LOK SABHA

Saturday, 21st April, 1956

The Lok Sabha met at Half Past Ten of the Clock.

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(*See* Part I)

10-30 A.M.

PETITIONS *RE* STATES REORGANISATION BILL

Secretary: Sir, under rule 179 of the Rules of Procedure and Conduct of Business in the Lok Sabha, I have to report that a petition as per statement laid on the Table has been received relating to the States Reorganisation Bill, 1956.

Statement

Petition relating to the States Reorganisation Bill, 1956.

No. of signatories.	Distt. or Town	State	No. of Petition.
76		Andhra	58

Shri Sivamurthi Swami (Kushtagi): Sir, I beg to present a petition signed by seven petitioners relating to the States Reorganisation Bill, 1956.

FINANCE BILL

Mr. Speaker: The House will now resume further discussion on the motion for consideration of the Finance Bill, 1956. Out of 15 hours allotted for the various stages of the Bill, about 8½ hours have already been availed of, leaving a balance of about 6½ hours. This means that the general discussion will be concluded by 1. P.M., clause by clause consideration will be over by about 5 P.M. and the Bill will be passed by 6 P.M. Thereafter the House will take up the Appropriation (No. 2) Bill for which 30 minutes have been allotted.

I will call the Finance Minister to reply at ten minutes to 12.

Shri Kamath (Hoshangabad): On a Point of Order, Sir. Yesterday you made a profound observation about the rights of certain Members who had not taken part in the earlier stages to make their contribution to this debate with regard to the I. & B. Ministry, when the Minister was present here. This was made very clear by you. The transcript reads:

"I said that those Members who wanted to raise some discussion.."

Mr. Speaker: What is Point of Order?

Shri Kamath: There are only 20 minutes left now and you have called Shri Bibhuti Mishra. When will I get a chance?

Mr. Speaker: I thought the hon. Member would ruse earlier during the course of the debate when so many hours had been set apart for the general discussion.

Shri Kamath: But, yesterday, you yourself ruled that the I. & B. Minister was absent and that it might be taken up when he was present. I will read the transcript.

Mr. Speaker: What I said was that the I. & B. Minister will be here to answer any of the points that are raised by hon. Members. Therefore, I allowed the hon. Members to speak. I did not see any hon. Member raising that. Why should any hon. Member wait for the hon. Minister. The Minister will give his reply. It is not as if the Member must look at the face of the Minister. I was really surprised when I found they had nothing to say. Otherwise, I would have given such Members preference. Now, at the fag end, to come and say that he must have his pound of flesh is surprising. I would not have called Shri Bibhuti Mishra, I would have given opportunities to other Members who wanted to raise the question. I wanted the I. & B. Minister also to be present here. He came and told me that nothing has been said about his Ministry, so far. What am I to do?

Shri Kamath: I may be listened to patiently. Yesterday, the matter was discussed for about 10 minutes. You yourself ruled that because the Minister was not here, it may be taken up later. I appeal to you, Sir.

Mr. Speaker: What I said was this. I only said, when 6 hours were asked for discussion of this and the Appropriation Bill, that I will allow ample opportunities to hon. Members to speak on the Finance Bill, to such of those who wanted to refer to matters relating to the I. & B. Ministry or the Law Ministry, which were not taken up for discussion during the Budget debate. Hon. Members did not choose to do so. I was listening to the debates; they have not referred to this. I could not give them another opportunity when the Minister comes in. They must say what they have to say; the hon. Minister will have notes taken and reply to them. That is all that can be expected.

श्री विभूति मिश्र (सारन व चंपारन): अध्यक्ष महोदय, कल मैं यह कह रहा था कि जो हमारे राजनैतिक पीडीत भाई है, उनके लिये प्रान्तीय सरकारों ने बहुत कुछ किया है और इसके लिये वे धन्यवाद के पात्र है । लेकिन प्रांतीय सरकारों के इस दिशा में प्रयत्न करने के बाद भी आज उनकी हालत ठीक से नहीं सुधर पाई है और हमारे उन भाइयों की जिन्होंने कि आजादी की लड़ाई में अपना सब कुछ बलिदान कर दिया, उनकी आर्थिक अवस्था ठीक नहीं है । मैं केन्द्रीय सरकार से प्रार्थना करूंगा कि वह हमारे राजनैतिक पीड़ित भाइयों की हालत को सुधारने के लिये आगे बढ़े और उनकी जैसे भी संभव हो सहायता करे । सरकार फौज से रिटायर्ड (सेवा निवृत्त) होने वाले जवानों की जिन्होंने कि अंग्रेजी के शासन काल में विभिन्न स्थानों पर स्वाधीनता आन्दोलन को कुचलने के लिये अपने भाइयों को मारा, ऐसे लोगों को तो हमारी सरकार पेंशनें देती हैं लेकिन वे हमारे राजनैतिक पीड़ित भाई जिनके कि त्याग, बलिदान और तपस्या से हिन्दुस्तान को स्वतन्त्रता मिली उनको केन्द्रीय सरकार आज कोई सहायता नहीं कर रही है । मैं अपने वित्त मंत्री महोदय से प्रार्थना करता हूं कि वे हमारे इन राजनैतिक पीड़ित भाइयों की सहायता करें । मैं कितने ही ऐसे राजनैतिक पीड़ित भाइयों को जानता हूं कि जिन्होंने सन् १९०५, १९२० और १९३० के भारतीय स्वतन्त्रता संग्रामों में भाग लिया, कष्ट सहे और त्याग, बलिदान किया आज उनके ऊपर काफी कर्जे का भार चढ़ गया है और उनकी आर्थिक अवस्था बड़ी ही शोचनीय हो रही है और मैं वित्त मंत्री महोदय से प्रार्थना करूंगा कि वे ऐसे लोगों की सहायता करने के लिये प्रान्तीय सरकारों से मिल कर कोई एक योजना बनाये ताकि हमारे उन राजनैतिक पीड़ित भाइयों की जिनकी की जीवनयापन की समस्यायें अभी तक हल नहीं हो पाई है, उनको भली प्रकार से हल किया जा सके ।

दूसरी बात मैं यह कहना चाहता हूं कि श्री नंदा जी ने जो पटना में कहा है कि गंडक योजना को हम लेने जा रहे हैं, वह स्वागत योग्य हैं और मैं उनको ऐसा कहने के लिये धन्यवाद देता हूं । यह योजना सस्ती होने के अतिरिक्त करीब ७८ लाख आदमियों का इससे उपकार होगा और इस योजना के पूरी होने से २८ लाख एकड़ जमीन पटेगी । सरकार भी इसको स्वीकार करती है कि यह सस्ती योजना है और मैं सरकार से आग्रह करूंगा कि आप जो इस योजना को द्वितीय पंचवर्षीय योजना में लेने जा रहे हैं, तो इसको अविलम्ब कार्यान्वित करें ।

सरकार करीब डेढ़ करोड़ रुपया शेडयूल्ड ट्राइब्स (अनुसूचित आदिम जातियों) और बैकवर्ड क्लासेज (पिछड़े वर्गों) की छात्रवृत्तियों पर खर्च करती है लेकिन यह छात्रवृत्तियां केवल उन्हीं को मिल पाती है जो कि ६०फी सदी नंबर पाते ह, अब उनमें कुछ ऐसे बैकवर्ड क्लासेज के विद्यार्थी भी हैं जिनको कि स्कूलों में जाने की और पढ़ाई की उतनी सुविधा प्राप्त नहीं है और उन बेचारों के कैसे ६० फी सदी नम्बर आ सकते हैं और इसलिये मैं चाहूंगा कि उसमें सरकार कुछ ऐसा क्लासिफिकेशन (वर्गीकरण) बनाये ताकि बैकवर्ड क्लासेज और शेडयूल्ड कास्ट्स में ऐसी जातियां जो कि बहुत ही ज्यादा पिछड़ी हुई हैं, उनकी सहायता के लिये खास तरीके से व्यवस्था की जाय ।

इसके अतिरिक्त मैं यह बताना चाहता हूं कि शेडयूल्ड कास्ट, शेडयूल्ड ट्राइब्ज और बैकवर्ड क्लासेज के अलावा कुछ ऐसी भी जातियां हिंदुस्तान में पाई जाती हैं जिन्हें सरकार कोई सहायता नहीं देती है और उनमें काफी गरीब लोग होते हैं जो दरवाजे-दरवाजे भीक मांगते घूमते हैं । मैं सरकार से कहूंगा कि इन आदमियों की आर्थिक स्थिति के बारे में जांच करवाये और देखे कि उनमें गरीब है या नहीं । मैं इसका विरोधी हूं कि जातपात के नाम पर किसी

आदमी का कोई सहायता दी जाय अगर सहायता दी जाय तो गरीबी की बुनियाद पर दी जाय। इन जातियों म ऐसे भी लड़के हैं जो कि बहुत गरीब हैं और जिनको कि खाने पीने का भी सूभीता नहीं हैं जिनको कि पढने की सुविधा नहीं है, आज उनको कोई सहायता नहीं देता है जब कि पहले यह जो हमारे बड़े बड़े जमीनदार और राजे महाराजे ऐसे लड़को की सहायता किया करते थे और यहां पर आपके नेतिया राज्य के मैनेजर विपिन बाबू बैठे हुए है जो कि गरीब विद्यार्थियों को पढने लिखने में सहायता किया करते थे और हर प्रकार से उनकी धन से सहायता करते थे लेकिन आज वह काम राज्य सरकार के हाथ में आ गया है और हम देख रहे हैं कि आज उन गरीबों को कोई पूछने वाला नहीं है इसलिए मैं सरकार से कहूंगा कि सरकार ऐसे लोगों के लिए छात्रवृत्ति की रकम अपने यहां रक्खे ताकि उनका कल्याण हो।

अम्बर चर्खे की उपयोगिता के सम्बंध में आज हम देखते हैं कि लोगों में मतभेद विद्यमान है और हम में से कुछ लोगों को उस की उपयोगिता के बारे में संदेह है। मैं तो समझता हूं कि यह मतभेद आज सिर्फ इसलिए उठ खडा हुआ है कि आज गांधी जी हमारे बीच मौजूद नहीं हैं और अगर गांधी जी मौजूद होते तो मैं समझता हूं कि हिन्दुस्थान का कोई भी आदमी यह चीज न कहता कि मैं अम्बर चर्खे के खिलाफ हूं। कल मेरे भाई श्री सी० डी० पांडे ने कहा कि चर्खा बेकार चीज है। मैं और पांडे जी एक ही साथ पढते थे। गांधी जी काशी विद्यापीठ में आये थे, वहां उन्होंने जेवन्स, जो कि एक बडा भारी अर्थशास्त्री था से पूछा था कि तुम कोई उपाय बता सकते हो जिस से गांव के गरीब लोगों को दो या चार रूपया महीने की आमदनी हो सके। हमारे पांडे जी भी वहीं पढते थे, उन को मालूम होगा कि वह कोई भी उत्तर नहीं दे सका था। लेकिन आज हमारे पांडे जी चर्खे का विरोध करते हैं जिस से किसानों को कुछ मिल सकता है।

श्री० सी० डी० पांडे (जिला नैनिताल व जिला अलमोडा—दक्षिण—पश्चिम व जिला बरेली उत्तर) : मैं ने सन १९३२ में एक थीसिस लिखी थी जिस में अपने पक्ष का प्रतिपादन किया था।

श्री० विभूति मिश्र : सुन तो लिजिये, मैं कहता हूं कि आज अंबर चरखे के सिवा और कोई चीज ऐसी नहीं है जो कि गांव के लोगों को कुछ दिला सके। इसलिए जहां तक हो सके इस बार अम्बर चर्खों को अविलम्ब शुरू किया जाय ताकि लोगों का कल्याण हो।

हमारे फाइनेन्स (वित्त) मंत्री साहब कहते हैं कि रूपये की कमी नहीं है, लेकिन रूपये की आज कमी नहीं है, उनका रूपया लेने का जो तरीका है उस मे कमी है। आज जो बड़े बड़े पूंजीपति हैं, जिनके पास अथाह धन है, उस को कभी आपने लेने का प्रयत्न किया है? आप ने हैदराबाद स्टेट को लिया, हैदराबाद के निजाम के पास कितना पैसा था, यहां राज महाराजे बैठे हुए हैं, आप उन के राज्य ले लीजिए, उन के पास लाखों करोड़ों की सम्पत्ति है, आप उसको ले सकते है। अगर आप उन से छीनना नहीं चाहते हैं तो कर्ज लीजिये, उन को सूद दीजिये। लेकिन आप तो टैक्स ही लगाना जानते हैं। मीडियम क्लाथ (मध्यम दर्जे के कपड़े) के ऊपर। इस तरह से जो गरीब किसान है वह बेचारा क्या करे। उस के लिए कपड़ा पहनना लाजिमी है, वह टैक्स दे कर भी उसको खरीदेगा। आज मैं अपने वित्त मंत्री जी से कहना चाहता हूं कि वह वाणप्रस्थ की अवस्था में हैं, वह अपनी गृहस्थी की जिंदगी गुजार चुके हैं, वह गांधी जी की तरह से हमारे गांवों में चलें और वहां की स्थिति को देखें कि वहां पर रहने वाले किसान कितने गरीब हैं। वह लोग बकरी पालते हैं, भेड़ चराते हैं, लेकिन उन को उस से आज कितना पैसा मिलता है? गांधीजी गांवों में घूमा करते थे तब उन को अंदाजा लगता था। उसी तरह से वित्त मंत्री जी गांव की ओर चलें तो वह पायेंगे कि गांव के किसानों की हालत सुधरी नहीं है, उन की हालत में कोई प्रगति नहीं हुई है। इसलिये मेरा कहना यह है कि गांवों पर जितना कम हो सके उतना कम कर लगना चाहिये। आज जो बड़े बड़ धनी लोग हैं, जिन के पास अथाह दौलत है उनसे टैक्स लीजिए, जो विदेशी आदमी यहां व्यापार करते हैं, उन के उपर टैक्स लगाइये और उन से टैक्स लेकर किसानों की बेकारी को दूर कीजिए। आप को गरीब किसानों पर टैक्स लगाने से बहुत पैसा नहीं मिलेगा। आज अगर हिंदुस्थान लड़ाई में फंस जाता है तो मरा यह तजुर्बा है कि गरीब लोग ही अपनी जान देने जायेंगे, बड़े बड़े और अमीर आदमी नहीं जायेंगे, इसलिये जरूरत इस बात की है कि जहां तक हो सके उन धनिकों पर टैक्स लगा कर गांव में रहने वाले लोगों को सुविधा दी जाय। आज आपको पैसा मिलने की दिक्कत नहीं है, लेकिन आप में विल

(श्री विभूति मिश्र)

(इच्छा) की कमी है। धनिकों के पास खब पैसा है लकिन आप उन पर टैक्स लगाते हुए घबराते हैं। आप घबराइय नहीं क्योंकि आप जितना भी टैक्स लगायेंगे वे देंगे। इस तरह से आप जमींदारी उठाने के पहले घबराते थे, आप सोचत थे कि जमींदारी के उठाते ही देश में एक क्रांति हो जायेगी, लेकिन कोई क्रांति नहीं हुई। इसी तरह से धनिकों पर टैक्स लगाने में आप को दिक्कत नहीं होगी।

कल श्री तुलसीदास किलाचंद जी ने कहा था कि सरकार सब रोजगार खत्म कर रही है और प्राइवेट सेक्टर (निजी क्षेत्र) को मार रही है। मैं उन से पूछना चाहता हूं कि आखिर क्या आप गांधीजी के ट्रस्टीशिप (वन्याली) के सिद्धान्त को मानते हैं या नहीं, अगर आप ट्रस्टीशिप सिद्धांत को मानते तो आप को कोई परेशानी नहीं होती। सरकार को टैक्स इसलिये लगाना पड़ता है कि आप टैक्स देते नहीं हैं। आप ने यह कहा कि सरकार बराबर टैक्सेशन के कानून बनाती जा रही है, लेकिन जब आप टैक्स इवेजन (कर अपवंचन) करते हैं तो वह क्या करे? सरकार आप से पूरा टैक्स लेना चाहती है लेकिन आप दना नहीं चाहते हैं। क्या कभी आप ने यह समझा कि सरकार मजबूर है और ऐसा समझ कर उस को टैक्स दे देते ताकि सरकार परशान न हो? अगर आप गांधी जी के ट्रस्टीशिप सिद्धांत को मानते तो आज इसकी जरूरत न पड़ती। आज आप इस पर विचार कीजिये कि सारे देश की योजना में सरकार कुल ७२ अरब रुपया खर्च करने जा रही है जब कि आप से वह कुल २३ अरब रुपया खर्च करने को कहती है। लेकिन प्राइवेट सेक्टर से २३ अरब रुपया भी खर्च नहीं हो पायगा। आज सरकार बेकारी को खत्म करना चाहती है तो यह आप के ही पक्ष में तो काम करती है, लेकिन आप इस को सोचते नहीं हैं। मैं आप से कहना चाहता हूं कि आज तो मिली जुली सरकार है जिस की वजह से आप के पक्ष में भी बातें हो रही हैं, लेकिन दस वर्ष के बाद यह स्थिति नहीं रहेगी।

श्री गाडगील (पूना—मध्य) : इस से भी कम वक़्त लगेगा।

श्री विभूति मिश्र : हो सकता है कम लगे, लेकिन ज्यादा से ज्यादा दस साल में स्थिति सुधर जायेगी, नहीं सुधरेगी तो हम को इस पर सोचना पड़ेगा क्योंकि हमारे ऊपर इस की जवाबदेही है कि हम बेकारी को दूर करने का प्रयत्न करें। आज आप किसी मिल एरिया में चले जाइये, उस का मैनजर जिस मकान में रहता है, प्रोप्राइटर (मालिक) जिस मकान में रहता है, उस को देखिय कि वह किस तरह से रहता है, उस के बाद आप किसी मजदूर एरिया में चले जाइये और वहां देखिय कि वह किस तरह से रहते हैं। मैं कभी कभी गांवों में जाता हूं, हमारे प्रान्त में चीनी की मिलें हैं, जहां पर कि बड़े बड़े पूंजीपति रहते हैं, उन के मैनेजर रहते हैं। आज उन में और जमींदारों में क्या फर्क है इस को आप देखिये। गांधीजी ने रस्किन की एक किताब 'अनटु दि लास्ट' का अनुवाद किया है जिस का नाम उन्होंने 'सर्वोदय' रखा है। रस्किन ने लिखा है कि जब तक आप मालिक और मास्टर के सम्बन्धों को ठीक नहीं करेंगे तब तक देश का कल्याण नहीं हो सकता है। इसलिये मैं कहूंगा कि जो हमारे पूंजीपति हैं वह सर्वोदय के सिद्धांतों पर चलें और समझें कि उन में और उन के आदमियों में क्या सम्बन्ध होने चाहिये। उस को समझ कर उन पर अमल करेंगे तभी जनकल्याण होगा और आज इस की सब से ज्यादा जरूरत है।

मैं अपने वित्त मंत्री जी से फिर कहना चाहता हूं कि वह अब वाणप्रस्थ की अवस्था में हैं उन्हें गरीबी को दूर करने में पूरी सहायता चाहिए।

श्री सी० डी० पांडे : पार साल ही तो शादी की है।

श्री विभति मिश्र : उस में भी वाणप्रस्थ होता है। आज वित्त मंत्री जी को सारे संसार का अनुभव है, वह हमारे साथ देहातों में चलें और देखें कि हिन्दुस्थान की क्या हालत है। उस को देखने के बाद जैसी उचित समझें वैसी व्यवस्था करें।

जहां तक स्माल सेविंग्स स्कीम (अल्प बचत योजना) का ताल्लुक है यह मंत्रालय उस को ठीक से नहीं चलाता है। एक आदमी जो कि मुजफ्फर पुर में काम करता है मुझ से मिला, उस का कहना है कि मंत्रालय में एक ऐसा अफसर रखा जाय कि स्माल सेविंग्स स्कीम का ही काम करे। अगर स्माल सेविंग्स स्कीम के अन्तर्गत आप को एक एक पैसा मिले तो भी आप को खर्चे की कमी नहीं होगी और आप को बाहर से कर्जा नहीं लेना पड़ेगा। लेकिन आप इस स्कीम

को ठीक से चलायें तभी आप को पैसे ठीक से मिलेंगे। हम कांग्रेसमैन आप की परी मदद करेंगे, कोई भी इस काम में पीछे हटने वाला नहीं हैं, लेकिन गांवो में यह काम बहुत ढीले ढंग से चल रहा है। आप खुद चल कर इस को देख सकते हैं कि वहां पर किस तरह से काम किया जा रहा है। अगर आप किसी अफ़सर को भेजेंगे तो वहां से आप को यही रिपोर्ट मिलेगी कि सब ठीक से चल रहा है, लेकिन सच्ची बात का पता आप को नहीं चलेगा। आप खुद चल कर देखिये कि वहां पर स्माल सेविंग्स का काम ठीक से चल रहा है या नहीं। अगर आप इस कर्जे के काम को ठीक से चलायें तो मैं कह सकता हूं कि आप को रुपये की कमी नहीं होगी।

इस के बाद मैं वित्त मंत्री जी का ध्यान हिन्दी न्यूमरल्स (अंकों) के ऊपर दिलाऊंगा। उन्होंने इस बारे में कोशिश भी की है, लेकिन फिर भी मैं देखता हूं कि कही कहीं पर यह हो रहा है कि सब कुछ तो हिन्दी में है पर नम्बर लिखे है अंग्रेजी में। यह तो वही बात हो गई कि गुड खायें और गुलगुले से परहेज।

एक माननीय सदस्य : उन्होंने तो हिन्दी में लिख दिया है।

श्री विभूति मिश्र : यह गवर्नमैंट भी गुड़ खा कर गुलगुले से परहेज करती है। सब कुछ तो हिन्दी में लिख दिया लेकिन नम्बर लिखे अंग्रेजी में। यहां हमारे शिक्षा मंत्री होते, जो कि हमारे देश के पुराने सेवक हैं, जिन के नेतृत्व में हम लोगों ने काम किया है, तो मैं उन से कहता कि आखिर वह जब सब कुछ हिन्दी में लिखते हैं तो संख्यायें ही क्यों अंग्रेजी में लिखते हैं। मुझे दो चार रिपोर्टें ऐसी मिली हैं जिन को पढने पर मुझे मालुम हुआ कि सब कुछ हिन्दी में है लेकिन अंक अंग्रेजी के हैं। मेरी समझ में नहीं आता कि ऐसा क्यों है, इस को दूर करना चाहिये। आप को और कोई एतराज होता तो बात दूसरी है, लेकिन जब हम ने इस को राष्ट्र-भाषा स्वीकार कर लिया है तो उस में जिस तरह से भी हो सके, सुधार करना चाहिये।

इस के बाद मुझे यह कहना है कि आप के डिपार्टमैंट (विभाग) में प्रान्तीय सरकारों के डिपार्टमेंटों में भी और केन्द्र में भी एक जगह पर अफसरों के ओवरलैपिंग (अतिछादिता) होता है। एक जगह सरकार का सर्किल इन्स्पेक्टर है, एक जगह पर इनकम टैक्स आफिसर है और तम्बाकू का एक्साइज इन्स्पेक्टर है। यह तीनों ही एक जगह पर काम करने जाते हैं। अगर आप विचार कीजिये तो यह काम एक या दो आदमी कर सकते हैं। एक आदमी को आप कम कर सकते हैं और आप ो कुछ सेविंग हो सकती है। आप को चाहियें कि आप इस तरह की सेविंग करने में मदद करें और जो काम कम आदमियों दवारा हो सकता है उन में ज्यादा आदमी न लगाये जावें। जो आप के अफसर हैं वह तो सोचते हैं कि उन को तन्ख्वाह मिलनी है, उन ो क्या गरज है कि वह खर्चे की कमी की तरफ ध्यान दें। इस को तो आप को ही देखना होगा। देश की जनता बहुत गरीब है। वह टैक्स देती है, पैसा देती है, लेकिन उस को बहुत कष्ट होता है। एक बात मैं आप को बता देना चाहता हूं कि देश के लोग बड़े होशियार हैं, हुकूमत के लोग जो कुछ कहेंगे उस को वह सुनेंगे। जो कुछ आप कहेंगे उस को वह सुनेंगे, इस लिये और भी आप को उन के हक में काम करना चाहिये।

Shri Gadgil: I only want to ask him one question, if you will permit me. Government has appointed an expert committee to go into the economics and the technical aspects of ambar charkha. I understand that that committee is not properly and fairly following the usual procedure in that those who oppose and who are anxious to show the defects with a view to removing them are being given no hearing.

The Minister of Finance (Shri C. D. Deshmukh): I may answer this question particularly. I have received a complaint to this effect and I have requested the Production Ministry to let me know the facts of the situation. The committee has been appointed by the Production Ministry.

Usually, I deal with the points of general importance first and then, in the time available, with matters of detail. But, I think it will be more proper if, at this stage of the discussions, I reverse the process and deal with the points of detail that have been raised by hon. Members. I think that will facilitate the further discussion of the Finance Bill.

Dr. Lanka Sundaram questioned the figure of 91.9 per cent, particularly in the case of shareholders of private companies and partners of registered companies. This figure was worked with reference to the amount of tax payable by an individual on the amount actually received by him or due to him. It does not

[Shri C. D. Deshmukh]

take into account any tax paid by the company or the registered firm of which he is a shareholder or a member. The tax paid by the company is on its own income as distinct from the income of the shareholders of the company. There is no justification, under our system, for combining the tax paid by the company with that paid by the shareholders. In India, the income-tax—but not the super-tax—paid by the assessee is assumed to have been paid on behalf of a shareholder who is given credit for it in his own personal assessment. It is true that in some countries, as for instance in USA, such credit is not given. Our system is taken from and comparable with the system obtaining in UK. The general percentages of the tax level in this country are also comparable with those obtaining in UK and in any case, what we have to consider, is our own levels from time to time. So long as we have a uniform system of compiling these figures, it does not seem to me to matter very much how they are compiled in detail.

He also wanted a fairly adequate clarification in respect of tax reliefs now proposed, about the corporation tax. The only reliefs in respect of corporations, announced recently, are as follows. Bonus shares issued by companies out of share premium will be ignored for the purpose of increase in the rate of super-tax but bonus shares issued out of any other resources will be taken into account. The share premium received in cash will be included in the paid up capital of companies for determining the rate of tax applicable to a company which is distributing dividends. This will have the effect of widening the base, on which the calculations are made, slightly. The original scheme proposes in respect of registered firm that it will pay the tax as suggested thereof. In the case of partnerships, the tax will be charged on the shares actually allocable to them. Relief would be given in respect of the income-tax, not on super-tax, on the shares allocable to the partners and the tax paid by the firm. It is now proposed that such relief be extended to super-tax also on the share allocable to the partner in spite of the firm's tax in so far as the income is not derived from business as defined in the Income-Tax Act.

He also wanted to know what the total sum of money was which was sought to be remitted in terms of the tax reliefs now proposed. I have already said that the changes in the original proposals now made will only have a small effect on the revenue. Although it is not possible to give the exact figures, I do not believe that it is likely to exceed Rs. 50 lakhs.

Another Member, Shri T. S. A. Chettiar, observed that income-tax officers were not properly trained and were not equipped in time with instructions on the implications of the changes in the income-tax law from time to time. Our reply is that a copy of the Income-Tax Act, as amended by the Finance Act, 1955, was available to the income-tax officers and the public within fifteen days of its becoming a law. Similar arrangements have been made this year. Quarterly bulletins embodying all instructions and changes are being published for the use of officers and inspectors since 1955. These are of course for departmental use only. Training classes for all new recruits exist in Calcutta and are organised in other centres. As and when necessary, refresher courses have been organised in five centres since 1954.

