commensurate with the benefit accruing therefrom. As a large percentage of registrations made during a year relate to properties having fair market value of less than ten thousand rupees, the Bill also seeks to amend the Income-tax Act with effect from 1st January, 1974 to provide that no statement will be required to be furnished in any case where the consideration declared in the instrument of transfer does not exceed ten thousand rupees.

This is a short and simple Bill I am confident that it will receive the unanimous support of the House.

With these observations, I move.

MR. DEPUTY SPEAKER : Motion moved :

"That the Bill further to amend the Income-tax Act, 1961, be taken into consideration."

There are a few amendments given notice of by Shri Madhu Limaye. He is not here. So, they are not moved. Shri K. C. Halder.

SHRI KRISHNA CHANDRA HALDER (Ausgram) : Mr. Deputy-Speaker, Sir, this Bill has been brought forward to dilute the amendment made in the

Act of 1972. Instead of taking adequate administrative measures to apply the provisions of the previous Act vigorously, the provisions that are now going to be made will result in further delaying the proceedings for acquisition of property. If the Department is short of personnel, the recruitment should be made. It will provide employment. If there is delay in initiating the proceedings, there will be more difficulties to get the evidence regarding the fair market value of the property.

It is essential that, if a person utilises black money to purchase any property, the Government should act quickly and the purchaser should not be allowed to enjoy the benefits of black money. Sir, this Bill is an example of inefficient administration of the Government in applying the income-tax law. Hundreds of crores of rupees of arrears of income-tax and wealth tax are there. The monopoly houses and large houses are not paying their taxes, and no proper steps are taken to realise those amounts. Black money is playing havoc in our Indian economy. No real effort is made to check the growth and circulation of black money because the biggest beneficiary is the ruling party. Since the Amendment Act of 1972 came into force, i.e., 31st August, 1972, I would like to know in respect of how many cases proceedings have been started and in respect of how many cases the proceedings have been completed and properties are being acquired. Unless a real effort is made to implement the provisions of the Act, mere extension of time will not help the situation.

With these observations, I conclude.

SHRI D. K. PANDA (Bhanjanagar) : Mr. Deputy-Speaker, Sir, the first amendment relates to the extension of time by three more months, i.e., from six months to nine months.

What has been our experience with regard to the income-tax arrears and also writing off of the income-tax arrears? In all these cases we have been finding that the main obstacle to fighting this tax evasion is weak administration which is rotten to the core, and in spite of several suggestions made here, the law could not be implemented. They lack the political will to implement the law. There are authorities on

income-tax law who have already declared that not even seven to eight per cent of the law is impelmented. The result also actually shows the same. The other day in the other House also it has been reported that they take very strict measures for collection of taxes from ordinary people, but as far as the rich assesseees are concerned, they are escaping the notice of the administration they are escaping the notice of the people at the top level. So, it does not inspire any confidence that with this particular amendment, by extending the period by three months, we can actually make the recoveries feasible and practicable. I say this because six months' time is definitely enough for this purpose. Now a time of nine months is sought to be given through this Bill. The tax-evaders are the same big guns, Tatas, Birlas, Bajorios and Mr. Biju Patnaik of Orissa who have been, for the last more than 25 years, cheating the public cheating the Government and cheating the exchequer, and we find that no action could be taken against them.

The hon. Minister will come forward with the plea, 'Yes, we have taken action against Mr. Biju Patnaik'. Nearabout Rs. 86 lakhs has been the income-tax arrears against Mr. Biju Patnaik. So, what I want to stress is this. It is not only these amendments which could bring the desired result, but certain action has to be taken administratively and at the top level also as far as the Board is concerned.

I want to point out one or two things. There are some Income Tax Officers. There is also the Board of Direct Taxes. But at every level we find shifting of responsibility from one shoulder to another. It has been suggested that raising of the administrative and technical standard is also a paramount necessity and for the sake of revenue and efficiency, this is very much necessary. But no steps have been taken so far though certain amendment in the law have been carried out. But corresponding changes in the administration have not been done. Now, one or two facts will bring this out. Now, in 1970-71 the income tax arrears written off is Rs. 7.50 crores. These could not be realised as the companies had gone in-solvent.....

MR. DEPUTY-SPEAKER : You are going too far a field. You are discussing about the working of the Income

Tax Department rather on this Bill. If you enlarge the scope like that, there will be no end to it. I have allowed all that as a background. Your main point is that the extension of three months will not do good. I have allowed you to an extent. Now, please come to the Bill.

**SHRI D. K. PANDA :** As the Government is bringing all these measures piecemeal, therefore, absolutely there is no result. That is what I want to say.

**MR. DEPUTY-SPEAKER :** That may be true, but this is the main subject.

**SHRI D. K. PANDA :** The tax arrears are on the increase and it has gone upto Rs. 565.73 crores. There is also the growth of black money and tax evasion. Both are on the increase. So, my concrete suggestion will be that whenever any officer has failed to take immediate action and timely action, there should be immediate punishment. As far as the assesseees are concerned, these big guns, monopoly houses and big companies, whenever they take different pleas, it is not that the Government or the administration should plead their helplessness. They should come out with stern measures so that all the technicalities should not stand in the way and immediate action should be taken against them. But so far no penal provision has been made. Some penal provision could have been made in the Bill for punishing those people who want to avoid these recoveries and who want to sabotage these recoveries through various means.