Shri V. P. Nayar said that steps should be taken immediately to put down evasion and realise every pie of legitimate tax. My first observation is that I do not believe there is any country in which a pie or a similar fraction of the currency of tax is recovered. My detailed answer is as follows. A special directorate headed by three very senior officers of the department is going into cases which have been referred to the Income-tax Investigation Commission. Another special directorate is looking into individual items of big tax evasions. Two Central Commissioners in Bombay and Calcutta are looking into specially selected cases. Further sub-circles have been created in each Commissioner's charge, working under their direction, to look into more complicated cases. Furthermore, special refresher courses are being organised to train officers in methods of tax detection. Special survey units have also been formed and surveys are being conducted to find out cases of persons not paying tax. In my reply the other day, I have given figures of the progress made in this particular work of survey. Finally, generally speaking, continuous improvements are being made in the Act to plug loop-holes. The current Finance Bill, for instance, contains powers of search and seizure of documents given to officers and also to reopen old cases of tax evasion. The difficulty here is that we are dealing with both evasion and legal avoidance.

In addition to the measures that we have taken, unless we have a generalised return of wealth, it is not possible for us to tighten up this process of gathering taxes. I had occasion to say the other day that this is one of the measures which is under consideration. When it will come before us is more than I can say because it presents very formidable administrative difficulties. It is true that at the moment we have a return of wealth or a statement which is demanded from people with incomes over Rs. 36,000. But unless we have some *prima facie* reasons for suspecting evasion, we do not usually have an occasion to check the details that are given in this statement. If at any time they were to be replaced by, as I said, generalised tax on wealth, then it will be the duty of the administrative machinery to try and check every such statement in order to verify it.

There is a belief—although it is not one of the points made by the hon. Member—that if the tax levels were lower in this country, then, evasions would be very much less. I am quite convinced that even if the taxes were to be halved, evasions will continue on the same scale. It is a general question of sharpening our wits and educating the public in the civic duties.

In addition to this tax, various other taxes have been suggested by hon. Members—business profits tax, succession duty, gifts taxes and so on and so forth. I should like to make just one general statement. There seems to have been an impression created that what I have said the other day refers only to the recommendations made by the Taxation Enquiry Commission. But I must point out that that Commission was appointed before we had drawn up the Second Five Year Plan and, in any case, this is a document containing, shall we say, the general philosophy about taxing with reference to conditions in this country. Since conditions keep on changing, some portions of it are apt to get out of date and, in any case, we keep on receiving suggestions from various quarters. One such suggestion, for instance, is a tax on expenditure. All these are new ideas which have to be thoroughly studied, investigated and related to their administrative implications. Then only will it be possible for the Government, if it so thinks fit, to bring them forward before the legislature.

12 Noon

I might as well deal with another general point that has been raised in regard to taxation, and that is, the report of the Taxation Enquiry Commission was not discussed by the legislature. It should be remembered that it contained recommendations which have a bearing not only on our taxes, but on the taxes of State Governments as well as local bodies. It contained also suggestions in regard to the development of the administrative machinery. It contained suggestions in regard to the formation of economy committees and so on and so forth. But, in their essence, Sir, such a kind of report does not lend itself to a general discussion in the House. Already we have implemented quite an appreciable number of suggestions made by that body. Last year we implemented some, this year we are implementing some more and any discussion could only be in very broad and general terms. They would be not greatly different from the terms in which we discuss the question of resources, so to speak, in the Second Five Year Plan. Take for instance the question of excise duties. The Taxation Enquiry Commission has suggested a large number of them. It is not possible for us to go into the kind of details which would give an indication to the public as to what is in the minds of the Government. Therefore, it is very much better that whenever we have to bring a matter we bring it before the same forum, namely the Parliament, and it is for the Parliament to make up its mind on that particular problem that is referred to it, with reference to all that has been said by the Taxation Enquiry Commission in the report which is available with hon. Members.

Shri B. S. Murthy (Eluru): will not the Government be benefited if the report of the Taxation Enquiry Commission is debated by this House and the views of the Members obtained?

Shri C. D. Deshmukh: That is like inviting the House to give a sort of predecision on the matters which are going to come before it. That is not the kind of procedure that is followed. Apart from the report of the Taxation Enquiry Commission, in my regular taxation I do not have a session in November in which I say to the House: "Well, this is in my mind; I suggest the following taxes, what do you think of them ?", and if they say: "Yes", if their response is encouraging then I come forward in the Budget

[Shri C. D. Deshmukh]

Session with those specific measures of taxation. It is, therefore, I say, taxation is a matter which does not lend itself to too much, shall I say, pre-deliberation.

Shri Mohanlal Saksena (Lucknow Distt. *cum* Bara Banki Distt.): Mr. Speaker, I would like to point out that the Taxation Enquiry Commission has not only made recommendations regarding taxation, it has also made certain other rocommendations regarding economy, regarding the possibilty of exploring the utilisation of surplus labour in the country and so on. For instance, they have said that the national income in real terms has remained unchanged, while here every day the hon. Minister says that the national income has gone up. So, there are many other points which can be discussed and need not necessarily be only the question of taxation on essential articles.

Shri C. D. Deshmukh: Sir, the hon. Member has made a second speech. In any case, my point holdes, that all these matters come up for the consideration of the House in one context or another; either they come up in connection with the general discussion on the Budget or, more than that, they come up in connection with the Plan. Almost every day there is some reference to national income, increased production, so on and so forth. So far as economy is concerned. I have already said what I had to say and it was open to hon. Members to challenge the conclusions that had been reached by the Government in this matter. To my knowledge, no Member has observed adversely on the suggestions that were put forward by me for the first time in my Budget speech.

Now, Sir, I come back to this matter of taxation and the content of the Finance Bill. Some Members have objected to amendments of the Income-tax Act carried out through the Finance Bill. All that we claim is that these amendments are not matters of procedure but are confined to matters relating to the imposition, abolition, alteration and regulation of the taxes, and all these matters are comprised within the content of article 110 of the Constitution.

Shri K. K. Basu (Diamond Harbour): And therefore the modification of the Act.

Shri N. C. Chatterjee (Hooghly): Without a Select Committee.

Shri C. D. Deshmukh: It is not that every Bill goes to a Select Committee. But we can claim that certainly an opportunity is given to the House for discussing the Finance Bill, at least as adequate as most other Bills, except, as I say, the omission of the Select Committee stage.

Shri N. C. Chatterjee: What was pointed out, Sir, was that, apart from the fixation of rates and duties which are pertinent for the purpose of raising the actual revenue for the next year, you are making drastic amendments of other substantive provisions, which do not go to a Select Committee. Therefore, it was said that, that could be relegated to another Bill and the ordinary legislative procedure could be followed.

Shri C. D. Deshmukh: This is a matter of convenience. If the House does not like to be rushed in respect of these particular amendments, they can indicate their desire.

Shri N. C. Chatterjee: That is what we are trying to do.

Shri C. D. Deshmukh: But the House does not hold that view on most occasions.

Shri K. K. Basu: The Central Hall does not.

Shri C. D. Deshmukh: Shri C. D. Pande has objected to the power to reopen cases beyond 8 years. I can only repeat that it will not affect the small assessees as the total amount on which the tax has been evaded must exceed Rs. 1 lakh and, further, no cases will be reopened except with the previous permission of the Central Board of Revenue so that petty harassment will not be possible. In this context it has been suggested to me by Shri Pande that, in any case, before the cases are reopened an opportunity should be given to the party to be heard. That is a suggestion which will receive my consideration.

In other countries, I should like to point out that there are no limits on the amounts or the time during which the cases would be reopened. Therefore, we do not see why a time-limit should not be set, especially for dealing with cases of fraud.

Shri N. C. Chatterjee: May I point out that in those countries only in cases of fraud you can reopen, otherwise you cannot? But, here our net is cast much wider.

Shri C. D. Deshmukh: The wording of the clause certainly comprises cases other than fraud, but we can only announce what our intention is and that I have announced, that it is cases of fraud, particularly cases which have been dealt with in accordance with another procedure, that probably the Central Board of Revenue will consider as fit cases to be dealt with under this extended power.

Pandit Thakur Das Bhargava (Gurgaon): If that is your profession, why don't you put it in the Bill itself?

Shri C. D. Deshmukh: There are legal legislative difficulties by which we cannot discriminate in that fashion. We must examine those cases and find out. It is not possible for me to go into legal grounds again, because what I say here might be taken....

Shri N. C. Chatterjee: There would be no discrimination; there would be only rational classification if you adopt the English wording.

Shri C. D. Deshmukh: Sir, already five minutes have been lost out of my time.

Mr. Speaker: If the hon. Minister sits down, I cannot help him. If he stands..

Shri C. D. Deshmukh: It is an appeal through you to the other hon. Members, Sir.

Then another hon. Member objected to taxation of registered firms and taxation in respect of bonus shares. I consider that these points have been fully and cogently answered by a Member on this side, Shri Morarka. As stated by him, registered firms have been treated more favourably in the past and there is no reason why they should not pay something in lieu of corporation tax. I have already explained this matter in the course of my Budget speech, the rationale for this new taxation. As regards the taxation of companies for the issue of bonus shares, I consider that I have already given adequate justification.

The same Member pointed out that if a company issues bonus shares in a year in which there is a loss, then there would be no tax and he was inclined to think that tea companies were being lightly dealt with. The scheme of taxation is that a tax is charged on the total income of a company for the issue of bonus shares. There is no tax, as I have explained before, on bonus shares as such. If, therefore, there is no taxable income, no tax can be levied merely for the issue of bonus shares. The remedy, therefore, lies in an administrative action not to permit an issue of bonus shares in a year where the company approaches for such permission where it has suffered a loss.

As regards tea companies, the extra corporation tax on account of the dividend above six per cent will certainly be applicable, and our scheme was, that portion of the total income of the company is subject to income-tax.

Another hon. Member finds it difficult to understand the exact staff position of the Income-tax Department, and he also referred to some article in the press in which it was mentioned that the Income-tax Department was over staffed. We claim that the article in the press was incorrect. Although at least the Special Officer whom we had appointed has come to the conclusion that we are not so short of staff as we think, there is nothing to indicate that there is overstaffing in this department. The last occasion on which an advertisement was put out for more officers in the department was in December, 1952. Recruitment in the department is not merely for expansion but also for filling in vacancies on account of retirement. This is normally done through the Public Commission.

Another Member complained that a large number of employees in Class III and Class IV of the Income-tax Department were yet temporary. Out of a total number of 14,500 posts in these two grades, the number of permanent posts is 8,000. More posts will be made permanent after the Special Officer of the Central Board of Revenue has finally reported on the adequacy or otherwise of the staff in the department.

Then there were various complaints about the inadequacy of statistics. Kumari Annie Mascarene complained that figures relating to foodgrains did not show the imports on Government account. She referred to paragraph 13 of the introductory note of the book. I find she is not here in the House. It is not possible to include in these accounts complete figures of imports on Government accounts at the time of their importation owing to the operation of a special system of clearance of the Government stores under which full particulars required for trade registration are

[Shri C. D. Deshmukh]

not available at the outset. The accounts are, however, adjusted later in so far as the particulars wanted are gradually collected by customs houses. In so far as the foodgrains are concerned, arrangements have now been made to publish the approximate total value of such residuary imports on Government account as have not yet been brought under the regular trade accounts under composite heads—other imports on grain, pulses, flour and food from April, 1952. This is given at pages 52-53. Its value is not thus directly taken into account under the grand total of the imports.

Shri Morarka complained that in answer to a question Shri M. C. Shah said that the information was not available while it was available in certain published statistics of the department. He wanted to know the exact number of companies which had earned a rebate of one anna for undistributed profits in certain years. The statistics as compiled and published do not show the number of companies but the number of assessments. It is possible that in one particular year assessments for more than one year are made in respect of one company so that the figure of assessment shown will not be for the exact number of companies. That is why the answer could not be given to Shri Morarka's question.

Then, in regard to direct taxation, there were two other points. Shri Basu complained that the perquisites were not fully taxed. The value of a free house has always been subject to tax. The perquisites other than a free house have been taxable since 1955 in the case of persons with a salary of more than Rs. 18,000 per annum.

Shri K. K. Basu : My point was this. As the money is being paid for by the company, the company gets the benefit by way of a reduction of the quantum of the profit, if that is part of the normal expenditure. There should be some sort of control.

Shri C. D. Deshmukh: Yes; I understand. You say that it must be to the extent to which it is permitted. That, I am afraid, is unavoidable. It is part of the expenditure of the company.

Shri K. K. Basu: If the company spends proportionately, then certainly it is for the Government to find out whether the money spent on a particular subject is proportionate to the requirements. That is what I wanted to make out. You have changed it now in respect of the shareholders and directors.

Shri C. D. Deshmukh: That holds good for any other expenditure to the extent to which we find that the expenditure is excessive. It is open to us to question it. We have taken powers to look more closely into this matter and we shall bear the observations made by the hon. Member in mind in dealing with the company assessments.

There is one important point which some Members have raised, and that is about the kind of accordance of ceiling of land with the question of ceiling on incomes. They have commented on this and have raised this question why there should be a ceiling on land if there is not simultaneously a ceiling on incomes. The point is, land in a large and thickly populated country is much sought after as a non-reproducible instrument of production. That is to say, it is scarce, and the natural resources, ownership and cultivation of land determine in an important way the economic and social relationships within rural society. There is, therefore, a special case for regulation of land ownership, tenures and tenancies and land utilisation. A ceiling on land is not primarily a device for limiting incomes though it is in reality a way of ensuring that this scarce factor of production is not monopolised by a few. There is nothing in theory, at any rate, in preventing a landholder from having other assets, say, a house or Government bonds or industrial shares. What is sought to be limited is his land-holding and not his income in the aggregate, though undoubtedly ceilings on land have a direct effect on income—a variable effect on income.

Hon. Members would be interested to know that even in the United States, the size of family holdings on lands coming under the new irrigation projects undertaken by the Federal Government is being limited to 160 acres. The conditions in that country are of course different. Their techniques are different and here, we have a country of small landholders and the problem is to discover ways of increasing the yields that these small-holders have through intensive cultivation, co-operative purchases and sales and the like. Large holders are relatively few but they account for a not inconsiderable proportion of the total land available for cultivation. This disparity cannot be justified when there are large numbers of people who have less than a basic or a minimum holding and when

others are entirely without land. The limit on income through ceilings on all property is not at the moment a feasible proposition since it would involve payment of compensation. Action has, therefore, to be limited to fields where it is urgent in the overall social interests. Nevertheless, the removal of disparities in income and wealth all over the economy cannot and should not be delayed over long, and the who runs may read the sense of the times. The ceiling on land-holdings is, for the reasons mentioned, a special case in respect of which action is justified apart from the general issue of ceiling on incomes.

The last speaker said something about the condition of peasants and their incapacity to bear any taxation. He also referred to the possibility of raising as much money as we wanted for education or irrigation projects or what not, or subsidising the Ambar Charkha from tax on Rajas and Maharajas. Now, even if they exist, to the extent to which the Constitution allows us to tax them, they are taxed. Apart from that, there are special provisions of the Constitution under which they are taxed. For instance, in the case of estate duty, they are subject to the taxation. In any case, I think it is oversimplifying the problem merely to point out to a few tall poppies and to say that as soon as those poppies are struck down, all will be well with the health of the community. The same speaker made a useful suggestion in regard to small savings which, like the suggestions made yesterday, we shall consider.

I now come to the indirect taxes. I will first deal with the tax on diesel oil. One hon. Member said that this tax, together with the tax imposed in the Madras State, will affect the agriculturists. Another Member also suggested that agriculturists should be exempted. In answering a similar criticism in the General Debate in the Rajya Sabha on the 8th March, I said as follows:

> "It is unfortunate that sometimes excise duty is in addition to the sales tax that the States are imposing. That is one of the problems of taxation for which no ready answers is forthcoming. It has to be adjusted, but so far as the Centre is concerned, what the Centre imposes must have precedence. In other words, the Centre will collect it for the simple reason that it collects nearer the source than the State Government."

That is the position with regard to diesel oil and similarly with regard to the other commodities. It has been asserted in this connection that in the case of food cash crops, the incidence of increased cost on account of excise duty on diesel oil employed in running water pumps in a 25 acre farm is of the order of ·66 per cent only the value of the production. Where tractors also are employed, the incidence of the duty on the consumption of both diesel oil and power is 4.3 per cent. Mechanisation on agricultural farms is likely to be more commonly met with in the better organised plantation industries like tea, coffee etc. or among the larger farming interests, since by and large the economy of these people is superior to those employing traditional methods of farming generally prevalent in the country. The case for any relief is to that extent at any rate weakened Food-crop prices have steadily appreciated since May, 1955—rice by 16·9 per cent, wheat by 49·4 per cent, bajra by 15:5 per cent and jowar very considerably. There has been no hesitation on the part of the State Governments in increasing their sales taxes both on diesel oil and power alcohol..

Shri C. D. Pande: We suggest coordination.

Shri C. D. Deshmukh: I have dealt with that point. I am sorry, I should not take notice of this interruption. The recent instances are the increase of sales tax on diesel oil from 1¼ annas per gallon to 4 annas per gallon in Madras and the proposal to increase the sales tax on this oil from 3¼ to 6¼ per cent in Rajasthan. The present proposal is only by way of replacement of revenue lost—this is an important point—on account of import duty in the growth of indigenous production at the expense of imports. Nevertheless, I have gone into this matter of the incidence of diesel tax on the agriculturists. At the moment, I cannot say that a remedy offers itself. We thought in terms of rebates and subsidies and so on; but, the administrative difficulties are there considerably. The total tax involved on high power diesel oil is of the order of about Rs. 50 lakhs. We are not quite sure that, if any arrangements are made for the benefit of the agriculturists, the benefit will remain with the agriculturists and not be passed on through illicit channels to other undeserving sections of the community. In any case, we have not given up the problem and we shall continue to try to

[Shri C. D. Deshmukh]

solve it. If we do find a solution, I think we have the necessary powers to give effect to our decisions.

Then, I come to the tax on soap. It is not the intention to place the manufacturers of soap who do not use power on a par with those using power. The intention is that the larger producer of soap without the aid of power should not be placed in a position to offer an unfair degree of competition to the smaller producer, who uses power. The justification for the withdrawal of exemption for the manufacture of soap not using power lies in the fact that in the past two years, under cover of the exemption, large units producing even up to 2,000 or 3,000 tons per year were enjoying an altogether unmerited advantage at the expense of the exchequer and in competition with the smaller manufacturers producing soap with the aid of power; factories with the production of this magnitude could not, by any stretch of imagination, be called small-scale or cottage output factories deserving fiscal protection or encouragement. Nevertheless, in recognition of the fact that manufacturers using power generally produce a better quality product and enjoy better economies in production costs, some preferences have been provided for the manufacturers who do not use power. Further, 200 tons per year amount to a daily output of about 20 maunds of soap, the value of which would range between Rs. 500 to Rs. 800, so that it cannot reasonably be urged that a person producing even a larger quantity than this should be regarded as a small manufacturer entitled to enjoy a total exemption. In terms of revenue, the value of the concession granted to the totally exempted units is approximately Rs. 20,000 per annum per unit. Surely, this is large enough to protect the interests in any genuinely small unit. Moreover, the exemption which has been given operates as a slab for units producing more than 200 tons per annum, so that the actual incidence on the smaller factories is much lower than the prescribed rate. Take, for instance, the manufacturer producing 300 tons only. He actually pays one-third and one producing 400 tons pays only one half of the prescribed rates on his total output. A slab exemption which operates in this manner also incidentally reduces the temptation for marginal units to split up into smaller units to avoid duty. The position for reducing or abolishing the prescribed duty does not, therefore, exist.

The hon. Member also referred to cardboard. Here again, the value of the concessions to the small units is Rs. 35,000 per annum per unit. Apart from the benefit of the slab as in the case of soap, this concession, I think should go far enough as a measure of encouragement to such items.

We come to cocoanut oil. One hon. Member desired to know why the revenue which is expected from the excise duty on vegetable oil should not be raised by putting in heavier customs duties on copra and cocoanut oil imported from abroad. He quoted figures showing imports of copra showing an upward trend for the past so many years and desired to know categorically why it has not been possible to enhance the import duty on Ceylon copra and cocoanut oil. It is a fact that the imports of copra have risen considerably since 1950-51. Imports of coconut oil, however, have been generally on the decline since 1951-52, the quantum coming down from 7.3 million gallons to 4.3 million gallons in 1955-56, for the first three quarters, up to December 1955. The value has come down from Rs. 6.03 crores in 1951-52 to Rs. 2.41 crores for the first nine months in 1955-56. There is shortage of coconut oil in the country and it has to be made good either by promoting import of copra for crushing or of coconut oil itself. This necessitates the maintenance of a proper balance between the interests of the indigenous producer of copra, miller and the consumer of coconut oil. The proportion between the import of copra and coconut oil and the levels of import duties imposed on each have, therefore, to be carefully watched and determined from time to time. This is a tax which is constantly engaging the attention of the Ministry of Commerce and Industry on the one hand and the Ministry of Food and Agriculture on the other. The excise duty, although professedly a burden on the industry, is actually meant to be passed on to the consumer. In the case of coconut oil, there is every indication that this transfer to the consumer has, in fact been achieved. I have already pointed out that the imports of coconut oil and copra, both of them, are controlled and are allowed only to the extent necessary to overcome internal shortages. But, the fear of unhealthy competition by Ceylon is unjustified. Moreover, we have taken care to put an additional counterveiling customs duty on such imports equivalent to the excise duty in order that the indigenous product may not be put at

a disadvantage *vis a vis* the imported product on account of the excise duty. There was some small point to which Dr. Lanka Sundaram referred in regard to the duty on motor spirit. Since he is not here and it is a small point, I shall pass over it.

Then, I come to the question of tax on edible oils. Many hon. Members have objected to it, some on this side also. There is already a duty on vegetable products of one anna per pound against this six pies per pound which has been imposed on vegetable oils also. Since vegetable products are made from vegetable oils, the duty on vegetable products, in fact, amounts to Rs. 0-1-6 per pound. The differential of one anna per pound therefore continues to be maintained. I need hardly remind the House that oil crushed in village ghanies is already exempted from duty. The duty falls only on oil produced with the aid of power. Even a manufacturer using power is not required to pay the duty if his production does not exceed 125 tons per year.

Suggestions have been made for introducing a compounded levy system for the recovery of the excise duty on vegetable oils. I may state in this connection that conditions in the art silk industry and the vegetable oil industry are radically different, because some analogy was sought to be drawn. Oilseeds crushed are of various kinds, so that in terms of oil, the yields differ from seed to seed, and the capacity of the equipment employed, that is to say, the kolhus, expellers and so on, is not uniform. The possibility of introducing a compounded levy system is, nevertheless, being explored. As I said, the safeguard is that units producing up to 125 tons are already exempt.

From the consumers' point of view, both in regard to mustar oil and coconut oil, the proposal has been criticised as a tax on an article of general consumption and that all consumers of edible oil, whether rich or poor, are made to contribute to the exchequer. We have calculated the incidence of this tax on the family budget. It comes to .09 per cent and .12 per cent in the rural and urban areas respectively. This is so far as the tax is concerned. I do not accept the proposition that the tax should be made responsible for all the rise in prices that has taken place in the recent past. Much of the rise must be due to other factors: may be the operation of hoarders and other speculators. If that is so, that phenomenon must be dealt with on that basis. If we succeed in dealing with it, then, the tax that is proposed will be found to be no burden. In the early stages, market prices generally shoot up beyond the limits justified, But, then, one should remember that prices were already on the upward trend due to various causes. For instance, in the case of groundnut, comparative failure of crop. It is a matter of common experience that the initial spurt given to prices is of a somewhat higher order than the duty itself. But, we hope that, provided that the other problem is dealt with, the prices will read just themselves to the level determined by the normal forces of demand and supply. The price of mustard oil was Rs. 48 per maund immediately before the budget. The highest limit to which it has risen is Rs. 66 per maund; on 7th April it was Rs. 62 per maund.

Shri K. K. Basu : If rose to Rs. 72 in Calcutta.

Shri C. D. Deshmukh: Must have been after the speech of the hon. Member.

Shri K. K. Basu: The hon. Minister does not appreciate a taste for mustard oil in order to understand its implications.

Shri C. D. Deshmukh: I keep it to myself. That is not very relevant here.

There was some reference to tea, and it was said that the London price was not a very suitable basis for the calculation of export duty. What I have to say in this connection is that the London auction prices represent the world price, London being the biggest individual world market. These prices have risen from 44·85 d. to 59·08 d. or very near the point at which the benefit of the recent reduction begins to operate. The exports during the first quarter of 1956 have been in excess of the exports during the corresponding period of the previous two years and have generally made up for the fall in the last quarter of 1955.

This exhausts most of the specific points that were raised by hon. Members. I shall now proceed to deal with one or two points of general interest, which were raised by some of the Members. I am sorry, there was one point to which I should have made reference,

[Shri C. D. Deshmukh]

because it cropped up again and again. and that was some book written by an author who was at one time employed in the Income-tax department. I think hon. Members have allowed themselves to be over-influenced by the fact that he had been an employee of the Income-tax department and therefore knows everything that is to be known about income-tax.

Shri A. M. Thomas (Ernakulam): Shri N. C. Chatterjee has written foreword.

Shri C. D. Deshmukh: I would ask Shri N. C. Chatterjee if he has read the whole book.

Shri N. C. Chatterjee: I can assure the hon. Minister that that has exposed many of the dark spots in the working of the administration, which require sympathetic consideration.

Shri C. D. Deshmukh: I should like to remove the misapprehension of the hon. Member. There are a few points. A person who has been in the Income-tax department cannot help making a few useful suggestions. Independently we have already made some points clear. Many improvements have been embodied in the amendments that we have brought forward from time to time. But, some of his conclusions are, I am afraid, platitudinous, some border on the cranky. This we say after a careful examination of the book.

Shri A. M. Thomas: It is the missionary spirit that has actuated him.

Shri C. D. Deshmukh: One or two hon. Members have suggested committees for various purposes. They seem to be of the belief that once you refer a problem to a committee, it is almost as good as solved. I believe in the maxim that a committee is a body which keeps minutes but wastes hours.

Then, in regard to the economic situation, there were observations to the effect that there really had been no increase in national income or that a proper share of the national income did not go to one sector or another. Now, the national income is in other terms the national production, and if there is an increase in the production, shall we say, on food crops, then, to begin with, at any rate, that increase in production must have raised the incomes of those who produced it. What happens afterwards in the exchanges that take place in society is another matter, and which, as I said the other day, is very difficult to trace, because we are not in possession of completely developed statistics. We are trying to improve, and I have no doubt that in course of time, it will be possible for us to get a clearer picture of income distribution after these exchanges that I have referred to.

Shri K. K. Basu: That presupposes that there are no middlemen working in the middle trade between the actual producer and the mills.

Shri C. D. Deshmukh: Middlemen also get certain incomes which are booked in the account of national income. For instance, income from production, income from mining, income from the secondary and tertiary occupations, all these are brought to account.

Shri K. K. Basu: Increasing the production of food does not necessarily result in an increase in income so far as the actual producer is concerned, and the increase in income may not bear the same proportion.