**SHRI N. K. P. SALVE (Betul) :** I rise to support the Income Tax (Amendment) Bill of 1973. It is a three-clause Bill.

Clause 2 seeks to amend Section 269D and 269P of the Income Tax Act 1961 and clause 3 seeks to validate notices that might have been issued under Section 269D the publication of which could not be done in time.

So far as the scope of the Bill is concerned, it is indeed narrow and not much debate is possible. But, the various practices that have led the Government to come up with these amendments are on account of extremely disconcerting and disquieting manner in

which the entire income-tax administration has been working on acquisition of immovable properties under chapter XXA.

So far as acquisition of immovable properties are concerned, in 1972—not long ago—we enacted for insertion of a new chapter XXA which empowers the Government to acquire immovable properties, where a transferor seeks to evade or reduce the tax liabilities or where the transferee has tried to conceal his income or wealth, in the process of transfer. To put a stop to this sort of transactions of immovable properties, Government was vested with the requisite authority of acquisition, subject to certain conditions. But, the working of the chapter reveals that this object was far from being achieved. The Income-tax Department either does not know the purpose of the Chapter or having understood what the intent is, they are so demoralised and so utterly confused about their obligations that they have been working to defeat the purpose, as it were. In the meanwhile, I understand that since the enactment of this Chapter, XXA, Government has already got about 3 million transactions to be scrutinised. I do not know how are they going to scrutinise these three million transactions. It was never the intention to a mass this unproductive clerical work when the new chapter was enshrined in the Income-tax Act. The main section—Sec. 269C—of chapter XXA contemplates that where the competent authority has reason to believe that a certain consideration of immovable property is not fully and truly stated in the instrument of transfer with the intent and purpose of either reducing or evading the tax of transferor or concealment of assets or income of the transferee, then alone, can the machinery of this chapter be set in motion. What the department has started doing is this. The moment there is a variation in what department considers to be a fair market value and the apparent consideration stated in the instrument of transfer, then they can set the machinery of acquisition in action. I want to know from the Minister at this juncture as to which are the proceedings which his department

has initiated to-date, merely for variation in market value and apparent consideration. I would warn him that not one percent of it is going to be successful unless you prove that transfer was intended to defraud the revenue. You are going to incur a lot of money over this. And you are going to be branded 'inefficient' soon. This is going to be a futile exercise. Therefore, I want to warn the Ministry to be careful while acting under chapter XXA. The authority should clearly understand the intent and purpose of the chapter. You will operate this power to acquire properties only in certain cases of transfer to counteract the evasion of tax. Far from selecting such cases of evasion, you find that there is this sort of heap of work. As a result of that, unnecessary work is getting accumulated. Possibly, we will have to pay some money to the states—registering authorities—for the work they are being asked to do by the Government of India. And ultimately, all this is going to yield absolutely nothing—a sheer waste of human energies, human talents and loss to public exchequer. If that is the case, I cannot understand why six month's time is not enough to initiate proceedings. Sir, I had the privilege of working in the Select Committee on acquisition of properties. **You have to select cases where you can clearly establish that the transfer was intended with a view to facilitating some evasion of tax, some concealment of wealth, some concealment of income in each and every transaction. And this is what they have been precisely not remembering.**

I would therefore like the Minister to make the position utterly clear that the mechanism of acquisition is so set up as to enable scrutiny of transactions where, according to you, there is 25% variation in the apparent consideration and the fair market value of an immovable property. But that does not mean you must scrutinize even bonafide transactions. The words 'fair market value of an immovable property' contemplate a concept which is capable of manifold interpretations. It is not something which can be determined with any degree of mathematical precision or accuracy. This is not something about which one can say that the fair market value is a stated amount, no less and no more. As such, the whole mechanism is delicate. Then having come to what the fair market value is, the authorities compare it with the value stated in the instrument of transfer. When the varia-

tion is 25 per cent, in accordance with section 269C(2), it is provided as a special rule of evidence that such variation would be taken as conclusive evidence that the price is not correctly stated. This was done by the legislature only with the intent and purpose that in real cases of fraud where an assessee was delinquent and he sought to defraud the revenue, initiation of proceedings must not be forestalled; and a person who is trying to defraud the revenue must not be able to get away by saying that pure variation between the stated value in the instrument and the fair market value is no ground for initiation of proceedings under this chapter. That is why this added power was given as a measure of caution to safeguard revenue's interest.

Moreover, the moment there is variation in the value, even though the competent authority is fully satisfied that there is no element of tax evasion that involved, yet, proceedings are initiated. Because it is not the assessee who has to be cleared, but it is the poor competent authority who has to be cleared because he fears that some day, if despite the variation he does not issue the notice, he may also be hauled up. What sort of affairs are these? What is the Ministry doing about it? Why do they not issue clear instructions that their intent in bringing forward this chapter XXA is to catch the large tax evaders alone and no such competent authority will harass a tax payer where he is convinced that a transaction is genuine. There are three million cases of transactions, and you can imagine how long it is going to take to examine everyone of them. Meanwhile, the real tax evaders are getting on merrily. The big assesses Tatas and the Birlas and the Biju Patnaiks who are well advised will get away. Ever since this chapter has been enacted, ingenious methods have been found for transfer of immovable property which will keep transfers completely outside the mischief of this chapter. People who are caught are those people who are sincere and honest and who are also accepted as honest by the competent authority. It is not those people who have to clear themselves for the transaction, but it is the competent authority who has to clear itself out of the clouds and, therefore, the proceedings are initiated. If this is correct situation, then what a lamentable state of affairs we have come to.

[Shri N. K. P. Salve]

The hon. Minister has asked for an extension by three more months because notices even if sent in time could not be published within six months. Remember, Sir, that it is a statement made before Parliament. I only hope that he will check it up carefully and see that there was no error or delay on the part of the Department in sending this sort of information for publication in Gazette.

He is asking for extension of time by three months for publication of notice in the gazette. That is the **only** way he can initiate proceedings. Section 269C enumerates the circumstances under which proceedings can be initiated. Section 269D which is sought to be amended lays down the mechanism for initiating the proceedings. Earlier, it commended itself to the Select Committee to recommend that proceedings should be initiated within a period of six months from the date of registration by publication of a notice in the official gazette. The Department has stated that this period of six months was not enough and they would take nine months. But the proceedings once initiated can go on for ten years or fifteen years or even twenty years or twenty-five years, from the son to the grandson and to the grandson's son and the grandson's grandson and so on, and one would still not be able to finish this litigation because there is no limitation by which the proceedings are to be completed. I submit that this is not fair. I, however, hope that no property will last so long, and no person would be so unfortunate as to have properties kept in a family for so long. At any rate, I hope that the hon. Minister will clarify this issue and assure us about the period within which proceedings will close. They may take some time for initiating the proceedings, but they must come to a close within a reasonable period of time.

What is of utmost importance is that the Minister must clarify the policy about implementation of this chapter. It is a very important aspect. Are they going to initiate proceedings in every case of transfer of immovable property where there is 25% variation in apparent consideration and fair market value. I would rather say that they initiate proceedings in only 50 or 100 cases and acquire the property rather than process three million applications because that would lead them nowhere.

There is one more pitfall in the amendment to which I must draw the attention of the hon. Minister and it is this. Let the records of Parliament on this point be utterly straight. The authorities are issuing mechanical notices without going into the fact as to whether or not really the intention behind the transfer involved any evasion or any concealment of assets and properties and income or not.

As per the amendment, any instrument of transfer which mentions the value of a property to be Rs. 10,000 need not come in for submission of the necessary particulars. I would not call section 269P the kingpin of the chapter, but it is the starting section. With that section, the entire machinery starts, in terms of which a person is supposed to furnish certain particulars of the properties sought to be transferred. Those particulars are forwarded to the competent authority by the registrar on the basis of which the competent authority scrutinises the transaction and publishes the notice. Now if you mention in the document the value of Rs. 10,000, as per the amendments, you need not hereafter furnish the particulars. It is the most single dangerous provision they are inserting leaving ostensibly the Rs. 10,000 transaction completely outside the purview of the chapter, in so far as this would leave such a large loophole for those delinquent tax evaders who are well-advised, who will be able to find one hundred and one ways of making a document in terms of which they will not be required to furnish any particulars; and if they are not required to furnish the particulars, further proceedings will never come about.

Therefore, they should better be careful. They better watch it. And more than anything else, if they want to be qualitative in their approach, let them not issue and publish notices mechanically in any manner they like. Let them understand the intent and purpose of the chapter and deal with select cases. Otherwise, ultimately the courts will never uphold acquisition proceedings unless it is proved in the court that the particular transaction was carried out with the intent and purpose of evasion of tax or concealment of wealth and income.

There are other sections in the Income-tax Act which have similar provisions. I submit with the utmost respect in over 5,000 cases that might

have gone to court, the department has failed in all the 5,000. If they are going to have such large-scale voluminous work put on their heads, will they be involved and embroiled all the while in clerical work only will they be able to do something qualitative? In fact, I would suggest that you raise the limit of exempted properties from Rs. 25,000 to Rs. 1,00,000 and get hold of the bigger assessees. Do something which is worthwhile. Do not waste your energies quantitatively. Do not administer the law in a manner that instead of the assessee being cleared, it is the competent authority which has to clear itself.

MR. DEPUTY-SPEAKER : I am told that the Opposition has agreed that it is not making further submission on this Bill.

SHRI SEZHIYAN (Kumbakonam) : No, no.

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH) : That is the next Bill.

SHRI VIRENDRA AGARWAL (Moradabad) : The Income-tax (Amendment) Bill 1973 is a glaring example of the Government's total failure in respect of day to day functioning. The Government seems to be extremely callous to implement laws because of its own inefficient and corrupt functioning. It is obvious that the administration is almost cracking. We all know that any delay on the part of the tax payer in filing a return of income, payment of tax and compliance with other provisions automatically attracts penalty and prosecution proceedings. But the Government's failure to publish notices in the official gazette within the stipulated time is being validated by allowing it a further period of three months.

I simply ask the question : Is it fair? The point was debated at least for a year in Select Committee and if the Government comes to this House again to validate something which the department was not able to complete, I think the Government had better look into the whole functioning of the department. They should go into the question whether the department needs to be streamlined so far as the implementation of the laws is concerned.

If at all the Government intends to extend the period, it should apply to future transfers of property. Retrospec-

tive legislation is not at all a healthy practice. This was the accepted policy of Government. I really do not know why Government is keen now to deviate from this policy which is being followed right from 1957.

Sir, the Government has conceded that the valuation of property is a time-consuming process. We also know that valuation of property is a ticklish job, and that is why it was argued at the Select Committee as to why the Government should not consider the proposal to auction the property to determine the right value of the property. Wherever the Government department is convinced of a *prima facie* case it should immediately auction the property and that can be the best basis to determine the fair value of the property. I feel it is not yet too late for the Government to reconsider the proposition, if it really wants to be fair to the assessee or to itself. Auction is the only way to determine the fair value of property. No valuation officer, however competent he or she may be, can determine the value of the property in a fair way.