Shri C. D. Deshmukh: No, not in the same proportion. Nor have I claimed that all the 20 per cent remains with the agriculturists. In fact, I have confessed my inability to place my finger on the exact percentage that remains at the moment with every section of the community.

Some reference was made to the inability of Government to curb speculation. Speculation is of two kinds. The first is the regulated or semi-regulated speculation in stocks and shares and the various commodities dealt with in the forward markets. We have some kind of machinery for dealing with this, and we hope to bring forward the necessary measure; in fact, the measure is already before the Select Committee, and their report will be submitted to the House very soon. Human nature being what it is, a certain amount of speculation is bound to exist; and although in theory, we have recognised that State trading and controls could be a remedy, in practice, we find that there are very severe limitations on our capacity to deal with that problem adequately in that way. To the extent to which we can bring to bear buffer stocks on the operations of speculators, we are prepared to do so, and in the past, we have done so in regard to food. The other method, controls is generally not

acceptable to the community. Nevertheless, whenever there is any attempt to corner commodities of essential use, or industrial raw materials, from time to time, we bring to bear some method of control or allocation on it. For the rest, it is a matter of taking care, I think, of the credit arrangements, for if we get to the root of the matter we find that speculation is to a great extent assisted by bank finance. And it is for this purpose that the Reserve Bank has, as hon. Members would have noticed from the press, called for a report of advances made against commodities by the commercial banks in this country. I mention this in order to assure the House that we are seized of the problem, and we shall be vigilant.

There was some reference made to State enterprises, and the lack of accountability to Parliament. This is an issue which has been debated more than once on the floor of the House. The view that we have taken is that there are already committees of the House, which can be used or deployed, so to speak, for the purpose of dealing with that situation. Whether the Estimates Committee go into the matter one after another, or whether they appoint subcommittees to go into any matter further are things which must be left to the Estimates Committee to determine. Then, there is the Public Accounts Committee, I am convinced that between these two committees, the House can give to this question of the conduct of State enterprises such attention as should be given. I think in principle it has been recognised that this kind of control must not extend to the regulation of the day-to-day business of these enterprises, and that in that sphere, there must be great deal of autonomy, conceded to these enterprises.

Then, there were references to two other matters which properly fall under the Second Plan, namely.....

Shri Tulsidas (Mehsana West): May I ask a question?.....

Mr. Speaker: He may put his question at the end. Let the Minister finish first.

Shri Kamath: The Minister is not yielding. He is standing firm like a rock.

Shri C. D. Deshmukh: .... regional disparities and the question of shortfalls in expenditure. I think light will be shed on these matters during the course of the debate on the Second Plan. Here again, the priniciple has been admitted, and I believe it will receive prominent attention.

This matter of regional disparity is not a matter which escapes the attention of the State Governments, and a meeting of the National Development Council is soon due, and I have no doubt that any serious complaints in regard to inequitable distribution of the Plan expenditure will not fail to be made in that meeting of the National Development Council.

As regards the shortfalls in expenditure, it is not possible to give a compendious answer. There are various reasons; sometimes, foreign equipment is not available, sometimes the administrative machinery does not move as fast as one expected it to, and so on. Very often, it is due to the inability of State Governments to raise the corresponding matching contributions. This last one is a matter which, I have no doubt, will be considered by the Finance Commission, because I think it will be one of their duties to ensure that the State Governments are enabled to run on an even keel, having regard to the development already achieved as a result of the First Five Year Plan. I have no doubt that they will also give some attention to the capacity of the State to discharge the responsibility that rests on them or will rest on them in regard to arising resources for the Second Five Year Plan.

These are matters, therefore, in respect of which we must await the guidance and almost the verdict, I should say, of the Finance Commission.

Many speakers referred to this vexed question of deficit finance, and to this subject I think Shrimati Tarkeshwari Sinha made a valuable contribution. But while agreeing with her generally in regard to the development of the theory of the matter, I am still at a loss to know what in her opinion precisely is the amount of deficit finance that would be safe.

Shrimati Tarkeshwari Sinha (Patna East): I had suggested two things, the purchase of sterling from the Reserve Bank against your cash balances, and utilising the savings.

Shri C. D. Deshmukh: That does not amount to a figure.

Shrimati Tarkeshwari Sinha: It is very difficult for me to give the figure.

Shri C. D. Deshmukh: That is the whole point. I am very glad to have the admission of the hon. Member that it is very difficult to calculate the figure. We have given one figure. It may be that that figure will prove to be wrong. We hope it will be wrong in the sense that after the experience of the first year we shall find whether we have overdone it or we have underdone it. We shall keep our eye fixed on the price level in the country, and any other indicators that are available to us. For instance, if we find that we are generating inflationary pressures, then it will be open to us to adopt many of those measures which we have adopted in the past or which have been suggested from time to time by experts on the subject. Lastly, there is one little matter to which I should like to refer.

Shrimati Tarkeshwari Sinha: May I point out to the hon. Minister....

Mr. Speaker: The hon. Minister is not willing to yield.

Shri C. D. Deshmukh: I yield.

Shrimati Tarkeshwari Sinha: I mentioned in my speech that Government had to apply its mind to the problem of purchasing sterling against the cash balances of the Government. I think last year the Finance Minister himself mentioned this point in the course of his speech. I want to know what is the attitude of the Government, how the mind of Government is working, whether Government will utilise sterling against cash balances for purchasing equipment for the public sector, and also whether Government is going to mobilise public savings for imports and purchase of equipment or financing of projects. These two points must be clarified a little more.

Shri Gadgil: Her advice won't confuse him, I am sure.

Shri C. D. Deshmukh: She suggested buying sterling against *ad hocs* in preference to letting the public acquire sterling, as far as I understand.

Shrimati Tarkeshwari Sinha: Yes.

Shri C. D. Deshmukh: On this, we entirely disagree with her. Government acquires sterling against treasury bills and import goods. Then there is no reduction in the domestic money supply. If, on the other hand, private parties buy sterling, then they have to tender rupees and then reduce the monetary circulation. Therefore, it seems to us that in this situation, she envisages the latter type of operation would be better.

Shri A. M. Thomas: They are generally the views of the dissenting economist, Prof. Shenoy.

Shri C. D. Deshmukh: This is what we feel about it.

I liked the remarks which one hon. Member made in regard to austerity, especially among women. I think there is a good deal in what he said, and that seems to have come about by the ignoring by women of the advice which was given by Pandit बुजनारायणचकवस्त

It is a very good poem:

रंग है जिनमें मगर बूएवफा कुछ भी नहीं
ऐसे फलों से त घर अपना सजाना हर्गिज
खुदपरस्ती को लकब देते है आजादी का
ऐसे इल्लाक पै इमान न लाना हर्गिज ।।

An Hon. Member: What is the translation?

Shri C. D. Deshmukh: The hon. Member wanted a reply in Sanskrit which I am attempting now.

Mr. Speaker: That was in Urdu.

Shri C. D. Deshmukh: That is not mine.

क्षौमं केनचिदिन्दुपांडुतरूणा मांगल्यभाविष्कृतम् ।
निष्ठयूतश्चरणोपभोगसुलभो लाक्षारसः केनचित्।।

These are the ornaments given by the trees to Shakuntala.

This was the natural adornment of women in the old days.

Now this is mine:

इत्येतल्ललना प्रसाधनमभून्नैसर्गिकं भारते ।
जानीमः कविकालिदासरचनात शाकुन्तलाव्हाद्वयम् ।।

This is what we know from Kavi Kalida's *kriti*.

यातो हन्त स भूतिसारविपुलः कालोऽधुना संकुलं
राष्ट्रं निर्धनताविगादतिमिरे, स्वायत्ततत्रं पूनर् ।
यूक्तं भारतभूललामवनितास्त्यक्त्वांगभूषां स्वतः
कुर्युर्बन्धुजनस्य जीवनमथ प्रत्यग्रभारक्षमम् ।।

Unfortunately, those precious days are over and the *Rashtra*.

यातो हन्त स भूतिसार विपुल: कालोऽधुना संकुलं

is now merged—

राष्ट्रं निर्धनताविगाद तिमिरे

It is now plunged in the darkness of poverty.

स्वायत्ततन्त्रं पुनर्

although it is independent again.

Therefore, in these circumstances:

युक्तं भारतभूललामवनिताह्

Vanitas which are the ornament of our country.

त्यक्त्वागं भूषां स्वत:

should abandon their *anga bhushan*, should relieve the burdens of themselves.

कुर्यर्बन्धुजनस्य जीवनमथ प्रत्यग्रभारक्षमम्

should make the *jivans* of their fellow-beings more capable of bearing the new burdens that are cast on them.

Shri Kamath: नैतच्छक्यम्

Shri C. D. Deshmukh: If it is not शक्यम, then my answer is to go to the verse of Shri Altekar.

रश्मयो दिनकरस्य वा मम

Whether it is Dinakara's *rashmis* or mine—Dinakara is Surya, also poet—

स्त्रीसमाज विनय प्रबोधना :

they should influence the demeanour of the women's section of the society. So far as I am concerned, my taxes—not my *kara*—

भ्रष्टकार्यनिरतं महाजनं

वारयन्तु सपदि स्वतेजसा ।।

Those who are engaged in corrupt practices—

with their severity, let them affect those people.

Shri K. C. Sodhia (Sagar) *rose*.—

Mr. Speaker: Order, order. After the beautiful speech in Sanskrit, I must put the question straightway.

The question is:

"That the Bill to give effect to the financial proposals of the Central Government for the financial year 1956-57, be taken into consideration."

The motion was adopted.

Mr. Speaker: The House will now take up clause by clause consideration of the Finance Bill, for which 4 hours have been allotted.

Hon. Members who wish to move any of their amendments to the various clauses will kindly pass on the numbers of their amendments, specifying the clauses to which they relate, at the Table within ten minutes.

There are no amendments to clause 2.

The question is :

"That clause 2 stand part of the Bill".

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 (*Amendment of section 2 etc.*)

Shri Tulsidas: I beg to move :

Page 3, lines 40 and 41—

omit "whether capitalised or not".

As you will see, in page 3, in clause 3(c), they have added the words "whether capitalised or not". If I may say so, this clause amends the definition of dividend to include in it distribution of all accumulated profits, whether capitalised or not, on the liquidation of a company. The amendment seeks to exclude capitalised profits from this definition.

The definition of 'dividend' was amended only last year so as to tax as dividend profits of all past years—and not only of past six year as till then provided—on the liquidation of a company. With the present amendment, the Government would seek to include even capitalised reserves in the definition of dividend, and tax them as such. The process of constantly tinkering with the law does not seem to come to an end at all.

When reserves are capitalised, they form part of a company's capital. For all purposes, for example, reduction of share capital, capitalised reserves are treated on par with the original paid up capital of the company. It is equally improper to distinguish in the purchase price an investor pays for a share on

[Shri Tulsidas]

the market, between its original paid up value and the value that reflects capitalised and non-capitalised reserves and the company's earning capacity. There is no reason why the paid up capital should be broken up, on the liquidation of a company, into the part contributed by the shareholders and the part that is formed by the withholding of profits from shareholders. I will give an example to illustrate my point. Suppose a company's share has a paid-up value of Rs. 100 and a market value of Rs. 200 and suppose, all its past profits are capitalised to enable the issue of one bonus share for each share held; thereafter, each share is quoted at Rs. 100 in the market. Suppose, I buy such a share out of my current savings from the market and the company goes into liquidation tomorrow, paying to each shareholder Rs. 100 in final distribution. Is it fair that this return of my capital of my saving from income, on which I had paid income-tax only last year—should be split up into two parts, and one part taxed again as my income?

1 P.M.

No doubt, it will be argued that the clause does nothing but bring into line the provisions of section 2(6A) (c) of the Income-tax Act with those of the already existing section 2(6A) (a). I may point out that the two cases are not absolutely similar. The essential difference is that under section 2(6A) (a), the company continues to exist and the shareholder continues to be its member. In such a case, where a part of the company's assets are released during its life-time, section 2(6A) (a) lays down that the released assets shall first be deemed to be return of accumulated profits and then out of paid-up capital. The distinction is vital.

Secondly, under section 2(6A) (a), the shareholder has always the hope of recouping part of his loss through future earnings, a possibility which, with the liquidation of the company, is absent under 2(6A) (c).

I may refer to another factor which mitigates the hardship that would arise under clause 2(6A) (a) and which is not available under the present clause. When a company continues to exist and it decides to release assets, it can always so stagger its release that the tax burden on its shareholders will not be unduly onerous. This safeguard is not available to shareholders of a company going into liquidation. They will find that the return is concentrated in a single year; reserves accumulated and capitalised over a number of years will be deemed income of one year and taxed as such.

You may justify 2(6A)(a) on another ground. A company may make profits; it may not distribute them but capitalise them and later pay off bonus shares after a couple of years. In such a case, the shareholders would receive the profits and still not pay the tax on them. This is possible and it may justify such capitalised reserves being included in dividend when a company continues to exist. But, such a possibility is absent in the case of a company going into liquidation. What I am trying to suggest is that while arguments can be made out for including capitalised reserves under section 2(6A)(a), no such argument is possible for the present clause, except the argument by anology and, that, as I have shown is not applicable.

I would also like to point out the inequity of these taxes whose cumulative effect on company finances must be very adverse. You tax the profits of a company, whether they are distributed or not. You withdraw the tax rebate on undistributed profits. You cannot now justify the tax rebate by saying that it is to compensate for this particular favour to companies. You also insist on taxing reserves when they are kept aloof. In addition to that, when such capitalised reserves are returned to the shareholders, you now insist on taxing them in their hands.

You can well imagine the impact of these measures on the marketability of shares. Who is going to buy a share which is quoted today at a price above its paid up value when he knows that on the excess return, he will have to pay tax when the company goes into liquidation?

There are cases also where there are companies who have built up reserves for the past 30 or 40 years. Now, when those companies go into liquidation, then, whether the profits are capitalised or not, if they are distributed and in the hands of the share holders what is distributed—more than the paid up capital—will be considered as dividend in that year which is really inequitous. You have already taxed them and now you are taxing them one the dividend on the bonus share. You are not leaving them any benefit. Because of these things

the particular amendment is not desirable. This is not going to benefit or help anybody but it is going to create unnecessary trouble.

Supposing there is a bonus share. The public does not know whether it is a bonus share or an original share. When this company goes into liquidation, anybody holding that bonus share will be taxed on that as dividend in his hands. Therefore, I consider this is not fair and that this is inequitous. That is how I look at it.

The Minister of Revenue and Civil Expenditure (Shri M. C. Shah): This is a very very simple matter, though my hon. friend Shri Tulsidas has tried to make out that it is inequitable.

Last year, we amended this definition. Previously, according to the definition the undistributed profits of 6 years before the date of liquidation were considered as dividends. Those people who wanted to avoid taxes had a device of having undistributed accumulated profits. They closed the business for 6 years; they did not go in for liquidation for 6 years and, after that, they went into liquidation and thus avoided taxation. So, last year we amended that section. Thereafter, there was another devise. Instead of keeping closed for 6 years, they capitalised a part of the accumulated undistributed profits. When the matter was taken into liquidation the capitalised undistributed accumulated profits were not considered as dividends. The Bombay High Court gave such a ruling. Therefore, in order to avoid that or not to allow this device to be operated upon by those who wanted just to evade taxation, we have brought this that even that part of the undistributed accumulated profit which is capitalised will be considered as dividend. We had to make the position clear because of the ruling of the Bombay High Court.

Shri Tulsidas: May I point out that the hon. Minister is taking the plea that whatever is done is done with a view to evade taxation. I am trying to say that there should be protection and safeguard for *bona fide* persons—apart from the question of evasion. You may do anything with regard to evaders; but do not bring in that argument always. What is the protection against unnecessary harassment? Supposing I have a bonus share in my hand. When the Company goes into liquidation how are you going to distinguish between an original share and a bonus share? How are you going to tax the bonus share?

Shri M. C. Shah: I have nothing more to say. There was a loophole and that had to be plugged and it has been plugged. That is all.

Shri Tulsidas: There is no question of loophole.

Mr. Speaker: It is a difference of opinion. Now, I shall put the amendment to the vote of the House.

The question is :

Page 3, lines 40 and 41—

Omit "whether capitalised or not".

The motion was negatived.

Mr. Speaker : The question is :

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 *was added to the Bill.*

Shri Tulsidas : May I make one submission, Sir? There are amendements which have a far-reaching effect on the Income-tax Act. In view of the far-reaching effects of these amendments, I had written to the hon. Finance Minister to call a meeting of the Members who have put in their amendments in order to understand their points of view. It is very difficult at this stage, on the floor of the House, to discuss these matter. There is no Select Committee on this Finance Bill. I find also that the hon. Finance Minister is not here now. I cannot understand how all these factors are going to be explained. These are factors which are very important. They have not given any opportunity even to meet them. I think that, in this respect, you, Sir, as the custodian of this House, should assist us. I would like to get guidance from you. What are you going to do in this respect? They are going on in this way without even giving us an opportunity to discuss these matters with them.

Shri M. C. Shah : The purpose of most of the amendments which are being moved by Government has been explained by the Finance Minister in his introductory speech and in his reply to the Finance Bill. If any other information is necessary, I am prepared to give

[Shri M. C. Shah]

it. We have got our technical advisers as the hon. Member has got his own technical advisers. We have considered all these questions very fully and have spent nearly eight hours on all these amendments of my friend, Shri Tulsidas. I am sure when the House hears the explanation on those amendments, it will be convinced that those amendments are moved only with a view to reduce the effects of the taxation proposals already made.

Shri Tulsidas: The point which I made is : Should we not get an opportunity to discuss these matters with the hon. Finance Minister?

Shri M. C. Shah : I am not speaking now on the points that have been raised about the taxation proposals. There are those amendments to omit this, to omit that, to do this and to do that. All these can be very easily explained.

Shri N. C. Chatterjee : I may point out that we are not satisfied with the stand taken by the hon. Finance Minister with regard to his taxation proposals. Let them pass it certainly; they have got their backing.

Would you just kindly look at clause 18? I am giving you an instance and it is on page 9.

Mr. Speaker: What is it that the hon. Member wants to say now ?

Shri N. C. Chatterjee: I may just point out that in section 34 of the Income-tax Act, they want to delete the words "within eight years". As you know, there is a specific period of limitation and eight years is the maximum period of limitation for the purpose of reopening cases under section 34. In clause 18, we are trying to amend section 34 of the Income-tax Act by deleting the limitation period of eight years. Even in the year 1956, a man may be asked to come along and produce the books and accounts of his father or grandfather who had not paid the tax in 1941. That has got nothing to do with taxation proposals. This is a substantive amendment which has a far-reaching effect on the general people, not merely on the millionaires and multi-millionaires but on every taxpayer, who will be absolutely at the mercy of the income-tax official or department. What we are submitting is that you may reduce or increase or impose any duties for the purpose of having your taxation, but there are certain things which have nothing to do with taxation-amendments to substantive provisions of law. One provision is for doing away with the period of limitation. This is a very serious matter. Therefore, we are appealing through you to the hon. Minister if these things can be discussed across the table. Please delete these from the Bill, pass the taxation proposals only. We are not obstructive at all; we want this to be done. But in the garb of a Finance Bill, do not make such drastic amendments which are not necessary for the purpose of taxation. This is not really relevant to the annual taxation proposals. The Finance Bill is really meant for the purpose of getting taxation proposals enacted.

We want your ruling on this. Can such substantive amendments be made which have nothing to do with taxation or with the raising of revenue. Is it not outside the jurisdiction or purview of the taxation proposals of the Finance Bill? We are submitting that strictly, it is not relevant and not in order. We are, therefore, asking for your ruling and protection in this matter.

Shri M. C. Shah: The purpose of amending these sections....

Shri Bansal (Jhajjar-Rewari): Did you call the hon. Minister to reply, Sir?

Mr. Speaker: Yes, yes.

Shri M. C. Shah: The purpose of amending these sections has been fully explained by the Finance Minister in his Budget Speech, Part B. I do not know whether the hon. Member, who stood up now before the House, was present at that time. He fully knows that we had amended the Income-tax Act by adding section 34(1A) last year. The hon. Member knows fully well that the Supreme Court gave judgment declaring section 5(4) to be *ultra vires* of the Constitution—Income-tax Investigation Commission Act. Therefore, we had to amend the Act in order to see that those cases, which were not disposed of by the Income-tax Investigation Commission, were tried under section 34(1A). Thereafter, the Supreme Court again ruled that section 5(1) was *ultra vires* on 17th July 1954. So, all those cases, which were pending disposal then, had

to be referred again to the special directorate that was established. Then again in December 1955, there was a judgment of the Supreme Court declaring section 5(1) *ultra vires* from the date the Constitution came into effect. Therefore, again we had to fall back upon the ordinary provisions of the Income-tax Act, and all those cases, nearly 1300, had to be referred for investigation to the department that was specially created.

On the one hand we are told by hon. Members of this House that steps are not taken to get evasion cases tried by the Income-tax Department. They are telling us that there is tax evasion. When we wanted to take up all these cases of tax evasions, which have been already referred to the Income-tax Investigation Commission, certain sections of that law were declared *ultra vires*. Now we are told: why should we bring in these things?

Mr. Speaker: The hon. Minister had an opportunity to say something earlier and has said sufficiently. A point of order has been raised. Why should we not wait until the Finance Minister himself comes here?

Dr. Krishnaswami (Kancheepuram): I should like to refer you....

Mr. Speaker: The hon. Finance Minister referred to this matter in his speech which he delivered just now. He referred to this matter pointedly. A Finance Bill is intended to raise taxes which would subsist only for that year. The main object is to provide funds for the expenditure which had been voted by the House. That is the simple object of the Bill. Therefore, it is reasonable to say that other provisions relating to statutes, which are of a more permanent character, ought not to be clubbed with it but discussed on the floor of the House in a more leisurely manner. Linking them with this gives an appearance of emergency and, therefore, such kind of thought cannot be bestowed upon this. Though it is not technically incorrect to include a number of Acts for the purpose of amendment in a simple Bill of this kind—as a matter of fact, the Post Office Act is amended, the Excise Duties Act is amended, the Customs Act is amended and various Acts can be amended in a simple Bill—the object is all for the purpose of raising funds to meet the expenditure which had been voted. Amendments of a far-reaching character must be considered a little more leisurely. Shri Tulsidas appealed to my being in charge of these rules and regulations of the House. When did he discover it? Only now? As soon as he wrote to the Finance Minister, he could have easily told me. This is a matter of detailed consideration. I am under the impression that this can be done only in the next year; it could not be done this year. These things ought not to be clubbed. There is no such hurry. If the High Court passed a judgment on some legislation, let there be some independent legislation brought here which will be discussed threadbare. Under section 3 of the Income-tax Act, where the Central Legislature enacts that income-tax shall be charged for any year at any rate or rates, the tax at that rate or those rates shall be charged for that year in accordance with such provisions of the Act. It is a permanent Act. The main object of the annual Finance Act is to do certain things. There may be a lean year here and a fat one there. There may be extraordinary circumstances, where, in spite of a year being lean, additional taxes may have to be imposed. That is the main object of it. I cannot see how the House can be asked to decide all these things together; it will not be right. More time must be given to provisions of this nature. That is my individual opinion. I would have liked to bring it up before some Committee—EC or the PAC or even the Rules Committee—so that it may look into this question. Article 118 of the Constitution stipulates the procedure that is to be adopted in the case of such Finance Bills. The House can formulate its procedure. We can say that these things which are of a permanent nature ought not to be clubbed together wih the annual Finance Bill. In that case, sufficient attention may not be paid. As the hon. Finance Minister said, so far no objection had been taken. Now, Shri Tulsidas wants this to be looked into and the Finance Minister and the Minister for Revenue and Civil Expenditure say that all this has been looked into.

Shri N. C. Chatterjee: We have been tabling amendments asking for the deletion of these clauses and an approach was made to the Finance Minister. We thought that he was at one time inclined to agree and we thought that something would happen. Now, we

[Shri N. C. Chatterjee]

find that there was no favourable response and we are driven to ask for your ruling. As you pointed out, the purpose of the Finance Bill is to make provisions for increasing or reducing the rate that is charged—that is the operative provision. (*Interruptions.*)

Mr. Speaker: So far as this matter is concerned, let us proceed. I think the hon. Finance Minister may come at 2-30. So far as the general principle is concerned, if he is willing that these provisions may stand over for separate consideration. I have the least objection. I cannot give a ruling that this cannot form part of a Bill. Technically, it can. But is it desirable or not? It is another matter. Had this matter been brought up to me previously, I could have requested the Finance Minister to come and sit together and then look into these various matters. I could have requested him to keep these provisions off and bring a separate Bill as early as possible. All that might have been possible at an earlier stage. Now, I do not know if that is possible. Anyhow, let the hon. Finance Minister come and let us go on with the discussion. If he agrees, they may stand over. Otherwise, we will put them to the vote of the House. (*Interruptions.*) I have heard sufficiently about this.

Shri Tulsidas: I shall explain why I did not refer to you earlier.

Mr. Speaker: It is not necessary; whatever has happened has happened. Let us try to do what can be done.

Shri M. C. Shah: May I clarify one point about section 34? The impression which he expressed is not correct. If these things were delayed, all these tax-evaders will be scot-free.

Mr. Speaker: Let us see when we come to clause 18.

Clause 4—(*Amendment of Section* 4)

Shri Tulsidas: I beg to move:

(i) Page 4, line 31—

after "industrial" *insert* "or other"

(ii) Page 4, lines 31 and 32—

for "industrial practice" *substitute* "their practice"

This clause liberalises the income-tax relief given to foreign technicians. The amendments seek to widen the definition of technician to include persons having specialised knowledge in commerce, banking and other fields also. It is discriminatory to limit the relief to one kind of technicians only. After all, we also need the services of foreign experts in office efficiency, banking and other fields. The services rendered by such persons are as important as those rendered by technical experts in the narrow sense as defined in the clause. Such experts are as scarce here as technical experts. I would, therefore, suggest that the relief granted under this clause should be equally available to persons having specialised knowledge in arts and sciences other than industrial arts and sciences.

Again, I may point out that this is a permanent statute and it has nothing to do with taxation proposals.

Shri K. K. Basu: I have an amendment. I beg to move:

Page 4—

after line 14, *add*:

"Provided that all such non-Indians are appointed with the consent of the Central Government after being fully satisfied that similar qualified persons are not found in India."

My point is very short and simple. I want to add this proviso because if foreign experts come here, they should get the sanction of the Government. I do not know if the Government is inclined to agree with the spirit of my amendment. My friend, Shri Tulsidas, said that persons who are supposed to be qualified in commerce and banking may be brought from outside as foreign experts. As yet, we are not in a position to do away with foreign investments. There are a large number of old foreign institutions and new ones are coming. From our experience, especially of the Calcutta commercial world, we know very well that during the war when there was shortage of personnel they tried to upgrade some of the Indian executives. But, all of a sudden, they were told that they were not qualified enough and they were dispensed with so that foreign officers may be brought as technical personnel on pays which had no proportion to the pays paid to similar Indian personnel. I am not opposed to foreign technicians. It is necessary that a certain type of technicians, not available in the country should be got and we

should get benefit by their technical know-how. I say this. Before some persons are brought, Government must set that the provisions of this statute are not used in a way which will not be commensurate with the benefit of the country. That is my simple amendment. Without prior sanction, such foreign technicians should not be brought here and Government should be satisfied that the services of these foreign technicians are necessary for the development of the country.

Shri T. S. A. Chettiar (Tiruppur) : Till now, how many technicians have been obtained under this scheme? Unless we are able to measure the extent to which this thing applies, it would be difficult for us to accept this.