SHRI M. C. DAGA (Pali) : In auction, it will bring an exorbitant price.

SHRI VIRENDRA AGARWAL : That is true. In that case, both the parties will feel satisfied that it would be a fair proposition.

Now, it has rightly been asked,—and I would also repeat it—how many immovable properties have been acquired by Government so far and how the Government is going to deal with such properties. This question has been asked, and I will have to ask it again, because the information so far available is that the Government is issuing notices for requisition of property. As Mr. Salve has pointed out, these notices are being issued to all. I think if I remember correctly, the Finance Minister had given a categorical assurance at the Select Committee that there will be only test cases and only certain cases will be taken up, and they will be treated as test cases where the Government is fully convinced that black money is involved and involved in a big way.

I would also like to support what Mr. Salve has just now suggested, that the value of the property involved should be raised to Rs. 1 lakh. This

[Shri Virendra Agarwal]

was also argued earlier. I know, however, that the Finance Minister did not accept it at that stage. I think it is not too late for the Government to reconsider the proposition that the value involved should be raised to Rs. 1 lakh.

Sir, I agree with Mr. Salve that this Bill has hardly served any useful purpose nor any revenue to the Government. Administrative cost in setting up such a huge machinery and the gains therefrom can hardly justify the existing provisions. We all know, right from the date the Finance Bill was approved, the Government have brought already three Bills before this House for amending the income-tax law. I do not know whether too many amendments do not create an atmosphere of uncertainty and confusion. I feel that the Government is creating a situation in the country where the assesses will have little respect for any Government. I think the Government should think in terms of bringing a comprehensive Bill which embodies all the provisions so that there is some amount of clarity in the minds of the assesses. Otherwise, too many amendments create confusion. I feel that the Government is largely responsible for curtailing any respect in the minds of the assesses for the Government laws.

If at all the period for giving notice is extended retrospectively, no fresh notice should validate the proceedings already initiated. We know that black money is creating havoc but the Government which has acquired proficiency in black money, blackmarketing and blackmailing, can never be expected to unearth black money. It is a hard fact of life. We all know that it is an eye-wash to hoodwink the people of this country, and we know that these Bills will never produce any concrete and specific results.

SHRI SEZHIYAN (Kumbakonam): Sir, this is one more piece of legislation brought in a very hurried way by the Ministry. Previous speakers have explained clearly how the taxation laws are being amended with amazing rapidity. The reason given for this Bill is, in very many cases of acquisition proceedings, the statutory limit of six months has resulted in a practical difficulty in view of the large volume of work involved inasmuch as some of the notices which were sent to the Government of India Press could not be pub-

lished in time and a large number of proceedings initiated by the department would become infructuous if this period is not extended. The department does not feel any urgency as far as the acquisition proceedings are concerned. But as far as Parliament is concerned, they want to hurry up everything. This Bill was introduced without the minimum period of two days' notice by suspending the relevant rule. The hurry and rapidity with which this Government makes laws and tampers with the laws of the land is something unique.

There should be some stability about taxation laws. The Taxation Laws (Amendment) Bill was introduced in 1971, scrutinised by a Select Committee and passed in August 1972. Without giving a fair trial to it, they want to tamper with it again. When I opposed the introduction of this Bill, I wanted to know how many cases were proceeded with under the provisions of this statute, in how many cases properties were acquired and in how many cases compensation was paid. The minister said, he will give it when the Bill comes up for consideration. I hope at least at the end he will give those figures.

When the Finance Minister was piloting the Taxation Laws (Amendment) Bill on 17th and 18th August last year, he gave the figures for the principal cities in India. In Bombay city alone, for the calendar year 1970, the number of transfers registered is 12,140. In Calcutta it was 12,000 and odd. In Delhi it was 38,000. They could not give the figure for Madras city; so the figure for Tamil Nadu, which is not as rich as Bombay or Calcutta or Delhi, was given. Including transfers of immovable properties, meaning agricultural land, in 1969-70, the number of transfers registered was 35,45,024. If you multiply it by 10, it may come to about 3 crores for the whole of India. Since this Bill was put on the statute-book, in how many cases have you actually implemented the provision? At that time, the Finance Minister seemed to be satisfied with six months. But just because the Government press is not functioning properly, they want to change the statute, instead of changing the Management of the press. The same thing should have been applied to the Lok Sabha also. Is not the press functioning for Lok Sabha also? I will not be surprised if next year, they find even this nine months insufficient and they might like to increase it to 12



months or more. Especially in Bombay, where the flats are very costly, and they run into lakhs and lakhs of rupees, I want to know how many flats have been acquired. Because, last time he gave me the figure of 53. So, I want to know the number for Bombay, to test whether they are sincere and earnest.

15.00 hrs.

SHRI M. RAM GOPAL REDDY (Nizamabad) : What about Madras?

SHRI SEZHIYAN : I do not hold any brief for Madras.

The Minister stated last time :

"Because our main point is not only to catch the small fish but also the big whales."

I want to know how many big whales have been caught in your net. Because he has made a mention of delayed action on account of delay in the press. I would like to know in how many cases the proceedings were delayed in the department on account of delay in the press. Also, if there is anything wrong with the working of the press, it should also be gone into.

MR. DEPUTY-SPEAKER : And also how many whales broke through the net.

SHRI SEZHIYAN : Yes. The Minister may be aware—I do not want to name the State—that representations have come to him through Congress Members themselves that some properties were sought to be transferred and the income-tax authorities and some of their close relatives wanted to have some plots in the land allotted to them. it was refused and then proceedings were taken under this provision against that party. Therefore, I do not want these provisions should be used indiscriminately. As rightly observed by the chair, how many whales have been caught.

MR. DEPUTY-SPEAKER : Are the nets strong enough to hold the whales?

SHRI SEZHIYAN : They come again and again to Parliament and legislation is brought in a hurried way. I would appeal to the hon. Minister to show some earnestness, some urgency, some hurry not only in bringing forward amendments but also in their implementation.

श्री मधु लिमये (बांका) : आप जानते ही हैं कि जो जानबूझ कर करों को चोरी करते हैं उनके साथ में सक्ति करता हूं। लेकिन अगर कानून का इस्तेमाल छोटे लोगों को तंग करने के लिए किया जाता है और बेमंजूर किया जाता है, तो मैं उसका समर्थन नहीं कर सकता। इसलिए मंत्री महोदय से मैं कहना चाहता हूं कि मैंने जो संशोधन रखे हैं उन पर वह गम्भीरतापूर्वक विचार करें। हो सकता है कि मेरे संशोधनों में वह कुछ शाब्दिक परिवर्तन चाहते हों। इस वास्ते मेरा यह आग्रह नहीं है कि उनको उसी रूप में स्वीकार कर लें लेकिन उनकी जो भावना है, उनका जो आशय है उसको वह ग्रहण करने का प्रधान करें।

अभी मेरे पास यह गजेट है। इस में दिल्ली के बारे में एक बिल्कुल मेकेनिकल ढंग से हर एक को नोटिस दिया गया है कि आपने जो बिक्री की है उसका असली दाम पंद्रह प्रतिशत से अधिक है चाहे ग्रेटर कैलाश हो या कनाट प्लेस का इलाका हो। कोई भी आदमी कह सकता है कि कनाट प्लेस में जो जायदाद है उसके दाम ग्रेटर कैलाश से कई गुना अधिक हैं। उसी तरह बम्बई में उपनगरों में जो दाम होगा उससे जो बम्बई द्वीप है उस में जमीन का दाम, अर्बन प्रापर्टी का दाम कई गुना अधिक है। रिक्लेमेशन का जो इलाका है उस में एक दफा जमीन का आक्शन हुआ था और पांच हजार रुपये फी स्क्वेयर मीटर के दाम पर जमीन बिकी थी बाद में बड़ा हल्ला हुआ। अब सरकार जमीनों का आक्शन नहीं करती है। लेकिन मुझे यह जानकारी है कि हर मीदे में अगर दो हजार रुपये स्क्वेयर मीटर के हिसाब से कोई जमीन बिकी है तो टेबल के नीचे दो द्वाइ हजार रुपये फी स्क्वेयर मीटर लिया जाता है। यह आरांफ में चव्वाण साहब के सामने कर चुका हूं। महाराष्ट्र के बड़े बड़े मंत्री उस में शामिल हैं। मुख्य मंत्री जी का भी नाम लिया जाता है। क्या रिक्लेमेशन की जो प्रापर्टीज हैं

[श्री मधू लिमये]

उसकी जांच करने का काम आम लोगों ने किया है ?

उसी तरह दूसरी भी प्रापर्टीज हैं। मैंने अभी अभी वित्त मंत्री को एक पत्र लिखा है। शिव सागर एस्टेट नाम की बरली में एक एस्टेट है। उसके साथ को-ओनर्ज हैं। इस में से एक जगह सैंडोज हाउस के लिए है। बीस को-ओनर्ज का जो ग्रुप है उसने खरीदी है। उन बच्चे लोगों का नाम मैं नहीं लेना चाहता हूँ क्योंकि उस में कुछ माइनर लोग भी हैं। लेकिन कुछ तथ्य मैं आपके सामने रखना चाहता हूँ जो वित्त मंत्री को भी मैंने दिए हैं।

“(a) The total price paid is Rs. 85 lakhs (Book money Rs. 35 lakhs and Rs. 50 lakhs in cash)”

Shri Sezhiyan wanted to know about Bombay. A property has been transferred which is really worth Rs. 85 lakhs. But in the books, only Rs. 35 lakhs have been shown and Rs. 50 lakhs have been paid in black money, in cash.

SHRI B. V. NAIK (Kanara): To whom?

श्री मधू लिमये : जो खरीदने वाला है एक महान धर्म गुरु है, धर्म का पंडा है। उसने खरीदा है बीस संयुक्त मालिकों से वह हिन्दू है, मुसलमान है, ईसाई है, इस में अभी मैं नहीं जाऊंगा। लेकिन एक महान धर्म गुरु है, धर्म का पंडा है। वह लोगों को तंग करता है। इन्होंने यह दिया है :

“(b) The building has 66,000 sq. ft. built-up area; the ruling market rate in the locality for the same comes to over a crore of rupees;

(c) on the basis of the Municipal Tax Assessment (Rs. 2,54,000 per year), the value of this building is about a crore of rupees;

(d) the valuation done by the tax authorities is Rs. 94/96 lakhs;

(e) the loss of stamp duty to Government by way of under-valuation (at 15 per cent of Rs. 50 lakhs ‘cash’ paid) comes to Rs. 7,50,000;

(f) the loss of Wealth Tax, capital gains tax, etc. would be still greater;”

हुआ क्या है? असल में कर बकाया को लेकर यह हो नहीं सकती है। लेकिन चुपके से यह सेल कर दी गई है। धर्म गुरु ने 85 लाख रुपया दे दिया है। और किया क्या है? इस प्रापर्टी का जो किराया है वह इकट्ठा करने का अधिकार इस धर्म गुरु के आदमी ने अपने हाथ में लिया है।

“The property yields Rs. 9 lakhs rent per year. The declared value is Rs. 35 lakhs which means a returned of almost 25 per cent on investment unheard of in real estate business.”