The fear expressed by Shri K. K. Basu is real. We are going to have in the future a large number of companies in co-ordination with foreign firms and it is possible that they may bring in so-called experts on large payments. A clause to the effect, that the Government should be in a position to decide that such persons are really required from outside countries, is necessary.

With regard to the amendment suggested by Shri Tulsidas I would like to know what he means by that.

Shri Tulsidas: I just now explained that.

Shri T. S. A. Chettiar: It will be much safer to accept the amendment of Shri K. K. Basu. I would also like to know from the hon. Minister the number of such experts expected here.

Shri M. C. Shah: Mr. Speaker, I am sorry, we have not got those figures. Also I cannot accept the amendment of Shri K. K. Basu for the reason that what he wants to provide for is ordinarily always looked into by the Commerce and Industry Ministry. The Commerce and Industry Ministry always looks into the matter as to whether it is necessary to allow a certain technician to come over to India.

Shri K. K. Basu: Even with regard to the Private Sector?

Shri M. C. Shah: There too, when the question of visa comes up the matter is always referred to the Commerce and Industry Ministry. In each and every case that Ministry looks into all the details. That is the usual practice.

Shri K. K. Basu: With regard to Commonwealth countries there is no visa.

Shri M. C. Shah: The Commerce and Industry Ministry always looks into the question whether a particular technician is necessary or not.

Shri K. K. Basu: Under what rules? (*Interruption.*)

Shri M. C. Shah: Now, with regard to my friend Shri Tulsidas, he wants "or other" to be included. As a matter of fact, we cannot accept that, because we propose to allow technicians to come over here for the industrial development and that matter is also discussed by the Commerce and Industry Ministry. Therefore, by adding this "or other" we cannot widen the scope. We always allow technicians to come for industrial development and the Commerce and Industry Ministry is the proper Ministry which will look into the matter and allow technicians to come. Therefore, we cannot accept both the amendments.

Mr. Speaker: Now, do hon. Members want this clause to stand over?

Shri Tulsidas: Yes, Sir.

Mr. Speaker: Ordinarily, during this lunch interval, we do not take the decision of the House unless it is unanimous. Therefore, I allow this clause 4 to stand over. The Finance Minister may consider the suggestions and thereafter I will put it to the vote of the House.

Shri K. K. Basu: All our suggestions have to be forwarded to him.

Mr. Speaker: That will be done. So, clause 4 will stand over till three O'clock.

Clause 5– (*Amendment of section 7*)

Shri T. S. A. Chettiar: I beg to move:

Page 4, line 42 and in page 5, line 1

Omit "such sum as the Income-tax Officer may estimate in respect of such use as representing".

Sir, in this clause a new allowance is being given for those people who own cars. The provision in question reads as follows :

> "in respect of any conveyance owned by the assessee and used

[Shri T. S. A. Chettiar]

by him for the purposes of his employment, such sum as the Income-tax Officer may estimate in respect of such use as representing the expenditure. . .".

In this matter it is left to the whim of the Income-tax Officer. I would like to know whether the Government have got any rules in view for the guidance of the Income-tax Officer so that he will know what to allow and in what case; otherwise the number of people who will be put to trouble because of the whims of Income-tax Officers will be many. In these matters, where discretion is allowed to the Income-tax Officer, fool-proof laws and regulations are impossible, but still, something must be said to the guidance of these people. It is impossible for the Income-tax Officer to take every individual case and then make up his mind as to what is spent for purposes of employment and what has not been spent for purposes of employment by an officer. I would like to know whether the Ministry of Finance propose to send any suggestions to exercise discretion in this matter to the Income-tax Officer and, if so, I would like to be enlightened about it.

Shri M. C. Shah: This is a new concession that has been given. Till now no allowance was given to these employees who owned cars. We thought, when for business purposes we allow certain expenditure allowance, it was not just and fair that these employees, who maintain their own cars and who use their cars for the purpose of their employment, should not be allowed some concession. Therefore, this is a new concession. As a matter of fact, there cannot be any hard and fast rules with regard to this concession. It ought to be left to the discretion of the Income-tax Officer who will enquire into the matter as to how much should be allowed, for what period and to what extent the car was used by an officer for purposes of his employment and to what extent for his private family purposes. There cannot be any hard and fast rules about it and we must give that discretion to the Income-tax Officer. This is a new concession. Let us see how it works. No suggestion also has been made in this respect. We cannot accept the statement of the person owning the car that he used it solely for employment purposes. The Income-tax Officers can make local enquiries and then they will be in a position to know. Therefore, I think my hon. friend will not press his amendment.

Dr. Krishnaswami: May I make an observation, Sir? In all such cases where it is a question of finding out how the car has been used, for official purposes or otherwise, rules and regulations are given from the Administrative Branch of the Central Board of Revenue and they would give to the Income-tax Officer a fairly safe guidance as to how he is going to allocate the expenditure as between the different uses. Just because it is new, it is not necessary to give full discretion to the Income-tax Officer. Could I have an assurance from the Minister that such rules and regulations will be issued for this purpose?

Shri M. C. Shah: Even if my hon. friend just looks into the matter in respect of those business people who are allowed this allowance, the Income-tax Officers use their discretion. There are no hard and fast rules. We must allow discretion to be used by the Income-tax Officers. From local enquiries they will be able to find out the position. If my hon. friend objects to this clause we are prepared to withdraw the entire clause.

Dr. Krishnaswami: I am not objecting to it.

Mr. Speaker: As a matter of fact, hon. Members are aware that a house is used for both residential purposes and for carrying on business, a portion of it, as in the case of lawyers. There is no hard and fast rule regarding that. It largely depends on the portion of the house that is used and the value of it. If two or three rooms near the kitchen are used they may be of lesser value than the main hall which may be of higher value. Therefore, personal inspection to some extent will do and discretion has to be given in such cases, but it will not be absolute or whimsical discretion. I think care will be taken to avoid any such instances.

Shri M. C. Shah: Certainly.

Mr. Speaker: Therefore, I think I need not put the amendment to vote?

Shri T. S. A. Chettiar: I do not press my amendment.

Mr. Speaker: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6 was added to the Bill.

Clause 7.—(Amendment to section 10)

Shri Tulsidas: I beg to move:

Page 6—

omit lines 2 to 4.

Mr. Speaker, this clause withdraws initial depreciation on buildings, plant and machinery installed after 1st April, 1956.

The amendment would allow for continuance of this initial depreciation allowance.

With the provision of development rebate on new plant and machinery, initial depreciation is now available only on buildings and office equipment. Expenditure on buildings and equipment is complementary to that on plant and machinery. If initial depreciation is withdrawn on expenditure on buildings and equipment, in effect it will amount to a reduction in the value of the development rebate on plant and machinery, defeating to some extent the purpose of the latter.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

Let me make it clear that initial depreciation does not give any tax relief, and its withdrawal will not add to the tax revenues over a period. Initial depreciation does not extinguish tax liability; it merely defers it. The total recovery as depreciation remains at 100 per cent of cost of asset, and, therefore, the tax paid over the life of the asset will not be reduced. In this sense, it differs from the development rebate which is a direct relief from taxation.

Initial depreciation was, however, introduced in 1946 for a purpose—to enable assets to be written off at an accelerated rate, to enable the cost of an asset to be recovered sooner than it would otherwise have been possible, Initail depreciation has, therefore, acted as an interest-free loan to industry, and has been important in enabling investment to be undertaken in these times when capital has been scarce. In this respect, the situation has not changed since 1946 when initial depreciation was first introduced. I do not see any reason why it should be withdrawn now so abruptly and at this stage.

Such an abrupt change will upset the financial arrangements of many new undertakings which may have calculated on the continuance of initial allowance. I would, therefore, suggest that the clause should be deleted. If this suggestion is not acceptable and initial depreciation is to be withdrawn, that should be done from some future date, say 1st April, 1961. I have selected this date because under another clause —clause 11 of the Finance Bill—which has a similar purpose, namely, to encourage new enterprises in this case by exempting their income from tax—you have provided that the relief is to stop in 1961. That is also the time when the second Plan will be coming to an end. Government should be able to come to a decision on the subject then, taking into consideration the needs of the third Plan under the conditions existing at that time. As I said, this is not a question of relief at all. It is merely a question of deferring the question. New enterprises are being built up with new plants and particular types of resources will be required. So, when you immediately withdraw it, it will be difficult for the new enterprises to come up and start their undertakings. That is why I said it is not at ax relief. Why not you continue it for another five years as you are doing in the other case?

Shri T. S. A. Chettiar: This matter has been put very clearly by my friend Shri Tulsidas. The question now is that this initial depreciation which has been allowed till the 1st April, 1956, should be continued for the new industries that are coming up and that will be coming up after that date. We have not heard till now any reason as to why this is being withdrawn on this date. If in the earlier speeches before this House we had been told of the reasons why this is withdrawn, then we could understand it. But this amendment is being made so that this initial depreciation on buildings which has been allowed from 1945 to 1956 will not be available for people after 1st April, 1956. Admittedly, Mr. Chairman, we are out for industrialisation in the Second Five Year Plan. Apart from the public sector in which a considerable amount is proposed to be spent, we also expect that in the private sector too, a considerable amount will be spent

[Shri T. S. A. Chettiar]

on industrial development. This concession was specifically with an eye towards industrial development. Today, when we are planning for industrial development, why this concession should be withdrawn is something which we are not able to understand.

I think that in view of the fact that definite encouragement is necessary for the private sector and in view of the large programmes which are being conceived in the Second Five Year Plan, it would not be wise to withdraw this concession which has been given. So, I would like the Government to think over this aspect of the question and give us reasons why this provision has been brought forward.

Shri Morarka (Ganganagar-Jhunjhunu): Sir, I want to make a small point regarding clause 7(b) which purports to insert a new clause in the Income-tax Act after sub-section 4 of that Act; as sub-section 4A.

Just now we passed clause 5. The main idea of clause 5 was to give certain extra benefit to the assessees by way of conveyance allowance, it being left to the discretion of the Income-tax Officer as to whether the conveyance was used for the purpose of the business or not. If it was used, the Income-tax Officer may give such an allowance. But there is a proviso to the clause which says that this clause shall not apply in any case where the assessee is in receipt of a conveyance allowance, whether as such or as part of his salary. In other words, if an officer of a company receives a conveyance allowance, then, so far as the conveyance allowance is concerned, the Income-tax Officer would not give him any benefit or any relief, irrespective of the fact whether that conveyance is used for business or not.

Now, clause 7, in respect of the new section 4A (b) says that if a company gives the director or a person who is substantially interested in the company anything by way of a conveyance allowance or any benefit which has the effect of adding to his salary, then that would not be allowed for the purpose of the income-tax in the assessment of the company. I think in such a case also, when the director or the officer of a company uses the vehicle or receives a conveyance allowance which is reasonable and just for the purpose of his business it should not be treated on different footing from that of an ordinary assessee or ordinary businessman. This is my small point which I wanted to make in this connection.

Shri Tek Chand (Ambala-Simla): I rise to endorse the remarks of my hon. friend Shri T. S. A. Chettiar who preceded me just now, with respect to the retention of the concession regarding the buildings. I am in a position perhaps to feel the change more acutely because I come from a place which was a short while ago in absolute wilderness. When the Government is making a new capital in Chandigarh it is persuading or pressing the people to build houses. In order to live one has to build a house and you cannot get houses on rent and particularly at a juncture like this when you have, by the force of circumstances over which you have no control, no choice. You have got to build a house to shelter yourself. This is just the appropriate moment when the Government might as well have continued with the concessions. It is regrettable that the concession that has been allowed in recent years should be withdrawn. I am not fining my remarks to the people of this particular town where crores had already been spent and where crores will be spent for building houses. But I say that the concession should not be withdrawn especially when the dearth of the houses is continuing and we do need houses. If the concession is withdrawn, instead of encouraging people to build houses, it will really amount to a very serious discouragement to the people who have no choice—people like me and other residents of Chandigarh and other towns. They will all be subject to very great hardship which deserves to be avoided.

Shri M. C. Shah: I think there is some confusion of thought so far as my friend Shri T. S. A. Chettiar is concerned. Last year we allowed a rebate of 25 per cent for development rebate. Then there is initial depreciation, normal depreciation and additional depreciation. In the case of cars and furniture, there is an initial depreciation of 20 per cent. Then, the normal depreciation is 20 per cent and the additional depreciation is 20 per cent. the total coming up to 60 per cent. When we allowed a development rebate we immediately withdrew the initial depreciation on plant and machinery. It was abolished last year. Therefore, as a matter of fact, we ought to have abolished this initial depreciation on all things last year. It has, however, been continued. It was brought to our notice

that this would not be fair. In the case of buildings also, the initial depreciation is withdrawn from 1-4-1956. So, there is nothing in the nature of suddenness here. They will still get the normal depreciation as well as additional depreciation. But still, to ask for initial depreciation is not, I think, correct. It is a deferred payment, but there too, why should we allow such things to continue when we do not allow it in the case of buildings and machinery and plant. So far as residential buildings are concerned, the people concerned are not given any depreciation allowance. Therefore, it is in the fitness of things that this initial depreciation should be withdrawn and it should be withdrawn from 1-4-56 when we have already withdrawn the initial depreciation from machinery, plants and buildings.

Shri Tulsidas: We may keep it pending till 3 o'clock.

Mr. Chairman: All right. It is kept pending till 3 o'clock. He wants that a vote should not be taken on this question now. We proceed further. For clause 8, there are no amendments.

The question is :

"That clause 8 stand part of the Bill".

The motion was adopted.

Clause 8, *was added to the Bill.*

Clause 9—(*Amendment of section* 14)

Shri M. C. Shah: I beg to move:

Page 6—

after line 39, *add* :

"Provided that in relation to supper tax the provisions of this clause shall have effect as if for the words 'excluding the income-tax, if any, payable by the firm', the words 'excluding the income-tax, if any payable by the firm, at the rate of income-tax applicable to its total income, on the amount of its profits for gains from all sources other than from any business carried on by it' had been substituted."

This is a relief or a concession granted by the Finance Minister while introducing the Finance Bill. The House knows it fully well that so far as the registered firms are concerned, we have provided that in the tax that will be paid by the firm, the share coming to the partners will be given relief. I will illustrate it by an example. Suppose there is an income of Rs. 1 lakh and Rs. 25,000 is the share of one partner. Suppose the tax payable on Rs. 1 lakh is roughly—I cannot calculate correctly—Rs. 4,000. Then Rs. 1,000 will be deducted from the income of the partner and income-tax will be charged only on the remaining Rs. 24,000. That is to say, for purposes of income-tax on the income of the partner, the share of the partner in the income-tax paid by the firm will be deducted. In this case, super-tax will not be payable. As far as the professionals are concerned—solicitors and other professional firms—we have provided that super-tax will be given relief.

This is the main substance of the amendment and I hope that this concession will be welcomed and agreed to by all, including Mr. Tulsidas.

Mr. Chairman: The question is:

Page 6—

after line 39, *add*—

"Provided that in relation to supertax the provisions of this clause shall have effect as if for the words 'excluding the income-tax, if any, payable by the firm', the words excluding the income-tax, if any, payable by the firm, at the rate of income-tax applicable to its total income, on the amount of its profits or gains from all sources other than from any business carried on by it had been substituted."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 9, as amended stand part of the Bill."

The motion was adopted.

Clause 9 *as amended, was added to the Bill.*

Clauses 10 *to* 12 *were added to the Bill.*

Clause 13—(*Amendment of section* 17)

Shri M. C. Shah: I beg to move:

Page 7—

for clause 13, *substitute* :

"13. *Amendment of section* 17—In section 17 of the Income-tax Act—

[Shri M. C. Shah]

(a) in sub-section (1), in clause (b), for the words 'at the rate applicable in the case of an individual to the slab next to the slab exempt from super-tax', the words 'at the rate of three annas in the rupee' shall be substituted ;

(b) in sub-section (3), after the words 'exempted from tax under' the words' brackets and letters a clause (aa) or shall be inserted."

At present, non-residents have the option of paying super-tax at a flat rate or at the rate appropriate to the total income. Under the existing law, this flat rate is the rate applicable to the lowest range of income for which super-tax is chargeable. This rate was previously 3 annas in the rupee in 1954-55. Last year, however, the lowest range for which super-tax should be paid was Rs. 20,000 to Rs. 25,000 and the rate was 1 annas in the rupee. For 1956-57 we want the flat rate to be 3 annas in the rupee. Therefore, we have moved this amendment. Sub-clause (a) fixes the super-tax rate at 3 annas in the rupee for 1956-57. Sub-clause (b) is a consequential amendment necessitated by clause 9 which provides for the manner in which super-tax calculation will be made in the case of partners of registered firms, whether they are entitled to a separate super-tax rate etc.

Mr. Chairman: The question is:

Page 7—

for clause 13, *substitute* :

"13. *Amendment of section* 17. In section 17 of the Income-tax Act,—

(a) in sub-section (1), in clause (b), for the words 'at the rate applicable in the case of an individual to the slab next to the slab exempt from super-tax,' the words 'at the rate of three annas in the rupee' shall be substituted;

(b) in sub-section (3), after the words 'exempted from tax under' the words, brackets and letters 'clause (aa) or' shall be inserted."

Those in favour will say 'Aye'.

Shri Bansal: Nobody says 'Aye'; at least the Minister should say 'Aye'.

Mr. Chairman: Supposing there is no 'Aye' and there is no 'No', then it is for the Chair to declare the result.

The motion was adopted.

Mr. Chairman: The question is:

"That clause 13, as amended, stand part of the Bill."

The motion was adopted.

Clause 13, *as amended, was added to the Bill.*

Clause 14—(*Amendment of section* 23)

Shri Tulsidas: I have an amendment to this clause; but since this is related to Schedule I, if we pass this clause I cannot say anything on Schedule I. This deals with the question of registered firms. I would, therefore, like this clause to be taken along with Schedule I.

Mr. Chairman: Clause 14 has no reference to Schedule I.

Shri M. C. Shah: In Schedule I, the rates are prescribed.

Mr. Chairman: Suppose we take up this clause now and decide on it! when we take up Schedule I subsequently, how will this be affected?

Shri Tulsidas: The present section contains the words 'shall not be determined and you want to change it into "shall be determined".

Shri N. C. Chatterjee: We have passed clause 2 which says,

"Income-tax shall be charged at the rates specified in Part I of the First Schedule" etc.

That does not mean that we have accepted Schedule I.

The Schedules must be discussed separately.

Mr. Chairman: If we discuss the clause now and take the decision, there will be no difference whatsoever.

Shri Tulsidas: This relates to the question of registered firms. We have been told that this particular tax is justified because the unregistered firms also have to pay the tax. Mr. Morarka has said that this tax is justified in view of the tax on the unregistered firms also. The Finance Minister in his reply said, that there was some criticism on the question of this tax and that Mr. Morarka has replied to that. Therefore, I am replying to Mr. Morarka's point now. If he refers to paragraph A (ii) of Part I of the First Schedule, he will find that there

is no separate super-tax on unregistered firms. Yesterday, I was saying that there was no legal entity in this. An unregistered firm is taxed as a whole; but, there is no corporation tax on it. What is now laid down here is a tax which is levied on a non-legal entity and no relief will be given for that. In the case of the unregistered firms they are taxed as a whole and the partners will not have to pay double tax, whereas in the case of registered firms, the partners will have to pay double tax, because they have to pay tax just as a private limited company. This is not a private limited company.

2 P.M.

The partners are legally bound to pay their liabilities. There are unlimited liabilities. In view of this, this tax is of a novel nature. When I pointed out that fact, my hon. friend said that an unregistered firm is taxed and therefore these people also must be taxed. I say, No. You know, Sir, that the Income-tax department, when it suits them, will say it is a registered firm and when it suits them, make it an unregistered firm. It is for the department to decide. If by taxing a firm as a registered firm, tax is reduced, they will make it an unregistered firm, and if by taxing it as an unregistered firm the tax is reduced, they will make it a registered firm, & tax it accordingly. That is the position today. My point is that this is a novel method. I am not opposing it. Taxing a registered firm as a separate entity and not giving relief to the partners is the point. That is why I say this is a novel method. Nowhere else in the world is such a tax levied. It is only in this country that we are having this novel tax. By the amendment I only want that the clause should be put in its original form.

I beg to move :

Page 7, lines 33 and 34—

for "shall be determined; and" *substitute* "shall not be determined; but"

Shri M. C. Shah: It is a novel tax. whenever any taxation proposal comes, it is a novel taxation.

Shri Tulsidas: I say novel method.

Shri M. C. Shah: All taxation will be novel in a way.

Shri Tulsidas: He is trying to say something....

Mr. Chairman : Order, order; let the hon. Minister proceed.

Shri M. C. Shah: I can appreciate the hon. Member's objection to registered firms being taxed. But, the Government has come to the conclusion of Taxing registered firms after a good deal of thought and as was pointed by Shri Morarka, I think, they must pay some sort of a corporation tax. They do not pay corporation tax. They get so many advantages by having a registered firm.

Shri Tulsidas: What are the advantages?

Shri M. C. Shah: I will tell my hon. friend. A registered firm can consist of a son, daughter, wife, and other family members, and when it is a registered firm, naturally, the partners will be taxed. Suppose the firm earns Rs. 40,000 and if there are four partners, tax will have to be paid on Rs. 10,000 and not 40,000. On an unregistered firm, the tax will be on Rs. 40,000. There are advantages. Therefore, this novel form of taxation has been found out by the Central Board of Revenue and I think it is all right. But, when we saw that there was going to be hardship to the smaller business people even if they form partnerships of adult members of a family who are accepted as partners in a registered firm, we thought that Rs. 40,000 should be deducted, and on the first Rs. 40,000 there should be no tax. Thereafter, a slab has been kept and only 9 pies will be charged. Over and above Rs. 40,000, up to Rs. 75,000 on this sum of Rs. 35,000 the tax will be at the rate of 9 pies. Thereafter from Rs. 75,000 to Rs. 1,50,000, the rate is one anna. At the same time, in order to give still some relief, because they would be taxed as partners of registered firms, we have provided that that tax which will be paid according to the shares in the registered firm, will be given credit while considering the income of that partner. Therefore, I think it is too late in the day for Shri Tulsidas to object to the form of the taxation.

Shri Tulsidas: I would ask him, why does he make discrimination? If this is because he has some advantage as a partner of a registered firm, why does he make a discrimination in favour of the professions? They will have no burden.

Shri M. C. Shah: So far as professions are concerned, say, there is a solicitors' firm. A solicitors' firm cannot consist of a father and son unless he is also a solicitor. They are rather under a disadvantage because they must qualify first as a solicitor in order to join a firm of

[Shri M. C. Shah]

solicitors or a firm of advocates. They have to pass the Advocates examination. In order to have a firm of doctors, they have got to be qualified to become partners. They are at a disadvantage no doubt. Whatever relief we can give, we must give in equity.

Shri N. C. Chatterjee: There is no discrimination, if I may point out supporting the hon. Minister and objecting to Shri Tulsidas's contention.

Shri Tulsidas: Legal profession.

Shri N. C. Chatterjee: Not because legal. Doctors do not belong to your fraternity or mine. Architects do not belong to your fraternity or mine. Surveyors do not belong to your fraternity or mine. What I am pointing out is, it is perfectly good. As a matter of fact, if you look at the representations made to the hon. Minister, copies of which were forwarded to us, businessmen are pointing out that it is unfair, when solicitors or architects get themselves registered a firm—you know, Sir, in the Supreme Court, there are firms of Agents and Advocates—to treat them on the same footing as a business firm carrying on business. I may point out that in article 14 we have guaranteed equality to all citizens. The Supreme Court has pointed out correctly, if I may say so with respect, that equality allows rational classification. What is rational classification? You can certainly classify persons on the basis of advocation, on the basis of the nature of the business. Therefore, there is nothing wrong or discriminatory in what the Finance Minister has done. Discrimination comes in if amongst one class you discriminate. You can certainly segregate and classify the people on the basis of profession. I think the Finance Minister has done correctly in acceding to the request of the professional firms. There is no conscious or unfair or improper discrimination.

Mr. Chairman: The question is:

Page 7,, lines 33 and 34 *for* "shall be determined; and" *substitute* "shall not be determined; but"

The motion was negatived.

"That clause 14 stand part of the Bill."

The motion was adopted.

Clause 14 *was added to the Bill.*

Clause 15— (*Amendment of section* 23A)

Shri Tulsidas: I beg to move:

(i) Page 8—

omit lines 19 to 26.

(ii) Page 8, line 22

for "eight annas" *substitute* "five annas".

(iii) Page 8, line 25—

after "investments" *insert*:

"and which derives ninety per cent or more of its income from such dealings in or holding of investments".

I have moved these amendments to remove the discriminatory levy on investment companies. In the alternative, I have tried to bring down the rate on investment companies to five annas. At first, I may point out that section 23A already discriminates against investment companies by not allowing them to build up any reserves at all. They are required to distribute all their profits from the start. I do not know why investment companies are being discriminated against. Why should they be further penalised by a higher rate of tax? Investment companies perform a useful function. They provide funds for manufacturing and other companies. They may be financed both in the earlier stages and in emergencies. The assets of investment companies are subject to greater fluctuations in value than those of other companies. That is why companies have built up reserves even after paying a super-tax of four annas. They are levied personal income-tax at high rates to reduce personal savings. You justify this taxation on the ground that it is required to prevent concentration of wealth in a few hands. This would encourage institutional savings. When companies are formed to provide finances, you impose a discriminatory tax on that. If you seek to dry up all sources of finance, wherefrom are the industries going to obtain finance? Therefore I suggest that the discrimination against investment companies under section 23A in the matter of taxation should be removed, or the tax should be reduced to five annas. I have given notice of three amendments. They are all in the alternative. One relates to the question of removing the discrimatory levy. If that is not agreed to, it may be reduced to five annas. Or at least define investment

companies. What is an investment company? This has nowhere been defined in the Income-tax Act. Such a definition should be inserted to guide the taxing authorities and to prevent harassment of assessees on account of differences of opinion. It cannot be left to the discretion of the taxing authorities. The phrase now used, namely,

> "whose business consists wholly or mainly in the dealing in or holding of investments",

is not clear enough. It is vague, and as I said earlier, it is likely to lead to differences of opinion.

The criterion should not be merely the nature of the business but also the source of the income. If the company is getting a predominant part of its income from such investments, then alone it should be considered as an investment company. I therefore suggest that only companies which get 90 or more per cent. of their income from investment should be deemed to be investment companies.

Having said this, I would like to point out one more thing. A tax has now been proposed on bonus issues. Supposing an investment company is allowed to keep its income to the extent of 40 per cent. then it is subject to tax. If it issues bonus shares, then also it will be taxed. If it goes into liquidation, then you are bound to tax the person again, because you are now making a provision whereby whether it is capitalised or not, any amount which is paid by the company in liquidation over the paid-up capital will be considered as dividend in the hands of the shareholder on that day.

I do not understand why Government want to levy a penal taxation, and keep the investment company completely high and dry. I do not know how the investment company will be able to carry on, when 100 per cent. of its profits is going to be distributed and nothing is going to be left with them. If they do not distribute, then they will have to pay penal tax of eight annas in a rupee. Already, the company taxation is about 47 per cent. and over and above that, if you take away eight annas in a rupee, then practically there will be nothing left with the company, and almost 100 per cent. would be taken away by Government. That is what it more or less comes to.

I would submit that either the definition should be changed and put on a proper basis, or the tax should be made a reasonable tax. If Government want to make a distinction, they should define properly what an investment company is.