एक उदाहरण यह है।

मैं कहूंगा कि साधारण लोगों को तंग न करें। इस लिए मेरे संशोधनों को आप देखें। आम तौर से छः महीने के अन्दर नोटिस जाना चाहिये आदिनरी।

इस विधेयक में नौ महीने की बात कही गई है। मैं एक साल देने के लिए तैयार हूँ, बशर्ते कि संबंधित अधिकारी यह बताय कि हमारे पास यह जानकारी आई है, जिस के आधार पर हम समझते हैं कि छः महीने में यह काम पूरा नहीं हो सका, इस लिए हम इस के लिए एक साल लेना चाहते हैं। लेकिन आम तौर पर यह नहीं होना चाहिए; केवल विशिष्ट परिस्थितियों में ही ऐसा किया जाना चाहिए।

व्हेल को पकड़ने की बात की जाती है। क्या व्हेल या मगरमच्छ को जाल से पकड़ा जाता है? उन को पकड़ने के लिए हारपून का इस्तेमाल करना पड़ता है। अगर उन को पकड़ने के लिए जाल बिछाया जायेगा, तो न केवल जाल ही टूट जायेगा, बल्कि वे जाल फँलाने वाले को भी मगरमच्छ पकड़कर ले जायेंगे। इस लिए ये सारी बेकार बातें हैं। अगर सरकार गम्भीरतापूर्वक कुछ करना चाहती है, तो वह छोटे लोगों को तंग न करे क्योंकि सरकारी अधिकारी, इन्स्पेक्टर लोग रिश्वत लेने के लिए सब को नोटिस दे देंगे और जो पैसा दे देगा, उस का आर्डर पास कर दिया जायेगा।

इस लिए मंत्री महोदय मेरे संशोधनों को मान लें। साधारणतया छः महीने ठीक हैं और विशिष्ट परिस्थितियों में एक साल लिया

जा सकता है, लेकिन उस के कारण बताने चाहिए और सबस्टेंशन वेरिफेशन होना चाहिए। मंत्री महोदय मेरे सुझावों पर पुनर्विचार करें और मेरे संशोधनों के आशय को मान लें।

इस सम्बन्ध में जो कार्यवाही चालू होगी, वह कितने दिन तक चलेगी? — दो साल, चार साल, पंद्रह, बीस, पच्चीस साल? इस लिए मेरी राय है कि साधारण तौर पर दो साल में कार्यवाही पूरी होनी चाहिए। अगर विशिष्ट कारणों से दो साल में कार्यवाही पूरी नहीं होती है, तो बताया जाय कि अमुक अमुक कारणों से कार्यवाही पूरी नहीं हो पाई है और इस लिए कार्यवाही की अवधि को बढ़ाने की छूट दी जा रही है।

मेरा मित्रांत है कि हर क्षेत्र में अफसरों की ज़िम्मेदारी और दायित्व निश्चित होना चाहिए। सरकार अपने हाथ में नये नये हथियार लेती चली जा रही है। सरकार के पास इतने विवेकपूर्ण, डिस्क्रिशनरी, अधिकार हो गये हैं कि मुझे पता चला है कि हम ने जो इंडस्ट्रियल डेवलपमेंट एंड रेगुलेशन बिल पास किया है, केवल उसी के अन्तर्गत दस पंद्रह करोड़ रुपये चन्दे की तौर पर वसूल किया जायेगा। आखिरकार विवेकपूर्ण अधिकारों की कोई हद होती है। जब तक सरकार विवेकपूर्ण अधिकारों पर रोक नहीं लगायेगी, तब तक अफसरशाही में सही मानों में जबाबदेही की चेतना और अहसास पैदा नहीं होगा।

**श्री मूलचन्द डागा (पाली) :** उपाध्यक्ष महोदय, यह कानून अगस्त, 1972 में पास किया गया था। उस के एक साल के बाद नौकरशाही के कहने पर मंत्री महोदय उस कानून में संशोधन करने के लिए आए हैं, ताकि नौकरशाही हज्जारों आदमियों को परेशान और बर्बाद कर सके। इस बिल के साथ जो स्टेटमेंट दिया गया है, उस में यह नहीं बताया गया है कि एक लाख रुपये से उपर के कितने मुकदमे दर्ज किये गये। इस में लिमिटेशन की अवधि छः महीने से बढ़ा कर नौ महीने किया

जा रहा है। इनकम टैक्स डिपार्टमेंट सोचता है कि जो काम छः महीने में नहीं हो सकता है, शायद वह नौ महीनों में पूरा किया जा सकेगा।

क्या मंत्री महोदय यह बतायेंगे कि कितने नोटिस भेजे गये और उनको समय पर प्रकाशित न करने में किस की गलती थी। अगर कोई आदमी आक्शन में कोई प्रावर्टी परचेज करता है, तो फिर भी इनकम टैक्स डिपार्टमेंट कहता है कि उस की जांच की जायेगी।

**कुमारी मणिबेन पटेल (साबरकंठा) :** हाउस में कोरम नहीं है।

MR. DEPUTY-SPEAKER : Let the bell be ring...

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

**श्री मूलचन्द डागा :** पब्लिक एकाउन्ट्स कमेटी ने अपनी 1972-73 की रिपोर्ट में कहा है :

"The gross collection of income-tax went up by 33 per cent from Rs. 636.40 crores in 1967-68 to Rs. 843.69 crores in 1970-71 while the expenditure on collection went up by 61 per cent."...

The number of Income-Tax Officers on assessment duty had increased from 1701 to 2234.

Then they say :

"The Committee would await a report in this regard. It is really a matter of regret that the administrative apparatus still continues to be weak. The Committee find that the Wanchoo Committee in their report have made several useful suggestions in the Chapter on "Tax Administration" which should be gone into without delay in order to implement such of them as would strengthen the tax-collecting machinery."

इस से पता लगता है कि इनकम टैक्स अफसरों की संख्या 1701 से बढ़कर 2234 हो गई और इनकम टैक्स की कलेक्शन का खर्चा भी 11 करोड़ रुपये से बढ़ कर 18 करोड़ रुपये हो गया। इतने अफसर बढ़ गये, लेकिन मंत्री महोदय यह एमेंडमेंट लेकर आये हैं कि लिमिटेशन की अवधि को छः महीने से बढ़ा कर नौ महीने

[श्री मूलचन्द डागा]

कर दिया जाये। मैं यह जानना चाहता हूँ कि अगर कोई व्यक्ति आक्शन में गवर्नमेंट प्रायर्टी लेता है, तो क्या होगा। इस से हैरानमेंट होगा।

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI K. R. GANESH): I am thankful to the hon. Members who have participated in this debate.

The debate has gone round a wider field. I will leave, as you will agree with me, that part of the debate that concerns the working of the tax administration, the question of arrears of tax and various other things which have been discussed time and again in the House and we have not hesitated in giving any information with regard to those matters.

I will now confine myself to the specific provisions of this Bill. As the hon. Member from the Jan Sangh indicated, the object of the amendment is very simple. But they have made certain criticisms about various things.

There are a few specific points on which I owe an answer to the hon. Member. Firstly, these provisions have come into force from 15th November, 1972. Thereafter, various proceedings under these provisions have been started. The first point is that why is it that we are asking for this extension of the limitation period from six months to nine months.

As I have indicated, when it was found that there had been some difficulty—as far as this is concerned. I shall have to dilate on this—which came to our notice on 6th September, 1973. It is also known to the hon. Members that notices under Sec. 269D are ordinarily published in the weekly gazette. This is published every Saturday. Notices are also published in the gazette extraordinary. A time schedule is laid down by the press authorities that for the publication in the weekly gazette, notices are to be received by 1 P.M. on Tuesday. And the same is to be sent within this time-limit. Now, I shall give you the facts and figures as to how the time-schedule has been kept. It was only on the 6th September, 1973 that we learnt for the first time that the weekly gazette issued from the

Faridabad press had been delayed. We were told that there were delays in the publication of the gazettes dated 18th and 25th August, 1973. They had been delayed beyond the end of the month. We had to scrutinise as to what had happened to every notice that we had sent to the Press. After scrutinising that, we came to this conclusion that there had been a large number of notices which were not published in the press in proper time. There were about 1,024 notices which were published beyond the limitation period in the gazette. There were about 913 notices in the weekly Gazette and in the Extraordinary Gazette, there were 53 notices which were published in the Gazettes dated 29th May to 29th September, 1973; also there were 58 more notices—making a total of 1,024 notices in all. We have to appreciate the reasons why there should be extension beyond six months' time.

SHRI N. K. P. SALVE: May I know one thing from the hon. Minister? Do we take it that they were sent in the last week of the month? Normally the notices are sent in time otherwise. Here they got delayed. The delay was in publication of the same.

SHRI K. R. GANESH: We have done some sample study from various charges. Most of the notices there were sent in proper time. The delay in the press is also known. The notices became very large in number. Then, there had been a very acute power shortage and as a result of that, the press was not in a position to cope with the work. The Works, Housing and Supply Ministry have indicated to us that we have to give the notices six weeks in advance which, of course, we will have to follow and implement—the press has also got some difficulty. I was trying to explain that it was necessary to appreciate the various procedures and processes through which the acquisition proceedings have to pass through. Firstly the process is that the registering officer of the State Governments who registers the property has to send fortnightly statements in the prescribed form about the number of transactions of immovable properties of which registrations have taken place. According to the requirements of the Act, about 28 lakhs forms from different registering officers were received by the competent authorities. This itself indicates the magnitude of the problem.

Some point has been raised in regard to this. But that is the Law now. My hon. friend has made that law as he was a Member of the Select Committee and he has made that law and that is the present law. Now, certain experiences have been gained, and as a result of those experiences gained, a view will have to be taken.

श्री नरेन्द्र कुमार शाल्वे : अब तो कुछ करें ।

SHRI K. R. GANESH : अब देखना होगा उस को । इतनी जल्दी घबराने में तो कोई फायदा नहीं ।

28 lakh statements were received. There are certain conditions under which acquisition proceedings could be started. The conditions are that the fair market value of the immovable property that has been transferred by way of sale or exchange exceeds Rs. 25,000, secondly that the difference between the apparent consideration which is stated in the transfer deed and the fair market value is of the order of 15 per cent, and thirdly that the prescribed authority has applied his mind that as a result of this difference there has been evasion of tax and black money has been used; when these three conditions are fulfilled and he has applied his mind, the prescribed authority issues the notices.