I have put three alternatives before Government and I would request them to consider them.

Mr. Chairman: Amendments moved:

(i) Page 8—

omit lines 19 to 26.

(ii) Page 8, line 22—

for 'eight annas' *substitute* 'five annas'.

(iii) Page 8, line 25—

after 'investments' insert :

> "and which derives ninety per cent or more of its income from such dealings in or holding of investments."

Shri Morarka : I want to make a few observations on clause 15 which seeks to amend section 23A. Now, section 23A applies to certain types of companies. Companies in which six or less persons have control of 50 per cent or more shares are called section 23A companies. These companies are compelled by law to allocate at least 60 per cent of their income and distribute it by way of dividend. If the reserves are more than the paid-up capital, then it is supposed to distribute all the 100 per cent income by way of dividend. If they do not do that, then a supertax at the rate of four annas in a rupee is charged on the amount not distributed. That is the existing provision.

Now, we are having a dividend tax. That is to say, if you declare a dividend which is more than six per cent but less than 10 per cent, then you will have to pay a tax of two annas in a rupee, and if you declare more than 10 per cent. you will have to pay at the rate of three annas in a rupee. What I would like to know is this. While you compel section 23A companies to declare 60 per cent, or 100 per cent as the case may be, of their income as dividend and distribute it, if they do not do so, you would charge them tax at the rate of four annas in a rupee. That is by way of supertax. Would you also charge, if they distribute the dividend, and it works out to more than 10 per cent, the dividend tax of three annas per rupee on that amount?

[Shri Morarka]

The reason why I raise this point is this. In 1946 when this dividend tax was imposed, section 23A companies were specifically exempted from the provision relating to this dividend tax. So, I would like to be clear on this point, as to whether this dividend tax would be applicable to those companies which are compelled to declare dividends, or whether it is a tax only on those companies where Government want the funds to be ploughed back in business and they want capital-formation.

Shri N. C. Chatterjee: It is a very important point that has been raised by my hon. friend Shri Morarka. As a matter of fact, I was going to put that very point before the Minister. There is a very big anomaly here.

Under section 23A, which is imperative in terms, you must distribute atleast 60 per cent of your profits. If you do not do so, then you are liable to a penal supertax at the rate of four annas in the rupee, and that supertax is going to be made eight annas per rupee in the case of investment companies. Now, forget for a while the investment companies. Every company must distribute 60 per cent of its profits. If it does not do that, then in respect of the excess over 60 per cent, it has got to pay four annas per rupee as tax. That means, there is a confiscation of that portion.

What Shri Morarka points out is very important. And I would appeal to my hon. friend the Minister to consider this aspect. If you would look at the provisions of the Bill, you will find that Government have put in a dividend limitation tax. If you look at pages 24 and 25, Part II of the First Schedule, you will find that there is a clause (b). In the case of every company, they are making legislation. But if you look at page 24, you will find that there is a proviso. Further, in page 25, you will find clause (b) which says that

> "in addition, in the case of a company referred to in clause (ii) of the preceding proviso which has distributed to its shareholders during the previous year dividends in excess of six per cent of its paid-up capital, not being dividends payable at a fixed rate—
>
> on that part of the said dividends which exceeds 6 per cent but does not exceed 10 per cent of the paid-up capital,"

a higher tax would have to be paid at the rate of two annas per rupee, and on that part of the said dividends, which exceeds 10 per cent of the paid-up capital, at the rate of three annas per rupee.

In one breath, you say that one must distribute at least 60 per cent, and if one does not then one will have to pay a penal supertax. If the same time you say that if a company pays dividends in excess of 6 per cent, then it will have to pay a higher tax at the rate of two annas per rupee, and if it exceeds 10 per cent, then it must pay three annas in the rupee.

What I am pointing out is that it is illogical. Under section 23A you are saying that it must distribute 60 per cent at least. Suppose it distributes 60 per cent, then it may be that it works out to 8 per cent of the paid-up capital. Suppose the paid-up capital is Rs. 10 lakhs, and in that year, the company has made a profit of, say, Rs. 1 lakh, then it works out to 10 per cent. If you compel it to distribute the whole thing, then it will have to pay the whole thing, that is Rs. 1 lakh, which means ten per cent.

What I am appealing to the Minister is this. He is compelling a company to distribute more than 60 per cent; if it does not distribute, then he is subjecting that company to a penal supertax. At the same time, he also says that if it distributes in excess of six per cent of its capital, then it will be subject to dividend tax. I would submit that that is not fair. The Minister cannot have it both ways. What is the intention of the Minister in making this provision? His intention should not be that the company should be penalised both ways. I would submit that there is a good deal of force in regard to the point raised in this regard. The Finance Minister is not here, but I would request the Minister of Revenue and Civil Expenditure to kindly take note of the fact that it is a very anomalous situation which is creeping in into the statute.

He cannot under one section compel the company to distribute practically all the profits that it earns, and at the same time, penalise it for paying that amount. I submit that there should be some consistency, and the present anomalous situation should be removed, so that the people should know where they stand.

I can understand your compelling them to pay 60 per cent, and if they do not, then you can tax them over the shortfall. In the other case, if it means payment at more than six per cent, then you should not penalise them. You should not have it both ways.

Shri Bansal: I have got amendment No. 92 to the First Schedule where this particular point which has been raised by Shri Morarka comes in. I would like to be guided by you as to whether that amendment should be discussed now or later.

Shri M. C. Shah: I was going to refer to that. I have got the reply ready. But I would like to refer to that after it is moved.

Mr. Chairman: Amendment No. 92 is to the First Schedule. So, that amendment will come up when we come to the First Schedule.

Shri Bansal: That is why I was saying whether the discussion that has been going on now should not appropriately be taken up when we come to the First Schedule.

Shri N. C. Chatterjee: If you kindly look at Shri Bansal's amendment, he says that in that schedule the dividend tax should be only made applicable where section 23A cannot be made applicable, that is, excluding section 23A companies.

Shri Bansal: Exactly.

Shri N. C. Chatterjee: There are two interlinks.

Mr. Chairman: As a matter of fact, it appears that the subject-matter of that amendment is exactly the same as that we are discussing here.

Shri Bansal: Yes.

Mr. Chairman: Then the hon. Member may speak on that also.

Shri M. C. Shah: Here this is with regard to investment companies. These amendments relate to investment companies. The amendments are Nos. 33, 34 and 35. Amendment No. 33 says, "omit lines 19 to 26"; amendment No. 34 says "for 'eight annas' substitute 'five annas' "; and amendment No. 35 says, "and which derives ninety per cent or more of its income from such dealings in or holding of investments". Am I right?

Shri Tulsidas: There are alternatives.

Shri M. C. Shah: I was just going to say that amendment No. 92 relates to a different matter and that can be dealt with later, though I am in a position to reply to amendment No. 92 also. But the appropriate place will be later. Whatever be your ruling, I shall reply accordingly.

Shri Bansal: After all, we will be discussing in a vacuum. There is no amendment pertaining to 23A companies here in clause 15. So the right place for discussing the point raised by Shri Morarka and Shri N. C. Chatterjee will be when we come to that schedule. That is all what I wanted to impress upon the House.

Mr. Chairman: It is true that there are no direct amendments so far as investment companies are concerned, but at the same time, the real purport of these three amendments, Nos. 33, 34 and 35, is in connection with investment companies. So much so that he has practically defined those companies of investment, "which derive ninety per cent or more of its income from such dealings in or holding of investments".

Shri Bansal: There is a difference between investment companies and the companies which I have in view. Section 23A companies can be investment companies and can be other companies as well. Here Shri Tulsidas's amendments deal with only investment companies, while my amendment will be more comprehensive, dealing with 23A companies.

Mr. Chairman: What I want to know is whether after disposing of these amendments, we will be in a position to discuss amendment No. 92.

Shri Bansal: Yes.

Mr. Chairman: Then we shall take up these three amendments now and deal with amendment No. 92 later.

Shri M. C. Shah: So far as investment companies are concerned, I do not think —and perhaps my hon. friend, Shri Tulsidas also will agree—that investment companies are not manufacturing companies where reserves will be necessary. When investment companies are 23A companies, all the profits—100 per cent.—must be distributed. Last time, we provided for 4 annas as a penal tax if that is not distributed. So far as 23A other companies are concerned, 60 per cent is to be distributed. Now the position is in the case of all these 23A companies—the shareholders may be six or less—if they distribute all the profits,

[Shri M. C. Shah]

they will come in the last slab of 10 annas. In order to escape the 10 annas slab, they will not distribute profits and just keep them in reserve, though reserves are not necessary. Thereby, they will legally evade the tax that will be leviable on them. Therefore, last year we put 4 annas as penal tax on all those 23A companies where 60 per cent was to be distributed, if that was not distributed and was taken away. Now, with the rise in the slab in the super-tax, there is every possibility—though there is no necessity—of their keeping in the reserves and not distributing the 100 per cent, so far as investment companies are concerned. Therefore, they may evade paying under the 10 annas supertax slab. I do not think we can allow this loophole to remain there. Therefore, we want to have 8 annas as penal tax. For example, take a 23A company. Suppose there is a profit of Rs. 100. They will pay 6 annas 9 pies per rupee on profit. That means they will have to pay Rs. 43. The remainder will be Rs. 57 or so. On that, by paying 4 annas in the rupee, they will have to pay about Rs. 19 or so. So Rs. 43 plus Rs. 19 will be about Rs. 62. Otherwise, they will have to pay Rs. 82. So there will be Rs. 20 left with those people which ought to go to the public exchequer. We cannot allow them to keep that Rs. 20 with them and therefore, from 4 annas we have thought it fit to raise to 8 annas.

With regard to amendment No. 35 Shri Tulsidas suggests that 90 per cent profit must be from investments. If it is 90 per cent, they will pay; if it is 89 per cent. they will not pay. This is a very nice argument. These people cannot get away from payment of the taxes.

I am so sorry I cannot accept any of the three amendments.

Shri Tulsidas: Why does he say that reserves are not necessary in investment companies? (*Interruptions*)

Shri M. C. Shah: So far as manufacturing concerns are concerned, they plough back the reserves in order to expand. But here the investment companies only gather more money to become richer and richer.

Mr. Chairman: I shall put the amendments to the vote of the House.

Shri Tulsidas: I would suggest that these amendments had better be kept pending.

Mr. Chairman: Another three minutes remain.

Shri N. C. Chatterjee: The other amendment is more important.

Mr. Chairman: It will come in course of time.

These amendments have been thoroughly discussed and there is no chance of their being accepted even after three minutes.

Shri Tulsidas: I wanted them to be kept pending till the Finance Minister came.

Shri M. C. Shah: As if he is going to give him a concession!

Mr. Chairman: I have no objection in keeping it pending for three minutes, but even after the Finance Minister comes, the position will not be changed. So let us dispose of them.

The question is:

Page 8—

omit lines 19 to 26.

The motion was negatived.

Mr. Chairman: The question is:

Page 8, line 22—

for "eight annas" *substitute* "five annas".

The motion was negatived.

Mr. Chairman: The question is:

Page 8, line 25—

after "investments" *insert*:

"and which derives ninety per cent or more of its income from such dealings in or holding of investments."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 15 stand part of the Bill."

The motion was adopted.

Clause 15 *was added to the Bill.*

Clauses 16 *and* 17 *were added to the Bill.*

Clause 18.—*Amendment of Section 34*.

Shri Bansal: I beg to move:

(i) Page 9, lines 28 to 31—

for "in the aggregate, either for that year, or for that year and any other year or years after which or after each of which eight years have elapsed, not being a year or years" *substitute* "for that year, not being a year"

(ii) Page 9, line 33—

after "unless he has" *insert*:

"definite information in his possession, has"

(iii) Page 9, line 34—

after "doing so" *insert*:

"and has supplied a copy thereof to the assessee"

(iv) Page 10, *after* line 30, *add*:

"(e) the amendments made by sub-clauses (a) to (d) hereinbefore shall cease to be operative after the 31st March, 1958 and thereafter the provisions of Section 34 as existing prior to these amendments shall again become operative."

(v) Page 9, line 43—

add at the end:

"or is the executor, administrator or legal representative of a deceased assessee."

Shri N. C. Chatterjee: I beg to move:

(i) Page 9—

omit lines 12 and 13.

(ii) Page 9, line 33—

after "unless" *insert* "he has definite information in his possession and".

My other two amendments namely, Nos. 24 and 25 are the same as Nos. 75 and 76 respectively now moved by Shri Bansal.

Shri Tulsidas: I beg to move:

(i) Page 9—

(1) *after* line 15 *insert*—

"Provided that the Income-tax Officer shall not be deemed to have, under sub-section (1) above, reason to belief unless the following conditions are satisfied:

(i) he has definite information in his possession;

(ii) he has verified by preliminary investigation such information to be correct; and

(iii) he has given an opportunity to the assessee to be heard as regards such information"; and

(2) line 16—

after "Provided" *insert* "further".

(ii) Page 9—

after line 43 *insert*:

"Provided further that where the assessee is dead, the Income-tax Officer shall not issue a notice under this sub-section on his executor, administrator or other legal representative after the expiry of three years following the year of assessment in which the assessee died."

(iii) Page 9—

for lines 33 to 37, *substitute*:

"(iii) for any year, unless he has recorded his reasons for doing so and for believing that the income, profits or gains chargeable to income-tax which have escaped assessment or have been under-assessed or assessed at too low a rate or have been made the subject of excessive relief under this Act, or the loss or depreciation allowance which has been computed in excess, amount to, or are likely to amount to, one lakh of rupees in the aggregate as aforesaid. A copy of such reasons shall be supplied to the assessee. The Income-tax Officer shall not issue a notice in any case falling under clause (ii), unless the Central Board of Revenue, and, in any other case, the Commissioner, after giving the assessee an opportunity to be heard on such reasons, passes an order, for reasons to be recorded, that it is a fit case for the issue of such notice."

Mr. Chairman: All these amendments are before the House.

Shri Bansal: Sub-clauses (a) and (b) of clause 18 remove, subject to certain conditions, the time-limit of 8 years in section 34(1) of the Income-tax Act

[Shri Bansal]

for concealment cases and for cases of total escapement of income arising from non-submission of returns of income under section 22. No assessment for the years earlier than 1940-41 will be reopened. It means that while there is a limit of going beyond 1940-41, there will be no limit in future. That is, supposing some income-tax assessee comes within the mischief of this particular law after 5 years, then the period backward up to which the Income-tax Officer will be allowed to reopen the case will be 15 plus 5 years; that means, virtually, we are not placing any limit for reopening these assessment cases.

Sub-clause (a) amends section 34(3) and removes the time-limit for completion of assessments involving concealment whether relating to original proceedings or re-assessment proceedings. That means, once you reopen a case, you can go on working at that particular case for as many years as you like or as the Income-tax Officer likes. There is no time-limit placed that a case once opened should be closed within say, 2 or 3 years. By this amendment of Government, virtually, there will be no time-limit either for going back or for going forward. One of the conditions for re-opening is that the income should aggregate to Rs. 1 lakh. That is the only relieving feature of this amendment. But, the period over which the aggregation is to be considered is 8 years. But the impression created by the Finance Ministry itself was that this sum of Rs. 1 lakh will relate to only one year. Now, it is. . . .

Shri M. C. Shah: No such impression was made.

Shri Bansal: That impression was created. If the Minister will wait for a minute, I will tell him how this impression was created. I think, perhaps, the hon. Minister is aware that there is a publication *'Income-tax for the Layman* and it is there that the impression was clearly given to the readers of that pamphlet.

Shri N. C. Chatterjee: It was not meant for M. Ps.

Mr. Chairman: So far as the original Bill was concerned, it was made absolutely clear at that time that this amount of Rs. 1 lakh did not pertain to one year.

Shri Bansal: That is what I am also suggesting; but the impression was given that Rs. 1 lakh will relate to only one year. . . .

Mr. Chairman: It was made perfectly clear that it does not pertain to one year. I remember, I spoke on that Bill at that time and the hon. Deputy Speaker—our present Speaker—had that impression then. I just read out to him from the Bill that it was made absolutely clear that this does not mean for one year and that it related to a number of years.

Shri Bansal: That is what I am trying to say; while the Act reads in a certain manner, a different interpretation or impression was given to the public. If the concealed income for a period of 8 years aggregates or exceeds Rs. 1 lakh, the assessment will be reopened in effect for all the 8 years. Even if there has been an average escapement of Rs. 13,000 a year, the assessment may be reopened for all the years. The limit of Rs. 1 lakh has, therefore, been considerably reduced in effect. This means that ever middle class assessees will be affected by this change.

My amendment No. 72, as it appears on the Order Paper, has been slightly wrongly put down by those who are responsible for circulating these papers. My amendment was actually divided into 3 parts. Perhaps, the persons concerned with the preparation of these papers misunderstood my amendment. Nevertheless, the amendment as it appears, with some minor adjustments will have the effect of securing that if the income not disclosed exceeds Rs. 1 lakh in any year and if there has been concealment, the assessment of that year may be reopened after 8 years. That is one of the purposes of my amendment.

Amendments 74 and 75 are to secure that the Income-tax Officer takes action only on the basis of definite information in his possession. He must also supply a copy to the assessee of the reasons for reopening the assessment. Assessments must not be reopened unless there is a *prima facie* case, and opportunity must also be given to the assessee to state his case before starting proceedings.

I have here before me a copy of a representation by the Income-tax Payers' Association of India. They, in a

very cognet case presented to the Finance Minister, have pointed out that, if there is to be a change in the existing words of section 34 and if the amendments proposed are passed, the position would be that the Income-tax Officer will be able to act on any information. Herein lies the danger to the common man and to the honest assessee. Once the I.T.O. has declared it as his belief that income has escaped taxation, the Commissioner or the C.B.R. will accept it and action will be started, with the assessee in complete ignorance of what is being done against him. Even if he subsequently proves the information of the I.T.O. to be false or incorrect, the action, once started, will continue and, instead of justice, it will more often be prestige that will determine its course. It is for this reason that I am moving my amendments 74 and 75.

Where there is a *prima facie* case of fraud, there can be no objection to removing the time-limit for reopening the case. I am conceding that because it is a criminal offence and it is reasonable that there should be no limitation of time for taking action in a criminal offence. But, whereas in a criminal offence, action is taken against the person who committed the crime without any limitation of time, under section 34, action may be taken against persons who were not responsible for the fraud or concealment. This is a very material difference.

If you look to the Acts of other countries, you will find that material difference is made between fraud and ordinary tax evasion. In the U.S.A., section 276 says that in the case of a false or fraudulent return with intent to defraud or evade taxation or on a failure to file return, the tax may be assessed at any time. In the U. K. under section 47, the time-limit for additional assessment is 6 years,—the expression is 'additional assessment'—except where fraud or wilful default has been committed. Here again, it relies on fraud or wilful default. Under the Australian law, section 170, where the Commissioner is of the opinion that the avoidance of tax is due to fraud or evasion he may amend the assessment at any time.

It should be noted that, in all the above cases, the words used are such that the proceedings can be started only on definite information of fraud and not as in our Act on some suspicion or when the I.T.O. believes or has reason to believe that facts were not fully and truly stated. The assessee must also be given an opportunity to explain the position at the preliminary stage so that the Commissioner may know his point of view also before proceedings or action is taken under section 34.

My amendments are providing two safeguards: firstly, that the Income-tax Officer must give a chance to the prospective assessee to explain, and secondly, that the Commissioner must have the reasons from the Income-tax Officer as to why he wants to re-open the case beyond eight years.

The other point which I am making in my amendments is that there is no time-limit for completion of assessment involving concealment, sub-clause (d) of clause 18. In the U.K., if a tax-payer dies without having been fully assessed during his life, assessments on his estate for back-duty must be made before the end of the third fiscal year beginning after the date of his death.

Shri M. C. Shah: Estate Duty?

Shri Bansal: Estate. There is a time restriction that the back-duty assessment must relate back only as far as six years from the date of assessment. This is so even in the case of a deceased man's own fraud. Then, if he were alive, there would be no time-limit for back assessment. This is the existing law in the U.K. The Royal Commission on Taxation have recommended that the back-duty assessments made after death must cover six years back from the date of death, not six years from the date of making the assessments. But they observe,—and this is an important point to be noted—

> "Subject to this, we think that even if a fraud has been present, an assessment against a dead man's estate should be limited to the six-year period as at present, since his estate cannot necessarily produce the explanation that he might have produced if alive."

Our law should have a limitation period at least for re-opening the cases of deceased assessees. My amendment No. 102 provides for this.

[Shri Bansal]

Another amendment of mine, No. 76 is to secure that the change in the law removing the time-limit for concealment cases should be operative only for two years. The Finance Minister stated that they are amending these particular sections of the Act in order to cover the lacuna created by the judgment of the Supreme Court. If that were so, then even if the Income-tax Investigation Commission were alive, all these assessments could have been closed within two years. Therefore, if my other amendments are not accepted and if the House decides that we accept the amendments in the law as moved by the Finance Minister through the Finance Bill, that is, that we must open all cases up to 1940-41, then my suggestion is that this law should remain in operation only for two years, that is, only up to 1957-58, and after that, the law should revert back to the normal position. Amendment No. 76 is only an alternative if my other amendments are not accepted.

I hope that my reasonable amendments will be accepted by the Finance Minister.

Shri N. C. Chatterjee: If you look at amendment No. 23 and also Nos. 24 and 25, you will find that Shri Bansal's amendments are on the same lines.

In the first amendment, I want to introduce after "unless" in line 33 on page 9, the words "he has definite information in his possession and". If you look at page 9 of the Bill, sub-clause (iii) under clause 18 says: Provided for any year, unless he has recorded his reasons for doing so, and has supplied a copy thereof to the assessee, he shall not proceed to re-open the case. As you know very well, it is a complete fallacy to think that section 34 is directed to cases of fraud. Nothing of the kind. Let me draw the attention of the hon. Minister and hon. Members to the observations which I shall read out from the latest edition of the Law of Income-tax, at page 795:

> "The power to take proceedings under section 34 is not confined to cases where the assessee had concealed his income. It also extends to cases where although there was no concealment by the assessee at all, the Income-tax Officer has reason to believe in consequence of information in his possession that his income has escaped full assessment."

He points out the requisite conditions where section 34 can be operative. The sub-section comes into operation if these conditions are fulfilled—incomes, profits or gains chargeable to income-tax have escaped assessment for the relevant year; lower rate of income-tax has been charged; excessive relief has been given and so on.

The majority of the cases have nothing to do with fraud, nothing to do with misrepresentation and nothing to do with actual tax deception or concealment. Even if all the facts are placed and if assessment is made at a particular rate, later on the Income-tax Officer may think that it ought to have been assessed at a higher rate and so he can re-open it under section 34. Suppose you carry on business and some relief has been given; the other I.T.O. thinks that a higher relief had been given to you; in that case, he can re-open the matter under section 34. Therefore, this power is much wider than getting at an assessee for the purpose of deception, misrepresentation or fraud, and it is in that background that you have got to see whether it would be fair, just, proper and equitable to clothe the Income-tax Officers with this very wide power which is sought to be done.

In clause (a) they are deleting the words "within eight years". That means that the period of limitation is gone. Shri Bansal was perfectly right when he said that you can re-open the case of 1941-42 or 1942-43 in the year 1956. But why? In the year 1965, if you allow this to go on the statute-book, you can say that my predecessors, father or grandfather, had been assessed at too low a rate or given excessive relief although they disclosed everything, that they had been under-assessed and that, therefore, I should produce the books and start proceedings. In that way there would be engines of oppression and tyranny.

When the Finance Minister was speaking, he was good enough to assure us—I hope you were here at that time—that his intention was to get at cases of fraud. At that time you pointed out that it should be made clear and I hope that that would be made clear. The

language can be left to the hon. Minister and his advisers who can help him if he likes. If the intention of the hon. Minister is really to get at cases of dishonest concealment and fraudulent deception, then nobody is going to stand in the way of the income-tax authorities getting power. But for heaven's sake, do not utilise section 34(1) to cases which have nothing to do with fraud, deception or misrepresentation, to genuine cases of fullest disclosures although relief might have been given at the higher rate or one slab higher which ought not to have been done. Therefore, I submit that that should be made clear. I realise and appreciate the nervousness of the revenue authorities and the Finance Minister because they think that that might lead to another attack in the Supreme Court. But if you make a ground of fraud, and then if you say that on that ground it is going to be re-opened, then I am sure that it cannot possibly be challenged that there is any discrimination. In Suraj Mall Mohta case the Chief Justice Mahajan set aside that Act as illegal and *ultra vires* because it infringed the freedom embodied in article 14 of the Constitution because the same man could be proceeded against under section 34; the same man might be at the officer's whim or pleasure and action could be taken by the Investigation Commission. They had different procedures and very extensive power there. So, His Lordship said that it was not right. You have got discrimination writ large on the face of the statute itself. It contained potentialities of discrimination because it is left to the unbridled and unlicensed power of the revenue authorities. That cannot be said here. Therefore, I am pleading for two things. Delete this limitation clause. Do not delete these eight years; do not have it so wide. If you honestly want that the Investigation Commission should take action, accept my suggestion and that of Shri Bansal. If the hon. Minister's statement is correct—that after the Menakshi Mills case, after that judgment of the Supreme Court, they could not go against the tax evaders—it is not our suggestion that you should drop these cases simply because of the Supreme Court judgment. Go against them. Have our amendment. What is our amendment? Our amendment No. 25 restricts the period to 31st March, 1958. The Finance Minister and the Bill also gave them a period of ten years. Have two more years and proceed against them. We are only saying that after 31st March, 1958, the provisions of section 34 as existing prior to these amendments shall be operative. I think it is just, fair and equitable. We are also reinforcing our submission. The Income-tax Officer must have definite information in his possession and if he records his reasons for doing so, they should be made available to the person concerned. You remember the judgment of the Madras High Court. I have to submit with great respect that a different view may be possible. So far as I am informed, the revenue authorities have directed all income-tax officers throughout India to act upon that judgment and not to furnish copies or reasons to the assessees. It is not fair. If you record reasons, you must make it available to them; otherwise, you are doing something not fair to that man. I may read one or two sentences of the judgment in Suraj Mail Mohta case. Chief Justice Mahajan says :

> "When an assessment on escaped or evaded income is made under the provisions of Section 34 of the Indian Income-tax Act, all the provisions for arriving at the assessment provided under section 23(3) come into operation and the assessment has to be made on all relevant materials and on evidence and the assessee ordinarily has the fullest right to inspect the records and all documents and materials that are to be used against him. Under the provisions of Section 37 of the Indian Income-tax Act the proceedings before the Income-tax officer are judicial proceedings and all the incidents of such judicial proceedings have to be observed before the result is arrived at. In other words, the assessee would have a right to inspect the record and all relevant documents before he is called upon to lead evidence in rebuttal."

That judgment is binding on us and all the authorities of India. These are judicial proceedings and he is entitled to know and inspect the record and the relevant documents and know the reasons. So, I am submitting that the reasons should be furnished to him. Rightly or wrongly, they are in a difficult position. The person who supplies the information may be an informant or

[Shri N. C. Chatterjee]

some spy. It may be that one partner of a partnership might have been expelled by the other and for his ulterior motives, the expelled partner may report that the other has not disclosed the whole thing.

I am happy the Finance Minister is here. Having regard to the fact that the scope of section 34 is not limited to fraud, etc., I may say that it extends to cases of under-assessment in respect of fullest disclosures or assessment at a low rate or on the ground that he has been given excessive relief or that excessive loss or excessive depreciation allowance has been paid. Therefore, when these reasons are recorded, they should be made available to him.

My friend, Shri Bansal, has quoted from the U.K. Act. If there is any question of fraud or if it is limited to such things, it is all right. I hope the hon. Finance Minister will redraft the section or we can help him in doing that. If it is done, it is not possible that it could be successfully challenged. How can article 14 be possibly invoked? It was done in that case because there were two different procedures available for the same type of case and therefore, discrimination was possible. Take the Sarkar's case in Bengal. There were two kinds of courts and it was left to the executive to say that, if there were five murder cases, 1, 3 and 5 should go to the special Court and 2 and 4 should go to the ordinary court. Therefore, the Judges of the Supreme Court said that there was discrimination. It is not that positive discrimination has been shown. The possibility is quite enough and so it was struck down. On the same principle, I am submitting that the Investigation Commission Act was declared illegal. But no such contingency can possibly arise here in case you put down the words "in the case of deliberate concealment fraud, etc." We shall never say that, simply because the Supreme Court has challenged this and declared it illegal, all the tax evaders should go free. I take it that at least most of them were tax-evaders. The Government and the Investigation Commission consisting of a Chief Justice applied their judicial minds and found a *prima facie* case; I take it so. Therefore, they were proceeded against. Complete those cases. I am saying that two years further extension is enough. It should not be made an indefinite period because it is a kind of extra-ordinary power and such powers are liable to be misused; they are liable to become an engine of oppression and may prove to be a vendetta—partners going against *ex*-partners. All these people will use this procedure for personal vengeance.

Shri Tulsidas: I have my amendments Nos. 36 and 37. I have also put in another amendment No. 101 which is an alternative amendment. In case my amendment No. 36 is not acceptable to the Finance Minister, there is an alternative amendment because there a number of conditions have been provided. My friend, Shri Chatterjee, as well as Shri Bansal, mentioned about different Acts in different countries. I do not wish to go into that again. I agree that there cannot be a time-limit where evasion has taken place. I also agree that the Income-tax Officer should be allowed to re-open cases where income has escaped assessment. The House will not—certainly I will not—grudge powers being given to the Income-tax Officer to bring such income to tax at any time.

3 P.M.

But I may point out a difference. While the words used in foreign statutes are "fraud or evasion" or "fraud or wilful default", our Act says "omission or failure to make return or to disclose fully and truly all material facts necessary". These words are much wider. The words in the other statutes obviously imply that first the fraud has to be proved. In the Bill as now proposed the Income-tax Officer can reopen a case if he has "reason to believe" although, in fact, ultimately no evasion may be found. While in the United Kingdom and the United States of America fraud has to be proved first and action can be taken only thereafter, here in India the case will be reopened first even though ultimately no evasion is found.

Then, I would like to point out that these are amendments which are brought forward on account of the proposed amendment to the Income-tax Investigation Commission Act becoming *ultra vires*. It is, therefore, essential that powers should not be used as a matter of routine. If you are giving such wide powers those powers should not be allowed to be used as a matter of routine. Exercise of such extra-ordinary powers requires use of extra-ordinary discretion, and we have to give

powers so as to catch the tax-evader without those powers being misused to harass the ordinary honest tax-payer. It is essential that the absolute discretion of the Income-tax Officer be subject to legal checks imposed by the House so that there is no possibility of harassment of the innocent in the process of catching the guilty.

Then again, I would like to point out to the hon. Finance Minister that the Income-tax Investigation Commission had two Judges on it. It could, therefore, bring to bear a judicial restraint on the exercise of its powers. Secondly, the Act was a temporary statute meant to meet an abnormal situation. In the present case, you are giving powers to an Income-tax Officer, who may be quite a low person in authority and who may be sometimes a raw junior recruit. You are also incorporating the powers in a permanent statute which is meant to operate in normal times. I would, therefore, like to know from the Government how long we are to put up with this kind of situation.

I believe, these amendments are in effect meant to replace some of the provisions of the Taxation of Income (Investigation Commission) Act. It would be interesting to refer to the corresponding provisions in that Act. The words used in this Act are much stricter than those contained in the Bill now before us. I am reading from Section (5) of the Taxation of Income (Investigation Commission) Act. The words used there are:

> "the Central Government has *prima facie* reasons for believing that a person has to a substantial extent evaded payment of taxation".

That is how it was put even in the Taxation of Income (Investigation Commission) Act. There has been a definite question of *prima facie* case, and then only the proceedings are to be started. The Government could move under this section only on *prima facie* reasons, and it could do so only if there had been evasion of tax. I believe these safeguards have not been provided in the Bill as now drafted.

This is not all. Under the previous Act the Commission had been given the right to examine the Government's case. Let me again quote from the 1947 Act:

> "The Commission may, after examining the material submitted by the Central Government....and making such investigation as it considers necessary. . . . report . . . . that in its opinion further investigation is not likely to reveal any substantial evasion of taxation on income and on such report being made, the investigation shall be deemed to be closed."

Thus the Commission was not to act as a rubber stamp for the Government; it was to examine the material presented by the Government; it could carry out further investigations and if it came to the conclusion that substantial evasion had not taken place, the case was to be closed. Under the present Bill, the possibility for such independent exercise of powers is absent. The Commission or the Central Board of Revenue would go by the facts presented by the Income-tax Officer. This is not a sufficient safeguard.

The point I would emphasise is this. The Commission was almost a quasi-judicial body, and even then you had provided for various safeguards. Don't you think these safeguards are all the more necessary when you give powers to executive officers? That is what is objectionable and that is why I am saying that you must have safeguards. When the Income-tax Amendment Bill was brought forward, the Finance Minister did appreciate this and he said that we must provide enough safeguards to see that there is no harassment to the people. I would like to know what is the safeguard that would be available for an honest assessee, that his case will not be opened just because some body has "reason to believe"? That is an important thing.

As I said, I have proposed two amendments. I do not mind if some words are changed. I only want to have sufficient safeguards to be provided in the Act itself because, after all, we are now putting this particular amendment in a permanent statute. Therefore, unless proper safeguards are provided it will be very dangerous to have such wide powers given in the hands of the taxing authorities.

I may also refer to anther problem that is likely to arise with the removal of the time-limit, namely, that the assessment may be reopened not only

[Shri Tulsidas]

a long period after the original assessment was made, but a long period after the death of the assessee. Such a provision would be inequitable as, with the person who most intimately knew of the facts dead, it is not proper to proceed for his sins against his successors. The U.K. Law provides specifically against such a contingency by laying down that no action shall be taken two years after the death of the assessee. I believe this is a healthy safeguard. I have suggested in my amendment that the time-limit may be three years.

I would request the Finance Minister to go into all these amendments and if he considers that any of these amendments require certain verbal changes I am quite willing to make those changes. As I considered it proper I have given two alternatives in my two amendments numbers 36 and 101. I hope, that they will be accepted.

Shri T. S. A. Chettiar : Mr. Chairman, the various points have been rather exhaustively dealt with by the previous speakers and I have only just a few thoughts to give expression to.

It has been mentioned that in other countries unless there is fraud the cases cannot be reopened. Our own Limitation Act provides for fraud, that is, three years after the detection of fraud —it may be any number of years after which it is detected—one is actionable. That is what our Limitation Act says. If you apply that Law of Limitation for fraud in these circumstances, the result will be, if somebody does some fraud even in 1940 and if it is detected today, for three years from today he is actionable. So, if 31st day of March, 1941 is the period which has been mentioned here as the latest date to which you can carry back this investigation, war began in 1939 and in my opinion all this corruption and fraud began from that period, I do not know whether this 1941 itself is a period which should be considered sacrosanct.

Sir, we must consider the background of this amendment. The background is that we made a legislation to rope in about 1,300 people who have, in the opinion of the administration, deceived the Government. But that could not be done because of the decision of the Supreme Court. We want to rope in those 1,300 people here. Nobody in this House, nobody who has spoken or not spoken, wants to defend those people who have withheld taxes legitimately due to the country.

The point now is, what is the proper thing to do in these matters? In my opinion, where there is fraud, there should not be any limitation; not even 1941. It must be three years from the date the fraud is detected. The people who commit fraud on public treasury must be punished. This is a matter about which nobody in this House has any difference of opinion.

Now, coming to sub-clause (ii) of clause 18(b), I have got one doubt about it.

Sub-clause (b) (ii) says thus:

> "if eight years have elapsed after expiry of that year, unless the income, profits or gains chargeable to income-tax which have escaped pay assessment or have been under-assessed or assessed at too low a rate or have been made the subject of excessive relief under this Act....." etc.

Now, may I know whether, if the wrong assessment is due to the mistake of the Income-tax Officer himself, the case will be allowed to be re-opened? That is one point which I would like to have a clarification upon. There would not be any justification if the Income-tax Officer himself, after proper accounts have been submitted and the accounts assessed, says that it has been under-assessed and that the books must be re-opened. If A submits proper returns and if the Income-tax Officer finds, for some reason or other, that the income has been under-assessed, it is not fair that the accounts should be re-opened. I would like to know whether such a thing will be re-opened. Will such a case be allowed to be re-opened? In my opinion, if the Income-tax Officer himself commits a mistake, it should not be re-opened. That is a matter which I would like the Finance Minister to appreciate.

There is another matter which I would like to touch. Shri Bansal who referred to that matter is, I think, unfair to the Government. He referred to the lakh of Rupees as one of being not for eight years but for one year. Even in the previous Act, it was for a period of eight years. There is no misunderstanding in that matter.

Shri Bansal: I was referring to a Government publication—*Income-tax for the Layman*—where it was definitely stated that this amount of Rs. 1 lakh will be only for one year.

Shri T. S. A. Chettiar: Why should you depend upon the Government publication, when you know that the previous legislation was not so? You know the background of this legislation.

Shri Bansal: What I was trying to say was that an impression in the public mind was created. We legislators represent the public and we know that the public do not study the laws as such but if at all only the hand-books which are published by the Government for their benefit.

Shri T. S. A. Chettiar: But now, what I am trying to make is this. When we want a long period for the assessment to be re-opened the assessment should be a fairly big amount. This amount of Rs. 8,000 per annum in my opinion, is rather a low assessment. What I would like the administration to concentrate upon is that they should see to the big people who deceive Government of a big amount. This amount of Rs. 8,000, if I may say so, is not really big. As was once stated by the Finance Minister, instead of wasting the time of the Income-tax Officer in troubling the smaller assessee, it would be rather well to concentrate on the bigger assessees. I would like the Government to consider whether this amount cannot be enhanced so that the authorities could deal only with the people who have deceived the Government of larger amounts.

There is one other matter, and it is this. Suppose there is an Income-tax Officer who wants to harass people. There are sadists everywhere in the world who derive pleasure by harassing the people. The people who are recruited as Income-tax Officers are not all free from that habit and some of them might take pleasure in harassing the people. I would, therefore, like to know whether there is anything in this legislation to say that if any officer acts in such a way to harass the people, there will be some relief? What is the relief due to such people who are harassed? What action does the department propose to take in a matter like that? I would like to know whether the previous permission of the Central Board of Revenue or somebody else is necessary. The Central Board of Revenue is perhaps the highest body and it is perhaps a more judicial body than many others because it is situated far away. The Government must make sure that harassment is not resorted to. What I want to say is that Government owes it to the people that every pie that is due to Government is collected. If it is not possible to calculate it to the pie, it may be rounded off into a rupee. But it is also necessary that scope for unnecessary harrassment is not given.

I hope all these points will be taken into consideration by the Government.

Shri M. C. Shah: I have carefully heard the arguments advanced by my friends Shri Bansal, Shri N. C. Chatterjee, Shri Tulsidas and Shri T. S. A. Chettiar. Shri Chettiar has posed one or two questions. He wanted to know whether the cases where the Income-tax Officer has found on later examination that the amounts had been under-assessed can be re-opened. I say 'No' That is not the purpose of clause 18. Further he asked whether there will be previous sanction of the Central Board of Revenue. Certainly, there will the previous sanction of the Central Board of Revenue. The point is that after the Taxation Enquiry Commission had produced the report section 5(4) was adjudged *ultra vires* of the Constitution by the Supreme Court. Then we had to bring in section 34(A), and there, we provided that from the year 1939 to 1946, if the income that escaped assessment was more than a lakh of rupees, these cases could be re-opened with the previous approval of the Central Board of Revenue.

Thereafter, clause 5(1) was again adjudged as *ultra vires* of the Constitution on the 17th July, 1954. It was then that all the cases that were disposed of before the 17th July, 1954, were saved. Those cases were settled and were disposed of. The decision applied only to those cases which were pending on the date of the judgment, that is, 17th July, 1954. Therefore, in section 34(1A), we have provided that cases before 31st March, 1956, for which notices had been issued and which were referred to by the Special Directorate, could be dealt with, and all those cases were left pending. Thereafter, in December last, it was decided by the Supreme Court

[Shri M. C. Shah]

that from the date of the coming into effect of the Constitution, namely, 26th January, 1950, all such cases were also not legal and they were considered to be *ultra vires* of the Constitution. Now, 31st March, 1956 has gone. Section 34(1A) has lapsed. We have to take into consideration all those 1,300 and odd cases which are to be just investigated into and assessed after the investigations.

Now, we have to make some provision in the law. At the same time, section 34(1A) also was challenged in several high courts. So, we thought about just bringing in this proviso. Then we considered the report of the Taxation Enquiry Commission also. The Taxation Enquiry Commission has recommended that such measures could be undertaken and that too permanently. That means cases where there was said to be some concealment which amounts to nothing but fraud could be taken up by such enabling measures and that such measures should enable the Government to re-open those cases. Those powers must vest in the Government and they must be on a permanent basis. Therefore, we took legal opinion on this matter and we have brought forward this amendment to section 34.

Now, the point is urged that by taking away the period of eight years we are taking rather unlimited powers. It is no pleasure to the Government to take over extraordinary powers unless they are necessitated by the circumstances prevailing at the time. Now and then we hear cases, both in this House and in the other House, from several hon. Members saying that there has been evasion on a wide scale and that there has been concealment of huge profits. There is rather a deliberate concealment and an endeavour not to pay income-tax. Even the question was asked as to how many cases of evasion there might be. Some hon. Members suggested that if strict measures are taken and if the administration is gingered up, then perhaps 50 per cent more of money could be had. That means, today we have Rs. 180 crores. So, Rs. 90 crores may be had further, but that is not a correct estimate that we have had from our experts on statistics. Of course, as the Finance Minister referred to it the other day, there may be evasion to the tune of Rs. 30 crores—Rs. 10 crores at the level of Rs. 4,200 or so, Rs. 10 crores in the middle slab and Rs. 10 crores at the highest slabs. When we want to bring in all that income, which is due to the Government. . .

Shri Bansal : Has anybody here suggested that in cases of deliberate concealment of income or fraud, these powers should not be exercised by the Government? What is the use of misrepresenting our points?

Mr. Chairman : No second speech can be allowed to be made in this manner.

Shri M. C. Shah : Therefore, when we are just tightening up the administration and when we propose to bring to book all those persons who deliberately evade the payment of tax on their income, it is necessary that such a provision should be on the statute-book.

They say that there has been harassment. There cannot be any harassment. If there is any harassment and if it is brought to our notice, we are prepared to take action immediately on that matter. Even the aggregate sum of Rs. 1 lakh is huge. That means the income-tax payers are not at all harassed. Even if you take 8 years, the average comes to Rs. 12,000 a year. In one year it may be Rs. 10,000 and in another year it may be Rs. 14,000. Can it be through any omission or mistake? It must be a deliberate concealment on the part of the assessee who has filed the return. Therefore, when the Income-tax Officer has got definite information on that point and also the necessary evidence, he will report the matter to the Central Board of Revenue, who will give the permission to re-open the case. There are sufficient safeguards, because the Central Board of Revenue consists of the highest officers who are top most and they will look into the case. It is not a matter of pleasure to re-open the case of any person and every person in order to harass people. At the same time, I would like to point out that this issuing of notice is not taking action immediately. That does not create any tax liability on that person. He will have ample opportunities to show that the information got by the income-tax department is not the correct one and that he is not liable to be taxed. He can prove that he has not concealed any income. Certainly, the safeguards that were suggested by my friend, Mr. Tulsidas, are not at all necessary.

Shri Bansal: Does the hon. Minister say that the safeguards are not at all necessary?

Shri M. C. Shah: I say that they are not necessary.

Shri Bansal: At first he was making a case for these safeguards and then he says that they are not necessary.

Shri M. C. Shah: I say that the income-tax officer will look into this matter and when he submits his report, he will give the reasons why that case should be reopened. That report will be considered by the Central Board of Revenue and the Central Board of Revenue will give their approval to the reopening of the case. Therefore, whatever is wanted is already there. It cannot be that on receipt of any report from the income-tax officer the Central Board of Revenue will immediately order that the case be reopened.

Shri Tulsidas: May I correct the hon. Minister? I have got another amendment, No. 101. If the hon. Minister reads my amendment No. 101, he will find. . . .

Shri M. C. Shah: I am replying to your amendment No. 101.

Shri Tulsidas: You are not.

Shri M. C. Shah: The amendment suggested is intended to secure three things. Firstly, he wants that the reasons on the basis of which the income-tax officer applies to the Commissioner of Income-tax or the Central Board of Revenue for sanction to re-open the assessment under section 34 should also be communicated to the assessee concerned at that stage. I am telling what Mr. Tulsidas Kilachand's amendment conveys. The second suggestion is that the Commissioner of Income-tax or the Central Board of Revenue should not give sanction for reopening the case till the assessee has been given an opportunity of being heard. The third suggestion is that the Commissioner or the Central Board of Revenue should also record the reasons for his or its satisfaction that the case is a fit case for the issue of notice under section 41. These are the three suggestions made.

I say that the matters referred to above are all matters which are preliminary to the initiation of proceedings for re-assessment. As has been observed by the Privy Council in the case of the Commissioner of Income-tax, Bengal *versus* Messrs. Mahaliram Ramji Das (1940 Income-tax Report, page 442), the income-tax officer is not conducting so to say any judicial or quasi-judicial enquiry before deciding on re-assessment and it is also unreasonable and unpracticable to attach to it the incidence of semi-judicial enquiry, as it would only result in mere duplication of procedure, without any advantage to the person concerned. Recently, the Madras High Court has also observed in the case of Presidency Talkies Limited *versus* the Commissioner of Income-tax, Madras (1954 Income-tax Report, page 448) that it is the satisfaction of the Commisioner of Income-tax that is necessary and this regulation is intended only to safeguard the interests of the assessee against any hasty action on the part of the income-tax officer or action without any justification.

Shri Bansal: The hon. Minister need not take the trouble of reading all that, we only want to know whether he is going to accept any of the amendments or not.

Shri M. C. Shah: I am not going to accept any of the amendments. I want to advance arguments. The hon. Member also referred to certain rulings and therefore, I also referred to two rulings —the ruling of the Madras High Court and the ruling of the Privy Council.

Shri N. C. Chatterjee: The hon. Minister did not appreciate what I said. I said that the Madras High Court has stated that the reasons need not be communicated to the assessee and that although the Madras High Court has taken that view, still in fairness they should be communicated. While reopening a case closed 8 years back, it is only fair that the assessee should be given a chance to know the reasons and the whole proceedings may be dropped even at that stage. I am appealing to the Finance Minister also. What is the objection if the I.T.O. has definite information and it is communicated?

Shri M. C. Shah: The hon. Member is making a speech.

Mr. Chairman: If the hon. Minister had not given way, I would not have allowed the hon. Member to make a speech.

Shri M. C. Shah: So far as the safeguards advocated by the hon. Members are concerned, it would be seen that

[Shri M. C. Shah]

this is not a judicial or quasi-judicial enquiry. Both the Central Board of Revenue and the Commissioner of Income-tax will look into all the cases and only when the Central Board of Revenue are satisfied that there is a *prima facie* case of reopening the assessment of that individual, notice will be issued. He will be entitled to produce all the evidence that he may have in his possession to show that the concealment that has been alleged was not there. Therefore, it is not necessary to provide safeguards as suggested by my hon. friend Shri Tulsidas in his amendment No. 101.

It was also suggested that the liability should not be imposed on the heirs of a deceased after three years or so. There too, income-tax is a civil liability. If a person makes taxable income, the death of the person cannot operate to exempt the income from liability. So also, where the deceased has concealed his income while alive, there is no justification for not applying all the provisions of the law which will enable the Government to recover the proper tax on the incomes earned by him. Under the law, the legal representatives have to be given an opportunity of being heard before an assessment under section 34, is made so as to bind them for payment of the tax. There is no inequity in this and there is no case for restricting the time limit for reopening of the assessment under section 34 in cases where the assessee concerned is dead. Therefore, the amendment is not acceptable. We cannot allow concealed income to be enjoyed by the heirs of the deceased without paying the tax if that is detected. Therefore, I think there are enough safeguards. At the same time, as I have already advocated, as the hon. Members are not in favour of allowing the tax dodgers to go scot free, they must extend their co-operation and agree to give these powers to the Government. They must see whether these powers are exercised judicially. They should not say that the Government are taking these powers to harass innocent persons. I do not think that any honest man who files his returns quite correctly will ever be harassed by this new section 34. Therefore, I am afraid I cannot accept any of the amendments. My hon. friend Shri Bansal only wanted to know whether the Government are accepting any of the amendments. I do not think any further discussion on these points is necessary.

Mr. Chairman: Am I to put these amendments to the vote of the House?

Shri Bansal: You may take them as rejected.

Mr. Chairman: The hon. Member should not make a remark like this. It is a reflection on the House. The amendments will be put to the House and decision of the House taken.

Shri Bansal: I did not mean any reflection. I only meant to say that as the hon. Minister is not willing to accept...

Mr. Chairman: Even if he accepts, what effect has it on the House? The House has to give a decision all the same.

I understand, before the Speaker left the Chair, he said something about this matter. He hoped that he would see the hon. Finance Minister and have a talk with him. I do not know what has happened. If there is no likelihood of any talk between the hon. Speaker and the Finance Minister, then I may put the amendments to the House. If there is a likelihood of this talk, I may wait. I do not know what the position is.

Shri C. D. Deshmukh: I understood that the Speaker expected me to make some kind of a statement in regard to that view point. I was not here. That was the message conveyed to me.

Mr. Chairman: It was suggested in his absence by Shri Tulsidas, Shri N. C. Chatterjee, etc. that these permanent sections, amendments to the permanent Act may be separated from the rest. The opinion expressed by the Speaker was that he may have a talk with the Finance Minister.

Shri M. C. Shah: He did not say about any talk. He said that the Finance Minister would be coming at three o'clock and then it may be taken up.

Shri N. C. Chatterjee: A suggestion was made by Shri Tulsidas that we may have a discussion with the hon. Finance Minister and communicate to the Speaker the result of our efforts.

Shri Tulsidas: I raised it this way. The point is, since these are amendments of the permanent statute, opportunity should have been given by a separate Bill or at least the Finance Minister should have had a discussion with us informally before these discussions take place here. I asked his guidance.

Mr. Chairman : I only want to know if that formal discussion was to take place between the hon. Finance Minister and the hon. Speaker or between the hon. Finance Minister and hon. Members.

Shri Tulsidas : The Speaker was to have a talk with him.

Mr. Chairman : That is how I understood it. I want to know whether the talks are likely to take place. If they are likely to take place, I may defer this and proceed further. If no talks are likely, then. . .

Shri C. D. Deshmukh : First could we not find out what the Speaker has said?

Mr. Chairman : It is a matter of record.

Shri C. D. Deshmukh : I was not here.

Mr. Chairman : I see the difficulty.

Shri B. S. Murthy : A point of argument was raised....

Mr. Chairman : I was present in the House at that time.

A point of order was raised. The hon. Speaker was pleased to express that he would have some sort of a conference with the hon. Finance Minister and if the Finance Minister did not agree, he may proceed with the Bill. He wanted to use his influence and see that these permanent sections might be separated if possible. He said something to that effect. Since the hon. Speaker expressed his intention to have a talk with the Finance Minister, I thought it better that I should put these provisions to the vote of the House after that talk has taken place. I do not know the position myself, whether there has been any talk, whether there is any likelihood of a talk.

Shri C. D. Deshmukh : Is the Speaker not here?

Mr. Chairman : He is not here.

Shri T. S. A. Chettiar : If I remember aright, he said that in future years, he will take up the matter and see whether these amendments cannot be separated from the taxation proposals.

Mr. Chairman : The point is clear. If we pass the law now this point will not arise in future years?

Shri T. S. A. Chettiar : This particular thing will not arise in future. It is quite possible that there may be other amendments to the permanent Act.

Mr. Chairman : As a matter of fact, he referred to these sections dealing with the permanent statute. He wanted to talk to the Finance Minister in respect of two or three sections. I think it would be better if we take up this clause after, say, half an hour. He may arrive. I am anxious that whatever the Hon. Speaker said may be implemented. If there is a talk between the Speaker and the Finance Minister, I think good results may come. I am not prejudging. At the same time, I am anxious that the wishes of the Speaker may be implemented. I shall take up this clause 18 after half an hour. I will proceed. All the amendments have been moved and discussed. They have only to be put to the House after this conference takes place.

I proceed to clause 19.

Clause 19.—(*Amendment of section* 35)

Shri Tulsidas : I have a number of amendments.

Mr. Chairman : I may also submit for the consideration of the House that at five o'clock we have to finish all these clauses and there is one hour for third reading. We must hasten. There are four schedules. I therefore request hon. Members to be brief. Otherwise, some things may have to be guillotined.

Shri Tulsidas : My difficulty is, the Income-tax Act is being amended on a permanent basis.

Mr. Chairman : That point has been gone into.

Shri Tulsidas : I am just explaining. That is why I have to go into details. This clause provides for re-assessment in certain cases, for taxation of shareholders where a company fails to pay the tax on dividends distributed to the shareholders. The amendment seeks to provide that the assessee should be given an opportunity to present his case before re-assessment is made, and that the shareholders should not be asked to pay the tax not paid by a company three years after the assessment of a company is completed. In re-wording section 35(8) of the Income-tax Act, the present clause removes some of the safeguards till now available to an assessee

[Shri Tulsidas]

whose tax liability is reopened. The note on this clause says that the re-wording is consequential upon the amendments to section 34. Is it proper that in doing so, a substantial right to the assessee should be taken away? The right of an assessee to be heard is not merely a consequential matter, but a fundamental one. How is it that Government seek to put in certain words here and thereby whittle down the assessee's rights, in the shape of carrying out a consequential amendment?

This method, I feel, is not fair. Very often, it happens that even after three years after the assessment year, the assessment of companies is not completed; and the liability of the shareholder to pay tax is assessed only after the assessment is completed, and not after the dividend is paid. Otherwise, difficulties may arise in practice. For instance, even though a company's assessment is not completed, the income-tax officer may withdraw under the provisions made now the rebate allowed to the shareholder. This may happen though the amount of the company's liability is not certain, and though the company is always willing to pay the tax.

I therefore suggest that in this case, the assessee must be given a hearing, and that the period of three years should be calculated from the date of completion of assessment and not that of the payment of dividend.

Under the first proviso, a recomputation may be made to enable Government to withdraw the rebate on undistributed profits to such profits as distributed. This is proper. However, it must be remembered that there may be a dispute as to what profits have been actually distributed. For instance, suppose a company distributes past non-taxable profits, *e.g.*, capital gains, and the income-tax officer attributes the distribution to past profits which had obtained the rebate in the past and assesses the company on such distribution, should not the company be allowed to explain the situation? Has it not a right to be heard in such a case?