About 28 lakh statements have come, at the rate of say, two thousand or three thousand or four thousand statements in a fortnight. The competent authority has to process these statements, apply his mind to these statements. After that, he has to take the help of the valuation officer to find out whether the valuation is more or it is less and to confirm about the difference in the valuation. Then, he has to make certain enquiries in the localities about the nature of the property, the area in which the property is located, and whether there is any information or any facts about the antecedents of the person whose property is being processed. He has to apply his mind to all this and then comes to the conclusion that there is a difference of 15 per cent between the apparent consideration and the fair market value and that there has been transfer of black money and then he starts action.

Whatever criticism hon. Members might have made of the Income-tax

Department, to which I shall come later on, this law came into effect for the first time on 15th November, 1972. The staff had to be put into positions. The valuation officers had to be appointed. Valuation officers are of various categories from the PWD. It took some time to get them; I had to write to my senior colleague the Minister of Works and Housing, a d.o. in this connection, and he had his own difficulties, because a large number of valuation officers at the level of superintending engineers, executive engineers and junior engineers etc. had to be appointed, and many junior engineers have not yet taken positions. Therefore, this fact also should be recognised and taken into consideration by hon. Members.

My hon. friend Shri Sezhiyan has asked me how many cases have been processed. About 1794 notices have been issued divided into various Commissioners' charges. In Bombay 139 notices have been issued, and like this, in various charges. Madhya Pradesh, Assam, Rajasthan and various other Commissioners' charges, 1794 notices have been issued. No property has as yet been acquired. But there are some cases which have become ripe for being acquired. After the issue of notices, various other processes have to be gone through. The assessee has got to be given a hearing. It depends upon his tactics, whether he is co-operating or dilatory and so on, and then a view has to be formed, and then the approval of the Commissioner has got to be taken for the acquisition of the property. But I am informed that some cases are ripe for acquisition.

There are certain difficulties which we have been facing. But I agree with Shri Salve that we shall have to examine the matter. For, as the law stands, the competent authority, unless he is given certain orders or whatever it be—I am not using the precise language here—by the Board, has to apply his mind and it is only when he is satisfied that these three conditions are fulfilled that the property is worth more than Rs. 25,000, that the difference between the apparent consideration and the fair market value is 15 per cent and that this has been done with a view to evade taxes and to utilise black money, that he will issue the notices for acquisition.

It will be very dangerous to leave this subjective analysis to the competent authority. Therefore, the suggestion that the hon. Member has made that we

[Shri K. R. Ganesh]

should tackle only very big cases will have to be gone into and discussed. I cannot give you an assurance. The matter will require examination as to what is to be done. Then the other in-built aspects will have to be taken into consideration. Audit will have to be taken into consideration; the views of the PAC will also have to be taken into consideration.

SHRI N. K. P. SALVE : I would say that between the assurance of the Minister and his views there is very little difference. Views are as good as assurances.

SHRI K. R. GANESH : There is another point the hon. Member has raised, that the period for acquisition should not be stretched long. The Wanchoo Committee also had gone into the question. The Committee also said that once the mind is made up, acquisition proceedings must be completed within a short period. The idea underlying the suggestion is unexceptionable. It is in the interest of Government, the department and the persons concerned that the proceedings are completed as expeditiously as possible. The necessary administrative instructions will be given to the department.

These are some of the specific points pertaining to the Bill raised and I commend the Motion to the House.

MR. DEPUTY-SPEAKER : The question is :

"That the Bill further to amend the Income-tax Act, 1961, be taken into consideration".

*The motion was adopted*

MR. DEPUTY-SPEAKER : Shri Salve has tabled 3 amendments—he is not moving them. Shri Limaye is not here. He has written to say that he wants to move all his amendments. But the rule says that if the Mover is not personally present, his amendment cannot be moved.

The question is :

"The clauses 2, 3 and 1, the Enacting Formula and the Title stand part of the Bill".

*The motion was adopted*

Clause 2, 3 and 1, the Enacting Formula and the Title were added to the Bill.

SHRI K. R. GANESH : I move :

"That the Bill be passed".

MR. DEPUTY-SPEAKER : The question is :

"That the Bill be passed".

*The motion was adopted*

15.33 hrs.

DELHI URBAN ART COMMISSION  
BILL

MR. DEPUTY-SPEAKER : We proceed to Private Members' business.

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH) : Before that, may I say that the leaders of the Opposition have agreed to the next Bill being disposed of without discussion. You may put it to vote. It is a non-controversial Bill.

MR. DEPUTY-SPEAKER : Although the request is irregular, I will regularise it.

THE MINISTER OF WORKS AND HOUSING (SHRI BHOLA PASWAN SHASTRI) : I beg to move :\*

"That the Bill to provide for the establishment of the Delhi Urban Art Commission with a view to preserving, developing and maintaining the aesthetic quality of urban and environmental design within Delhi, be taken into consideration".

MR. DEPUTY-SPEAKER : I suppose Members have read the Bill. All that it wants is that a Delhi Urban Art Commission be set up in order to consider the aesthetics whenever a new building is put up in the city. Am I right?

SHRI K. RAGHU RAMAIAH : Yes.

MR. DEPUTY-SPEAKER : The question is :

"That the Bill to provide for the establishment of the Delhi Urban Art Commission with a view to preserving, developing and maintaining the aesthetic quality of urban and environmental design within Delhi, be taken into consideration".

*The motion was adopted.*

\*Moved with the recommendation of the President.