In all these clauses, as a result of a recomputation, the liability of an assessee is increased. It is therefore essential that the assessee should be heard. This is what my amendments Nos. 38 103 and 104 seek to provide.

By amendment No. 105, I seek to provide that a right of appeal should be granted to the assessee in such a case. I may mention that my amendments do not seek to prejudice the revenues. They only seek to afford a hearing to the assessee. Under section 35, there is no appeal. When you are making a recomputation, or whenever you assess an assessee on the question of the dividend which has to be paid, I submit that there should be some hearing given to the assessee. You must give him a chance to put his case, and then you can do what you like. At least a hearing should be given to him. That is the point I want to make.

I beg to move:

(i) Page 11, line 1—

after "Officer may" *insert*:

"after giving notice to the assessee of his intention so to do and after giving him a reasonable opportunity of being heard".

(ii) Page 11, line 12—

after "three years after" *insert*:

"the completion of the assessment for".

(iii) Page 11, line 19—

after "in this Act" *insert*:

"after giving notice to the assessee of his intention so to do and after giving him a reasonable opportunity of being heard."

(iv) Page 11, line 44—

for "shall" *substitute*:

"may, after giving notice to the assessee of his intention so to do and after giving him a reasonable opportunity of being heard, proceed to."

(v) Page 12—

after line 8, *add*:

"(11) An appeal shall lie against any order of the Income-tax Officer made under sub-section (8), (9) or (10), of this section."

Mr. Chairman: These amendments are now before the House.

Shri M. C. Shah: So far as the three years' period is concerned, I quite appreciate the difficulty pointed out by Shri Tulsidas, that the assessment may

not be complete. Therefore, in those cases, we shall issue instructions that after the completion of the assessment, this should be given effect to. But so far as the matter stands, there is hardly any possibility of the assessment not being completed in three years. Still, to obviate the difficulty that has been pointed out by my hon. friend, we shall issue instructions to see that it is done that way.

Shri Tulsidas: Why not provide in the Act itself to obviate all this difficulty?

Shri M. C. Shah: There may be hardly a case or two; for those exceptional cases, I do not think we can incorporate such an amendment on the statute-book. But we just assure—and this is an assurance by Government—that in such cases, instructions will be issued that it shall not be given effect to, until the assessments are completed.

Now, I come to amendment No. 38. It has been specifically provided that the provisions of sub-section (1) of section 35 as it stands shall apply to any rectifications to be made under sub-sections (8) and (9) and (10), and under the proviso to sub-section (1) if the rectification will have the effect of enhancing the assessment, the assessee has to be given a notice and a reasonable opportunity of being heard before the income-tax officer makes an order of rectification. The object sought to be achieved by the Mover of the amendment is already provided for in the law. So, the amendment is not necessary. He may have his object secured by the first proviso to section 35 itself. So, amendment No. 38 is not necessary.

In regard to amendment No. 105, I would like to say that the matters referred to in section 35 are not matters in which any principle will be in dispute so as to leave a provision for appeal. They are matters of rectification of apparent mistakes or of giving consequential effect to the determination orders under other sections which are themselves matters which can be taken up in appeal. Therefore, there is no need for providing an appeal here.

Mr. Chairman: The question is:

Page 11, line 1—

after "Officer may" *insert*:

"after giving notice to the assessee of his intention so to do and after giving him a reasonable opportunity of being heard".

The motion was negatived.

Mr. Chairman: The question is:

Page 11, line 12—

after "three years after" *insert*:

"the completion of the assessment for".

The motion was negatived.

Mr. Chairman: The question is:

Page 11, line 19—

after "in this Act" *insert*:

"after giving notice to the assessee of his intention so to do and after giving him a reasonable opportunity of being heard".

The motion was negatived.

Mr. Chairman: The question is:

Page 11, line 44—

for "shall" *substitute*—

"may, after giving notice to the assessee of his intention so to do and after giving him a reasonable opportunity of being heard, proceed to".

The motion was negatived.

Mr. Chairman: The question is:

Page 12, *after* line 8, *add*:

"(11) An appeal shall lie against any order of the Income-tax Officer made under sub-section (8), (9) or (10) of this Section".

The motion was negatived.

Mr. Chairman: The question is:

"That clause 19 stand part of the Bill".

The motion was adopted.

Clause 19 *was added to the Bill.*

Clause 20.—(*Substitution of new section for section* 37).

Shri Tulsidas: I beg to move:

(i) Page 12—

after line 40 *add*:

"(2A) The Commissioner shall not authorise an Income-tax Officer under sub-section (2) unless he himself examines the facts in such case and expresses himself in writing that without such authorisation the assessment proceedings cannot be adequately completed."

(ii) Page 13, line 8—

after "so doing" *insert*:

"and without supplying a copy of the reasons to the assessed".

(iii) Page 12, line 23—

for "Subject to any rules" *substitute*: "In accordance with any rules".

(iv) Page 12—

after line 40, *insert*:

"(2A) Such rules shall provide that the Commissioner shall not grant authority to an Income-tax Officer under sub-section (2) of this section unless he has recorded his reasons for so doing.

(v) Page 13—

after line 11, *insert*:

"(3A) A copy of the reasons for any action taken under sub-section (2) or (3) of this section shall be furnished to the person whose premises have been entered and searched, whose books of account or documents have been seized, marked, extracted, copied or impounded, within twenty-four hours of such action being taken, with a notice giving a date and time for a hearing within four days thereafter.

(3B) Any books or documents so seized or impounded may be examined by the Income-tax Officer in the presence of the assessee within seven days after the seizure or impounding thereof and shall thereupon be sealed and be kept sealed except during the hearing of the case by the Income-tax Officer, the Appellate Assistant Commissioner or the Tribunal."

Shri Bansal: I beg to move:

(i) Page 12, line 26—

after "place where" *insert*:

"in consequence of definite information in his possession".

(ii) Page 12, line 28—

for "in his opinion" *substitute* "in the opinion of the Commissioner".

Shri Bansal: My amendments Nos. 77 and 78 are really very small amendments. All that is sought to be done here is that the income-tax officer should be empowered to impound and seize any documents or enter the premises only if he has definite information in his possession, and secondly in the opinion of the Income-tax Commissioner, such impounding, seizure or entry is going to be useful. These are the only two safeguards which I want to provide. I see the case for empowering the income-tax officers to enter the premises and impound and seize the books. But this power should not be vested in him in an unlimited manner. That is what I would like to emphasise.

You were just now good enough to mention the point of order raised by Shri Tulsidas this morning, which was supported by Shri N. C. Chatterjee. I have an additional point in that regard. If we amend certain clauses of a statute like the Income-tax Act by putting in certain amending clauses in the Finance Bill, which is a money Bill, then in effect what we are doing is that we are debarring the jurisdiction of the Council of States in regard to those amendments. This was the point mentioned in the morning. This Bill, because it is a Money Bill, will not go to the Rajya Sabha, But, if on the other hand, these amendments were made by a separate Bill amending the Income-tax Act, that amending Bill would have gone to the Rajya Sabha. By bringing these amendments through this Money Bill, actually we are debarring the Rajya Sabha from expressing any opinion on these clauses which purport to amend the Income-tax Act very drastically. Therefore, I would suggest that this additional point should also be taken into consideration.

Shri N. C. Chatterjee: My amendments Nos. 26 and 27 are the same as Nos. 77 and 78 moved by Shri Bansal. Amendment No. 26 simply says:

"*after*, 'or place where', *insert* 'in consequence of definite information in his possession'."

This, I submit, is a very reasonable suggestion which I am putting forward and which Shri Bansal also endorses. If you look at page 12, line 26, you will see that now for the first time this very extraordinary power is being conferred on an income-tax officer. 'Specially authorised by the Commissioner' means very little; it means nothing. More or less, everybody would be authorised. It says :

> "enter and search any building or place where he has reason to believe that any books of account other documents which in his opinion will be useful for, or relevant to, any proceedings under this Act may be found and examine them, if found".

This is a power which may lead to entry into any building, not merely the building of the assessee, not merely the business premises. If you look at the Taxation Inquiry Commission's Report they had recommended that they should be given power to enter business premises where books are kept. Of course, they have also pointed out that this very suggestion was made before. And, if I remember aright, in this very place, Shri Bhulabhai J. Desai strongly opposed any such idea. There was a good deal in that. But it was turned down. Now, they have gone over to the Treasury Benches, and casting their principles to the wind, they now want this very power. But we are pointing out some safeguards, very very slender safeguards, not serious safeguards. We are simply saying that it must be in consequence of definite information in his possession, not on mere suspicion, not mere vagary, not merely somebody's day dream. He should have some definite information—I am using the language which was in section 34 before the recent amendment.

Secondly, we are saying that he should try to get hold of those books of account or other documents which in the opinion of the Commissioner, will be useful or relevant. That means a higher authority will have to exercise his judgment on this matter, and if he is satisfied that there is a case and these books will be necessary or useful, then he can enter any building or any place and effect search or seizure. You know that in some cases, very extraordinary things have happened. Under police powers, Magistrates have issued warrants and even then what has happened is that the business premises are ransacked. I know of one case—I won't give details because it is still pending final adjudication—which has happened. Although two companies were involved, the books of accounts of at least 40 or 50 firms and companies were all taken away, and the entire business of all these companies, firms and associations was all paralysed for about two years, and nothing has been done.

Shri Feroze Gandhi : Of the same proprietor or of different proprietors ?

Shri N. C. Chatterjee : No, no. Of different proprietors.

"Enter and search any building or place where he has reason to believe"—this power given to the income-tax officer should be hedged in with adequate safeguards. I was thinking of more safeguards. I wish I could give more effective safeguards. But at least this we have put forward, practically very very slender safeguards. I hope the hon. Minister will accept them. There will be at least some judgment brought to bear upon the matter by the highest officer in the division and that would be some safeguard against unnecessary harassment, persecution ignominity and other things involved in indiscreet search and seizure.

Shri Tulsidas : My amendments would provide that such searches be carried out only for books that are necessary. Here the words used are 'useful or relevant'. I, no doubt agree that the Taxation Inquiry Commission had recommended the grant of such powers. But to my knowledge, the income-tax authorities of no other country enjoy such wide powers in their discretion.

I shall give instances of income-tax laws of countries of which I have definite knowledge. In U.K., the income-tax law does not give such powers of search to the income-tax authorities. This is not an oversight, for the issue has been considered in detail there. As late as a year ago, the issue was raised before the Royal Commission on the Taxation of Profits and Income, and this is what it had to say on the subject:

> "We do not favour giving an inspector power to visit the office of a business concern and to inspect its documents. Certainly, it

[Shri Tulsidas]

might meet the exceptional case of destruction, or falsification of records. On the other hand, we doubt whether such a right of inspection without notice is a workable proposition or not at all. It would be more likely to prove at once the most invidious and the least useful of such powers."

This is what the Commission said, and I do not think there are any cognet arguments for giving these powers to income-tax authorities in India.

Let me cite the law in the U.S.A. Section 3602 of the Internal Revenue Code says:

> "The Judges may, within their respective jurisdictions, issue a search warrant, authorising any internal revenue officer to search any premises within the same, if such officer makes an oath in writing that he has reason to believe, and does believe, that a fraud upon the revenue has been or is being committed upon or by the use of said premises."

As you will see, here also the income-tax officer has to take the permission of the judiciary before he can carry out a search. At present, this sort of situation prevails in India also. I am sure that even today the Assistant Commissioner has to obtain the sanction of the Magistrate. If the Magistrate feels satisfied, he might give a search warrant. I do not see any reason why this power given to the judiciary should be removed from their jurisdiction.

Then I suggest that the words 'useful or relevant' in relation to books for which search may be made are too wide; they will enable the authorities to undertake roving searches in the mere hope that something may turn up. The words should be replaced by the word 'necessary', so that the scope for vague and roving enquiries may be restricted.

Where such enquiries are to be undertaken, it is also necessary that the sanction of the Commissioner be taken not merely in a formal sense. The Commissioner should be required to apply his mind to each individual case in which the power is to be exercised; he should be required to examine whether the same purpose could not be secured by the exercise of less harsh powers, and whether their exercise is essential to the completion of the assessment. I further suggest that the Commissioner I know that even such safeguards are of no use. In some cases, it is a routine matter and the Commissioner automatically says to the Income-tax Officer, 'you go ahead with it and take particular action'. That thing is not desirable. The Commissioner must look into the matter whether there is any necessity for taking any extraordinary action. I am prepared to accept whatever safeguards the Finance Minister prescribes. But, my point is that there must be enough safeguards to see that these powers are not unnecessarily utilised. That is all.

4 P.M.

Shri T. S. A. Chettiar: If you see the clause, you will see that section 37(1) is what it exists now in the Income-tax Act, but clauses (2) and (3) are new. As the Speaker said this morning, this is a case essentially of amendments to the Income-tax Act. We should deprecate this practice of rushing through these amendments as in the case of Finance Bills. These are really dangerous powers that are being sought to be given to the Income-tax Officer. We may or may not give them those powers. But, certainly, the House must consider the question and come to the conclusion whether we should give those powers. Today, in a discussion over this Finance Bill, we have no time, and, I think, it is very unfair for Government to bring in such amendments when they are trying to pass Finance Bills. We are a large party; we are here to set up good traditions. I say that the tradition that we are setting up by bringing in substantial amendments to the Income-tax Act while the Finance Bill is being considered, is not a good tradition. I would suggest to the Government that they should go into the matter hereafter and see whether they should not make a differentiation between substantive amendments to the Income-tax Act and the provisions of the Finance Bill which are expected only to give effect to the financial provisions of the year's Budget. I think we will be setting up a good tradition if we divide in that way.

Coming to clauses (2) and (3), I do not understand the reference to the Code of Criminal Procedure and the Penal Code. Reference is made to the provisions of the Code of Criminal Procedure relating to searches and it is said that the provisions of the Code of Criminal Procedure, 1898, relating to searches shall apply so far as may be to searches under this section. This is a very wide power and I do not understand what this reference to the provisions of the Code of Criminal Procedure would mean.

So also, in sub-clause (3), reference is made to the Indian Penal Code. I wish my lawyer friends would explain to us the implications of this. I have not gone into it. I would like to suggest that any provision like this, which gives very large powers to any officer of Government, requires certainly certain safeguards. The only safeguard that is provided here is that he must be specially authorised by the Commissioner in this behalf. I do not know whether this is a sufficient safeguard. I am not personally happy over giving these powers to the Income-tax Officer with the mere permission of the Commissioner. I would suggest that matters like this should not be brought within the ambit of the Finance Bill.

Shri C. D. Deshmukh: I propose to place before you certain considerations which I was going to place before the Speaker in regard to the point that has been raised by the hon. Member; in regard to the merits of the amendment, my colleague will reply.

The hon. Member has complained that we are rushing the House through this clause. I cannot see any evidence of rushing. A number of hon. Members have spoken on this matter.

Shri T. S. A. Chettiar: Normally, a Bill of this kind is bound to go to the Select Committee.

Shri N. C. Chatterjee: Our point is that the normal procedure is being circumvented.

Mr. Chairman: When an hon. Member is speaking, interruptions of this kind are not good. Remarks about the attitude of Government have already been made and other hon. Members have already spoken and the Hon. Minister is replying.

Shri C. D. Deshmukh: I have lost the thread of my argument.

I was saying that we are not rushing the House so far as these clauses are concerned. We discussed in great detail clause 18 and we are discussing this clause also at great length.

I have already referred this morning to the provisions of article 110 of the Constitution, particularly sub-clause (a). I would remind that when we brought forward the Income-tax (Amendment) Bill of 1953, the Speaker certified that to be a Money Bill. You will, probably, remember that that particular Amendment Bill contained a large number of what are losely called procedural matters. But, our opinion is that if one analyses these clauses, they will be found to have an intimate bearing either on imposition, abolition, remission or alteration or final regulation of any tax. It is a truism that the amount of tax collected does not depend merely on the rates of taxes; it depends also on the persons to be taxed, the incomes to be taxed, the method of computation of the income and also the procedure for the recovery of the taxes, if the proposals of the financial year are to be fully given effect to.

The next point that I wish to make is that this is not an unusual feature that we have adopted this year. We have been doing so for a number of years. For instance, in the Indian Finance Act, 1950, we had 3 such provisions; one was for giving relief to incomes from merged territories and Part B States; the second was the power to allow a person to act as an Income-tax practitioner if he had already worked in that capacity in a Part B State. Then there was another clause which gave jurisdiction to the High Court of Assam over cases from Manipur and Tripura.

Then, in the Finance Act of 1951, there was section 17(1) relating to the assessment of non-residents, of the Income-tax Act, which was substituted by that section of the Indian Finance Act of 1951.

Then, in 1953, the second proviso to section 9(2) relating to assessment of house property was introduced by a section of the Indian Finance Act of 1953. Then, section 12(AA) relating to assessment of royalty or copyright fee

[Shri C. D. Deshmukh]

for literary and artistic work was inserted. Then there was another section relating to relief and exemption which was entirely recast. Proviso (2) and Explanations 1 and 2 below section 24 (1) restricting relief for speculative losses was also inserted and, finally, section 49A giving the power to the Central Government to enter into double taxation relief was also substituted.

Lastly, there was section 56A which gave relief in respect of supertax to companies in respect of investments in certain industries.

In the Indian Finance Act of 1954, there was a clause inserted in order to provide for interest payable to foreigners on certain securities. In the Finance Act of 1955, there were 17 clauses and several sub-clauses which were of the same nature as here.

In view of all this, one cannot say that the House is being asked to follow a procedure which is quite novel. I have here an analysis of the various clauses which we have introduced in this Finance Bill, but it is not necessary to go over this now. There is, for instance this clause which we have not passed yet. Certainly clause 18 would help to levy taxes on certain incomes which would otherwise escape. The amount of tax involved is considerable, keeping in view the kind of cases that we have in mind, namely, most of the settlement cases already dealt with in the last seven years by the Income-tax Investigation Commission. The tax already collected is Rs. 6 to Rs. 7 crores and it was our expectation that we should be able to collect another Rs. 3 or Rs. 4 crores by the same method.

There is this present clause that we are dealing with. That also is necessary for the proper recovery of tax from persons who are brought within the purview of taxation by clause 18. Therefore, I submit that we are not following any new procedure, nor are we trying to rush the House except to the extent to which the non-appointment of a Select Committee involves rushing. But that is a matter which is now traditionally adopted by the House and we have agreed that the Finance Bill does not lend itself to treatment of that kind, namely, a previous examination by a Select Committee, to be followed later by a full-fledged discussion in the House.

Shri Tulsidas: I beg to move:

Page 12, lines 28 and 29—

for "useful for, or relevant to" *substitute* "necessary for".

Shri M. C. Shah: I have nothing much to add. If we accept the amendment of Shri Chatterjee, possibly this proviso will be unworkable in practice. As a matter of fact, we cannot lay down any definite information. It is not so in the Criminal Procedure Code. With regard to the safeguards in the Criminal Procedure Code, those safeguards are there, namely, keeping of witnesses, inventory and other things. Therefore, it is not possible to accept the amendment.

There are such powers, to my knowledge, so far as the Sales Tax Administrations are concerned. Also in 1951, when we introduced a Bill to amend the Income-tax Act, such a provision was there, but it was a Provisional Parliament and the Bill lapsed. Therefore, we have to bring in this when we have just all these provisions there. At the same time, the Income-tax Investigation Commission had also this power. I may say that this will be a very wholesome measure in order to stop the people from keeping two sets of accounts with a view to evade income-tax. The power will be very sparingly used. Even by the Income-tax Investigation Commission this power was used only in two cases. Perhaps the House may be interested to know that there are certain assessees who even steal away the accounts books that had been produced before the Investigation Commission. Therefore, we have to deal with a certain class of people, and when we deal with those people, we must have that extraordinary power, but the Commissioner will satisfy himself whether there is any need for using that power when a report is submitted. The Commissioner is a very responsible person and is the head of an Income-tax Division, which will just bring about Rs. 50 crores of income-tax. When the matter is brought before the Income-tax Officer, naturally he will look into the matter. This power will be used only very very sparingly, but it will act as a very strong deterrent to having so many sets of account books in order to evade income-tax. Therefore, I say that this is the most important clause in the Bill.

Mr. Chairman: Let me put the amendments to the vote of the House.

Mr. Chairman : The question is :

Page 12, line 23—

for "subject to any rules" *substitute*:

"In accordance with any rules".

The motion was negatived.

Mr. Chairman : The question is :

Page 12, line 26—

after "place where" *insert*:

"in consequence of definite information in his possession".

The motion was negatived.

Mr. Chairman : The question is :

Page 12, line 28—

for "in his opinion" *substitute* :

"in the opinion of the Commissioner".

The motion was negatived.

Mr. Chairman : Page 12 lines 28 and 29,

for "useful for, or relevant to" *substitute* "necessary for".

The motion was negatived.

Mr. Chairman : The question is :

Page 12—

after line 40 *add*:

"(2A) The Commissioner shall not authorise an Income-tax Officer under sub-section (2) unless he himself examines the facts in such case and expresses himself in writing that without such authorisation the assessment proceedings cannot be adequately completed."

The motion was negatived.

Mr. Chairman : The question is :

Page 12—

after line 40, *insert* :

"(2A) Such rules shall provide that the Commissioner shall not grant authority to an Income-tax Officer under sub-section (2) of this section unless he has recorded his reasons for so doing."

The motion was negatived.

Mr. Chairman : The question is :

Page 13, line 8—

after "so doing" *insert*:

"and without supplying a copy of the reasons to the assessee".

The motion was negatived.

Mr. Chairman : The question is :

Page 13—

after line 11 *insert*:

"(3A) A copy of the reason for any action taken under sub-section (2) or (3) of this section shall be furnished to the persons whose premises have been entered and searched, whose books of account or documents have been seized, marked, extracted, copied or impounded, within twenty-four hours of such action being taken with a notice giving a date and time for a hearing within four days thereafter.

(3B) Any books or documents so seized for impounded may be examined by the Income-tax Officer in the presence of the assessee within seven days after the seizure or impounding thereof and shall thereupon be sealed and be kept sealed except during the hearing of the case by the Income-tax Officer, the Appellate Assistant Commissioner or the Tribunal."

The motion was negatived.

Mr. Chairman : The question is :

"That clause 20 stand part of the Bill."

The motion was adopted.

Clause 20 *was added to the Bill.*

Clause 21.—(*Amendment of section* 38)

Shri Tulsidas : I beg to move:

(i) Page 13, line 19—

after "any officer thereof" *insert* "in connection with the assessment of a named assessee".

[Shri Tulsidas]

(ii) Page 13, line 22—

omit "or the Assistant Commissioner".

(iii) Page 13, line 24—

omit "or the Assistant Commissioner".

The amendment seeks to lay down that the powers should be exercised in connection with the assessment of a named assessee and should be exercised by the Income-tax Officer.

[MR. SPEAKER *in the Chair*]

It must be realised that the present clause relates not only to the assessee but to a third person. The subject of the enquiry is in respect of the assessee and not some third person. The examination proposed under this section relates only to matters connected with the assessee and should not degenerate into a probing enquiry into the affairs of all persons who had connection with the party concerned. In the case of a banker for example, the examination might be restricted to a particular client of his, and should not be extended to all his other clients. I suggest that this should be made clear by including the words "named assessee" in the sub-clause.

I may refer to another matter. Throughout the Income-tax Act, direct powers are given exclusively to the Income-tax Officers. This is the only section in which the Assistant Commissioner is given direct powers. It is dualism of authority. This grant of co-extensive power simultaneously to two authorities may lead to difficulties in practice. Therefore, I want that the words "the Assistant Commissioner" should be removed from this sub-clause.

The Finance Minister will appreciate that when an enquiry is to be sent to a banker, it must be related to a particular assessee or a particular client of his. You cannot make an enquiry about anybody that you like.

Shri M. C. Shah: I am sorry that we cannot accept these amendments.

The Assistant Commissioner may also have his powers. Why should we deprive him of them? It will be necessary for him to have them when he wants information about the accounts or state of affairs with particular banks or with many people. In order to find out the case of A it may be necessary to have the accounts of B and C because it may be that A has transferred certain assets of his to B and C. We are not going to use these powers very lavishly but only when necessary. It will be used whenever it is absolutely necessary to do so. I do not think there can be any objection to seeing the accounts of others in order to find out whether there is any concealment by A.

Shri T. S. A. Chettiar: Now that you are here, you will kindly permit me to raise the point which I raised this morning, relating to clause 20. You were pleased to observe.....

Mr. Speaker: The matter has been raised already. Why should we again debate it? The point has been raised and I think the hon. Finance Minister has been informed about it. I will ask him to reply to it.

Shri T. S. A. Chettiar: It was stated by the Finance Minister that in the previous years such provisions were made in the Finance Bill.

Mr. Speaker: Order, order. What is the meaning of starting anything at any time? We are at clause 21. I have to come to dispose of the others also. Does he want to press?

Shri Tulsidas: They may be put to the vote.

Mr. Speaker: All right. I shall put the amendments to clause 21 to the vote of the House.

Page 13, line 19—

after "any officer thereof" *insert* "in connection with the assessment of a named assessee".

The motion was negatived.

Mr. Speaker: The question is:

Page 13, line 22—

omit "or the Assistant Commissioner".

The motion was negatived.

Mr. Speaker: The question is:

Page 13, line 24—

omit "or the Assistant Commissioner".

The motion was negatived.

Mr. Speaker: The question is:

"That caluse 21 be added to the Bill."

The motion was adopted.

Clause 21 *was added to the Bill.*

Clauses 4, 7 and 18

Mr. Speaker: Now, we go to the clauses held over this morning—clauses 4, 7 and 18.

Shri T. S. A. Chettiar: I was suggesting that in the Finance Bill only those provisions which refer to the provision of finance for the next year should be incorporated and the normal amendments to the Income-tax Act should form part of a separate legislation so that the House will have the time and opportunity to discuss them fully. This was brought to your notice this morning and the Finance Minister in his reply has stated that in the previous years that such provisions have been incorporated in the Finance Bill. If, in the previous years, it has been done so, it has not been done wisely. I would suggest that these matters could be properly debated only if they come as amendments to the Income-tax Act and this procedure—bringing forward such amendments separately—should be observed hereafter.

Shri C. D. Deshmukh: I have made some observations just now and I may just go over them. I said that when we brought forward the Income-tax (Amendment) Bill of 1953, which contained money matters, there was the point of procedure and the Speaker certified that to be a Money Bill. (*Interruptions.*) I am sorry I cannot question the decision given by the Speaker on the former occasion nor can I question the wisdom of Parliament in having agreed to that procedure. It is for the House to consider if some other procedure should be followed. I may also say that the amount of tax collected does not depend merely on the rates of taxes; it depends also on the persons to be taxed, the incomes to be taxed, the method of computation of the income and also the procedure for the recovery of the taxes, if the proposals of the financial year are to be fully given effect to.

Reference has been made to clauses which have been held over—clauses 4, 7 and 18. Let us consider whether these are what one might call, merely procedural matters or whether they go to the root of the taxability. Take clause 4. That gives exemption to foreign technicians. I cannot say how you can say that this is not connected with taxation. This was introduced originally last year through the Finance Act. What we are doing is only amending that. It would be unreasonable to say this that we should agree to its introduction last year but should not consider this amendment this year except through a special measure.

Shri A. M. Thomas: May I ask this question? Has he taken any credit for the amount, which may be got by reopening transactions which have already been closed, in the Budget? Then only it can be said to be a Budget proposal.

Shri C. D. Deshmukh: I am not talking of Budget proposals; I am talking of Money Bills. In framing a Money Bill, I make the best estimate I can of the recoveries that are to be made. There are some matters where it is not possible to make a very accurate estimate and this is one of those. I am safeguarding revenues. How many cases will be reopened or reviewed under this new section? I cannot say. But I have already mentioned when the Speaker was not here, the figures involved—about Rs. 6-7 crores have already been collected as a result of the efforts of the Income-tax Investigation Commission and we were hoping to be able to collect another Rs. 3-4 crores. How much of this will be completed—it is not possible for me to say. In any case, you may just say that I have made a wrong case in regard to the estimates of revenue. It does not prove that a provision of this kind is unnecessary.

Then, there is clause 7. It withdraws the concession on initial depreciation allowance. This is as a result of a review of the provision for development rebate, again made in the Finance Act, 1955. Similarly, clause 7(b) is as a result of the review of the tax on perquisites introduced by the Finance Act of 1955. This is another instance where it is almost impossible to estimate the loss of revenue.

There is clause 18 and I already referred to it. It has been discussed extensively. Merely because we do not have a Select Committee, there is no reason why we should not regard this

[Shri C. D. Deshmukh]

as a part of the Money Bill within article 110 and there is no reason why we should not follow a practice, which has now got, as it should have been, well-established.

Mr. Speaker: The hon. Minister was not here when the matter came up this morning. I made some observations. Wherever it is possible to split the provisions of this Bill, then those measures can be brought in by way of amendments to the existing Acts, independently of the Finance Bill. Discretion will be exercised by the hon. Finance Minister or his Ministry in bringing them separately unless they are so inter-connected with the other provisions of the Bill, though the finances for any particular year depend upon these provisions. In such cases it can be added on here. It is not so much a question of legality as a question of propriety and giving some time for the hon. Members of the House to look into this measure in relation to the other provisions of the other measures, say, Income-Tax Act. It is a complicated affair. Under those circumstances, if it is so intimately connected and entirely depends upon this, then, it may be made part and parcel of the Finance Bill. Otherwise, it will always be right, as in the case of Company Law or Insurance Act, Income-tax Act, etc. to have a separate Bill for that purpose. That is all the suggestion that I made.

I never applied my mind so far as the provisions were concerned as to whether they were inextricably connected with it or whether they could be separated. I never said a word about it.

Shri C. D. Deshmukh: I am not taking any exception to what you have suggested. If there was sufficient substance for a separate Income-tax amending Bill, I certainly would have brought forward such a Bill and the fact that that also would be an amending Bill is no reason for not a separate Finance Bill. I understand it.

Mr. Speaker: I shall now put the amendments to clause 4 to the vote of the House.

The question is:

Page 4—

after line 14, *add*:

"Provided that all such non-Indians are appointed with the consent of the Central Government after being fully satisfied that similar qualified persons are not found in India."

The motion was negatived.

Mr. Speaker: The question is:

Page 4, line 31—

after "industrial" *insert* "or other".

The motion was negatived.

Mr. Speaker: The question is:

Page 4, lines 31 and 32—

for "industrial practice" *substitute* "their practice".

The motion was negatived.

Mr. Speaker: The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Mr. Speaker: Now amendment to clause 7.

The question is:

Page 6—

omit lines 2 to 4.

The motion was negatived.

Mr. Speaker: The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Mr. Speaker: Now the amendments to clause 18.

The question is:

Page 9—

omit lines 12 and 13.

The motion was negatived.

Mr. Speaker: The question is:

Page 9—

(1) *after* line 15 *insert*:

"Provided that the Income-tax Officer shall not be deemed to have, under sub-section (1) above, reason to belief unless the following conditions are satisfied :

(i) he has definite information in his possession;

(ii) he has verified by preliminary investigation such information to be correct; and

(iii) he has given an opportunity to the assessee to be heard as regards such information"; and

(2) line 16—

after "Provided" *insert* "further"

The motion was negatived.

Mr. Speaker : The question is :

Page 9, lines 28 to 31—

for "in the aggregate, either for that year, or for that year and any other year or years after which or after each of which eight years have elapsed, not being a year or years".

substitute "for that year, not being a year".

The motion was negatived.

Mr. Speaker : The question is :

Page 9—

for lines 33 to 37, *substitute* :

"(iii) for any year, unless he has recorded his reasons for doing so and for believing that the income, profits or gains chargeable to income-tax which have escaped assessment or have been under-assessed or assessed at too low a rate or have been made the subject of excessive relief under this Act, or the loss or depreciation allowance which have been computed in excess, amount to, or are likely to amount to, one lakh of rupees in the aggregate as aforesaid. A copy of such reasons shall be supplied to the assessee. The Income-tax Officer shall not issue a notice in any case falling under clause (ii) unless the Central Board of Revenue, and, in any other case, the Commissioner, after giving the assessee an opportunity to be heard on such reasons, passes an order, for reasons to be recorded, that it is a fit case for the issue of such notice."

The motion was negatived.

Mr. Speaker : The question is :

Page 9, line 33—

after "unless" *insert* "he has definite information in his possession and".

The motion was negatived.

Mr. Speaker : The question is :

Page 9, line 33—

"after" "unless he has" *insert :*

"definite information in his possession, has".

The motion was negatived.

Mr. Speaker : The question is :

Page 9, line 34—

after "doing so" *insert* "and has supplied a copy thereof to the assessee".

The motion was negatived.

Mr. Speaker : The question is :

Page 9, line 43—

add at the end:

"or is the executor, administrator or legal representative of a deceased assessee".

The motion was negatived.

Mr. Speaker : The question is :

Page 9—

after line 43 *insert*:

"Provided further that where the assessee is dead, the Income-tax Officer shall not issue a notice under this sub-section on his executor, administrator or other legal representative after the expiry of three years following the year of assessment in which the assessee died."

The motion was negatived.

Mr. Speaker: The question is:

Page 10—

after line 30, *add*:

"(e) The amendments made by clauses (a) to (d) hereinbefore shall cease to be operative after the 31st March, 1958 and thereafter the provisions of section 34 as existing prior to these amendments shall be operative".

The motion was negatived.

Mr. Speaker: The question is:

"That clause 18 stand part of the Bill."

The motion was adopted.

Clause 18 *was added to the Bill.*

Clauses 22 *and* 23 *were added to the Bill.*

Clause 24—(Amendment of section 58).

Amendment made: Page 14, lines 18 to 21—

omit 'and for the words, brackets and letters "clauses (a) and (b)" the words, brackets and letters "clauses (a), (aa) and (b)" shall be substituted'

—[*Shri M. C. Shah*]

Mr. Speaker: The question is:

"That clause 24, as amended, stand part of the Bill."

The motion was adopted.

Clause 24, *as amended, was added to the Bill.*

Clauses 25 *to* 29 *were added to the Bill.*

New Clause 29A

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): I beg to move:

Page 15—

after line 3, *insert*:

"29A. Additional duty of customs on spirits other than denatured spirit—In the case of goods chargeable with a duty of customs under Item No. 22(4) of the First Schedule to the Tariff Act, or under that Schedule read with any notification of the Central Government for the time being in force, there shall, on and from the 1st day of April, 1956 and up to the 31st day of March, 1957, be levied and collected as an addition to, and in the same manner as, the total amount so chargeable, a sum equal to 155 per cent. of such amount."

This amendment is due to an unfortunate printing mistake on page 15, in line 10 where it has been said:

"a sum equal to 55 per cent. of such amount, in the case of goods comprised in Item No. 22(4);"

It should have been 155 per cent. This is a surcharge duty on spirits other than denatured spirit and collected on Brandy, Gin, Whisky etc. The duty should have been 155 per cent. and that is the present rate. This unfortunate printing mistake has made the position very cumbersome. We have consulted the Law Ministry and you, Sir, as also the Lok Sabha Secretariat. Mere correction of the printing mistake would not have rectified all the consequential effects of this mistake. So, on the advice of the Law Ministry and yourself, Sir, we have moved this amendment. There will be some consequential amendments also to the next clause. I hope this amendment will be accepted by the House.

Mr. Speaker: The question is:

Page 15—

after line 3, *insert*:

"29A. Additional duty of customs on spirits other than denatured spirit—In the case of goods chargeable with a duty of customs under Item No. 22(4) of the First Schedule to the Tariff Act, or under that Schedule read with any notification of the Central Government for the time being in force, there shall, on and from the 1st day of April, 1956 and up to the 31st day of March, 1957, be levied and collected as an addition to, and in the same manner as, the total amount so chargeable, a sum equal to 155 per cent. of such amount."

The motion was adopted.

New Clause 29A *was added to the Bill.*

Clause 30—(Additional duties of Customs).

Amendments made:

(1) Page 15—

(i) *omit* lines 10 and 11; and

(ii) lines 12, 17, 19 and 23—

for "(b)", "(c)", "(d)", and "(e)" *substitute* "(a)", "(b)", "(c)" and "(d)" respectively.

(2) Page 15, lines 21 and 22—

for "specified in clauses (a), (b) and (c) of this section" *substitute*:

"specified in section 29A or in clauses (a) and (b) of this Section".

—[SHRI A. C. GUHA.]

Mr. Speaker: The question is:

"That clause 30, as amended, stand part of the Bill."

The motion was adopted.

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

Clauses 31 *to* 33 *were added to the Bill.*

Clause 34—(*Amendment of the First Schedule*).

Shri N. B. Chowdhury (Ghatal): I beg to move:

(i) Page 17—

omit lines 9 and 10.

(ii) Page 17, line 11—

(1) *after* "sorts" *add* "other than dhoties and sarees"; and

(2) *for* "One anna" *substitute* "Six pies".

(iii) Page 18, line 26—

after "Oils" *insert* "except the edible oil or the quantity of which is used for edible purpose".

Shri A. M. Thomas: I beg to move:

Page 18, line 26—

after "all sorts" *insert* "except coconut oil".

Shri Achuthan (Crangannur): I beg to move:

Page 18, line 26—

after "Oils" *insert* "excluding coconut oil".

Shri Tulsidas: I beg to move:

Page 18, lines 29 and 30—

after "Imperial gallon" *add*:

"Provided that where the oil is used for agricultural purposes, the rate shall be one anna per Imperial gallon."

Shri T. S. A. Chettiar: I beg to move:

(i) Page 17—

omit lines 30 to 36.

(ii) Page 18—

omit lines 29 to 47.

(iii) Page 18, line 29—

for "Four annas" *substitute* "Two annas".

Shri Viswanatha Reddy (Chittoor): I beg to move:

(i) Page 18, line 26—

for "Rupees seventy" *substitute* "Rupees thirty-five".

(ii) Page 18—

after line 28, *insert:*

"23A. Vegetable Non-essential Oils, allsorts, in or in relation to the manufacture of which any process is ordinarily carried on without the aid of power.—	Rupees thirty five per ton"

(iii) Page 18, line 29—

for "Four annas" *substitute* "One anna".

Shri K. C. Sodhia: I beg to move:

Page 17, line 2—

. . *after* "One anna per square yard" *insert* "except in case of dhoties and sharees".

Shri Shree Narayan Das (Darbhanga Central): I beg to move:

Page 17—

for lines 6 to 12, *substitute*:

"(4) Cotton fabrics, coarse that is to say fabrics in which the average count of yarn is less than 17s—	Six pies per square yard."

Mr. Speaker: Now, these amendments are before the House. Shri N. B. Chowdhury may start his speech. In the meanwhile I am told that there is something wrong with amendment No. 117 and I will see whether it is in order or not.

Shri N. B. Chowdhury: Mr. Speaker, my object in moving my amendments numbers 10 and 11 is to oppose the imposition of excise duty and on coarse cloth. For the last three years we see that the imposition of excise duty on cloth has been one big source of revenue for the Government and it is being increased every year. So far as I remember, year before last, in 1954-55, some Rs. 6 crores was realised on account of this duty. Last year it was about Rs. 9 crores. This year the Government intends raising a revenue of Rs. 14·5 crores from this source, that is by imposing excise duties on all varieties of cloth. My object in bringing my amendments is to oppose the imposition of duty at least on the coarse variety of cloth.

Sir, in Part B of the Finance Minister's Speech, he says:

> "The Taxation Enquiry Commission has recommended enhancement of the excise duties on all varieties of Cotton Fabrics and I had accordingly proposed in last year's Finance Bill an increase in the duties on medium and coarse Cotton Fabrics from 6 pies per sq. yd. to one anna per sq. yd. It was, however, then represented that prices of agricultural commodities had been falling for some time, and the purchasing power of the rural population was low. The off-take from the mills had also declined at the time and the mills were carrying large unsold stocks. The proposals were accordingly withdrawn."

This statement of the Finance Minister shows that their calculation was wrong. At the time when these budget proposals were framed they expected that there would be no difficulty in clearing the stock if this duty is imposed. But, later on we find that the Ministry had to withdraw these proposals. At present we find that the prices of things are rising. The price of foodgrains and other essential commodities including edible oils and other things have risen and are rising. Then, the poorer sections of our people have to face great difficulties in buying cloth. So, in this situation, we do not think it would be proper to enhance the duty at least on coarse cloth. There may not be difficulties about clearance of the existing stock, but, at the same time, we have to remember that the *per capita* consumption of cloth is very low in this country. So, when we are thinking of a planned progress in the Second Five Year Plan, etc., we must see that together with the increase of production in cloth, people have an opportunity to use more cloth. If you have that object in view, then there is no justification for the imposition of this duty. So, I oppose this duty on the coarse variety of cloth.

I then come to amendment No. 17 wherein I have opposed the duty on edible oils or non-essential elible oil. In connection with the budget leakage, the Minister said in his statement something about the expression 'non-essential edible oil'. Although edible oils are called non-essential oils, in fact, they are essential commodities which the people have to use. In my part of the country, people consume mustard oil or groundnut oil as essential oils. Certainly, so far as West Bengal is concerned, the people will be facing great hardships if this duty is not removed. In West Bengal, we have to depend on imports from other States so far as edible oils are concerned. We do not grow groundnuts there. Even if it is grown there, it is only in very small quantities. We have to import mustard oil mostly from Uttar Pradesh and small quantities of it from Bihar and other places also. There, the village *ghanis* have been almost exterminated and the people have to depend entirely on import from other States. What happens is that the millowenrs in Uttar Pradesh or in other States who carry this mustard oil to West Bengal charge high rates in view of its non-availability in that area.

Then it has been said that Government is going to allow a certain exemption so far as this duty is concerned. It has been said that no duty will be imposed on producers producing less than 125 tons per year. There is also exemption for those who do not use power. But the question is not one of difficulty for a certain class of producers who do not use power as against those who use power and produce sufficient quantities. Our attack is from the point of view of the consumers. We find that if this duty continues, the price will not come down,

even if it does not rise higher. Although from calculations it would appear that the incidence of this duty will not be very high and that there may be a rise of Rs. 3 per maund, actually what happened in the market is that the price has gone up by about Rs. 25 to Rs. 30. The Minister said that the price is about Rs. 65 or so, but actually in the rural areas we find that the price is much higher. So, although the incidence of this duty may not be very high,—it may be about one anna per seer—actually, when the retailer sells it to the consumers, the price is much higher. Therefore, when we impose such duties and think that the incidence is merely :01 per cent. or :02 per cent. as stated in the morning on the floor of this House, actually, the incidence on the common people is not so low and it is much higher. The reason is, there are middlemen and the big producers who take advantage of this duty not only pass on that amount of duty to the consumer but make profit out of the situation. So, when we are thinking of patronising the cottage industries and developing the *ghanis* and other industries and also when we notice that the common people are not in a position to take the benefit of increased production, it would not be proper to make edible oil more costly. Therefore, from this point of view, I oppose the imposition of this duty on edible oil, that is, vegetable non-essential oil and particularly edible oil. I know that some quantities of edible oils are used for other purposes. For instance, groundnut oil is used for other purposes also, but at least that large quantity which is used for consumption as edible oil should be exempted from duty.

Shri A. M. Thomas: I regret that the Finance Minister has not been persuaded to drop the excise duty on edible oils, especially coconut oil. I want to speak only about one particular item —coconut oil—and I shall confine my remarks to the amendment that I have moved.

It may be kindly borne in mind by the House that coconut oil is not a commodity which we export like the groundnut oil. We are also in short supply and we are importing a substantial quantity of coconut oil. I do not know whether the Food and Agriculture Ministry has been consulted in this matter, because, if it had been consulted, it would not have agreed to this levy. The Indian Central Coconut Committee, which is presided over by the Secretary of the Ministry of Food and Agriculture has unanimously passed a resolution against this levy and that Committee consists of manufacturers, producers, consumers' representatives and every conceivable class. I do not know whether the Finance Ministry has taken note of that fact at all. This levy would adversely affect both the consumer class as well as the grower class. It has been stated by the hon. Finance Minister that if it affected the consumers, it was intended to affect them. This particular levy will hit hard particular consumers in a particular area wherein the average income of the individual is very low. It is regrettable that he should have thought that that consumer should bear this levy. The particular area that would be hit is Kerala. From the figures which have been quoted by the Finance Minister of Travancore-Cochin, it would be found that out of 1,000 families in Travancore-Cochin 294 are getting an income of below Rs. 50. 364 people are getting an income of between Rs. 50 and 100; 224 are between Rs. 100 and Rs. 200; 62, with an income between Rs. 200 and Rs. 300 and only 56 out of a thousand get an income of over Rs. 300. I do not know whether the Finance Ministry has known that fact, namely, that coconut is practically the ghee of Kerala. In every home it is being used both for toilet purposes and, for kitchen purposes, and for so many other purposes for which oil can be used in that part of the country. It will really hit the poor consumer very much if a levy is charged on it. I think that if the idea of the Finance Ministry was to shift the burden to the consumer, it was not a proper idea at all. The Finance Minister has relied on the recommendation of the Taxation Enquiry Commission's report. I may submit that the Taxation Enquiry Commission itself has not dealt with this aspect in detail at all. It has simply stated that similar agricultural products such as cotton and tobacco are subject to excise duty so that it is time that the edible oil may also be taxed. No further argument is given. At page 315 of the Taxation Enquiry Commission's Report, no detailed discussion about this levy is given. That the Taxation Enquiry Commission has been rather hesitant with regard to this levy is further borne out by the following observation towards the close :

> "We consider that a relatively low rate of duty would be appropriate on this commodity."

[Shri A. M. Thomas]

If Rs. 70 per ton is a relatively low rate of duty, I do not know what exactly is the conception of the Finance Ministry in this matter. Having regard to the price of cocoanut oil, the levy will amount to 6 or 7 per cent. of the price and it is not an insignificant levy at all.

I may also bring to the notice of this House that this industry is also in a way heavily taxed. There is purchase tax on copra at the rate of half an anna per rupee on Rs. 1444 (being the cost of Copra for manufacturing one ton of coconut oil). It will work out at Rs. 45-2-0. There is also a cess paid to the Indian Central Coconut Committee at 4 annas per cwt. and for 32 cwts. of crushing copra, it comes to Rs. 8. So, there is already a levy to the extent of Rs. 53-2-0 per ton. To that if Rs. 70 more are added, it will really hit the industry hard. I may also say that if it is the intention of the Finance Minister that the small sector of the industry should not be touched and that it should be saved from unfair competition, that object will not be achieved in this particular case. I would like to invite the attention of the House to the figures given at page 6 of the Memorandum prepared by the Ministry of Finance and circulated to the Members. Taking vegetable oils as a class, out of 68,375 people employed, about 45,010 are employed in industries wherein the turnover is more than 125 tons. Out of the total production of 971,707 tons, 884,402 tons come out of the sector of mills with a capacity of more than 125 tons. Therefore, there is not going to be any material benefit to the small sector at all. It will certainly have an adverse effect on the grower. The price that will be obtained by the grower will be determined by the cost of production in the mills and not by the price at which the local cocoanut oil producers manufacture this commodity. Therefore, the grower also is likely to be hard hit.

The House will notice that the cocoanut prices have been steadily going down from 1951 onwards. Not only that; the prices have been very unsteady also. From the figures in my possession—I do not want to take up the time of the House by quoting them—it will be clear that the labour position in Kerala also will be affected because of this levy. Even under the present circumstances, in Alleppey which is the centre of this oil crushing industry, you will find that out of 624 'chuks' erected for milling cocoanut oil, only 219 are working. If that is the position even before the levy, what would be the position after the levy, especially when there is competition between the small sector and the large sector? Therefore, if the levy is enforced, it will be crippling an industry which is already facing depression. I submit that the Finance Minister ought to have carefully gone into the representations made in this matter and then given some relief. He has been able to give some relief in the case of cottonseed oil and I think the case of cocoanut oil also rests on the same footing.

The Finance Minister in his reply has referred to the competition from Ceylon copra and Ceylon oil. I would submit that the position in Ceylon is absolutely different. Here the growers have got gardens ranging from 2 cents to 50 acres. The majority of the growers are very small holders having a few cocoanut trees and they eke out their livelihood from the income derived from the cocoanut trees. In Ceylon, the cocoanuts are grown on a plantation basis and they can easily compete. Because of this increase in import duty, things are not going to improve here. If it is done, the prices in Ceylon will be affected, but the prices in India vis-a-vis the prices obtainable by the local producer will not be affected much. Besides the countervailing increase in import duty only if something more is levied, the local producer will be in a position to stand competition with the Ceylon producer.

I have already stated the incidence will really hit a particular area of this country where the purchasing power of the people is very low. Pepper earned for this area at one time about Rs. 30 crores of foreign exchange, but we got only Rs. 5 crores and odd now. From a particular area Rs. 25 crores have been taken out; if further sums are taken out by means of excise duty and other things, I do not know how we are going to develop our backward areas. I should again impress upon the Finance Minister the necessity of dropping at least cocoanut oil from this list, because it is certainly a very unwise and hasty step that the Finance Minister has taken in selecting this oil for levy of excise.

Mr. Speaker: We have to finish the whole Bill by 6 o'clock. One hour has been reserved for the third reading. Therefore, at 5 o'clock. I will have to apply the Guillotine on all the amendments. There are some amendments relating to clause 34 and there are several amendments to the First Schedule.

Shri N. C. Chatterjee : It is an important Schedule.

Mr. Speaker: Therefore, if it is the desire of the House that the clause by clause consideration may go on for one more hour and only ten minutes be left for the third reading, I have no objection, because I find a number of amendments.

Several Hon. Members: Yes.

Mr. Speaker : Therefore, at whatever stage they might be, we will finish all the clauses by 10 minutes to 6. We will then start the third reading and finish it by 6. Hon. Members will kindly be brief. There are a number of hon. Members who are anxious to speak. I will call Shri Viswanatha Reddy and then Shri Tulsidas. Amendment No. 117 of Shri Viswanatha Reddy is out of order because he wants to add a new category of taxes. By that amendment, he wants that a tax of Rs. 35 per ton should be imposed on vegetable non-essential oils of all sorts in or in relaion to the manufacture of which any process is ordinarily carried on without the aid of power. Without the sanction of the President no tax can be imposed, but there can be reduction. Therefore, amendment No. 117 is out of order.

Shri Viswanatha Reddy : I have given notice of amendment No. 117 because in case amendment No. 116 was not acceptable to the Government, amendment No. 117 may be accepted.

Mr. Speaker: It cannot be an alternative to amendment No. 116, because it is out of order. Amendment 116 says: *for* "Rupees seventy" *substitute* "Rupees thirty-five". He wants both of them to go or both of them to remain. I will disallow amendment No. 116 also.

Shri Viswanatha Reddy: No, Sir. Let it remain.

Mr. Speaker: All right.

5 P.M.

Shri Viswanatha Reddy: My amendment refers to the duty on vegetable non-essential oils and the duty on diesel oil. I entirely underline the observations made by Mr. Thomas and Mr. N. B. Chowdhury with regard to the effect of this duty on the consumers. But, I would like to take up another argument, namely, the effect that this duty is likely to have on the industry itself. The imposition of the duty of 6 pies per lb. on vegetable oils comes to Rs. 70 per ton. In most of the States in the South, the oil produced in *ghanies* is exempt from sales tax. The quantity of that exemption would work out to nearly Rs. 25 per ton. Adding Rs. 70 to it, it comes to Rs. 95 per ton. This duty is weighted heavily against the oil produced in an organised industry like expellers. It is one thing to provide a protective duty in order to encourage the *ghany* industry: it is quite another thing to destory an organised expeller industry. I submit that the imposition of this heavy duty on the oil produced in an organised industry will result in complete destruction of this industry. Really I cannot understand how the Government is interested in taxing production, taxing incentive and also destroying an industry which, as Shri A. M. Thomas has already said, produces 90 per cent of the oil and employees nearly 85 per cent of the labour force employed in the whole industry. This duty, as suggested in my amendment, if it is reduced to three pies per pound, will work out to Rs. 35 per ton, and adding Rs. 25 exemption from sales tax, will give a benefit of nearly Rs. 60 per ton to the *ghany* industry. I think that should be sufficient for the purpose of giving protection to the *ghanies*. No doubt, there will be a short fall in revenue collection. But, that cannot be helped because, if this duty is retained, I am sure no expeller can work successfully.

By another executive order, it is proposed that the first 125 tons produced for internal consumption is to be exempted from this duty. I think this even more dangerous to the *ghany* industry, because what is sought to be given by way of protective duty to this industry is taken away by this proposed executive order. I propose to show how this is brought about. This quantity of 125 tons represents almost the year round production of the rotary oil mills. With a capital of about Rs. 2000 or 3000, it is possible to set up a rotary. Working all the year round, it can produce only 125 tons. Therefore, it will be within the exemption limit as envisaged in the proposed executive order. That means that oil produced from a rotary mill will easily compete with the *ghany* industry as well as with the expeller industry, because 125 tons represent only two months' production of an expeller and naturally when the expeller will have to pay duty for over and above 125 tons, it cannot compete with the oil produced by the

[Shri Viswanatha Reddy]

rotary industry. Therefore, a large number of rotary mills will spring up and they will be operated by power and they will certainly destory both the expeller industry as well as the village *ghany* industry. That is how what is sought to be given by way of a protective duty is taken away by the proposed executive order. If this exemption limit is sought to be retained, I suggest that this exemption limit may be fixed on the basis of a percentage of the installed capacity of the various mills. It may be 20 per cent or 10 per cent. It may be provided that such a percentage of the installed capacity of an expeller or a rotary mill or a village *ghany* should be exempted from duty.

Coming to the duty that is sought to be imposed on diesel oil, I find that four annas a gallon is proposed to be imposed on diesel oil. It has been brought to the notice of the hon. Finance Minister that in the south, particularly in the Andhra, Madras and Mysore, a sales tax levy of nearly 3½ annas a gallon has been made. This duty of four annas will result in a sudden increase of nearly 7½ annas per gallon in the price of diesel oil. As the House is well aware, this diesel oil is used on a large scale by the agriculturists, particularly in regions where there is no supply of electricity. Rural electrification is not there. In backward areas where there are no irrigation canals, lift irrigation is done primarily with the use of diesel oil. Also, the effect of this duty on cost of transport is enormous. I have made a rough calculation and I have found that the effect of this duty alone would raise the cost of transport by nearly 25 per cent. The other day, the hon. Minister for Commerce and Industry was saying that the capacity of the Railways to handle transport under the Second Five Year Plan will only be one-third of the demand. The rest of the demand can only be met by road transport. We are increasing the transport costs by nearly 25 per cent by means of this duty. Therefore, both to the agriculturists as well as the transport industry it is a great hardship. I am sure, as a result of this, backward regions which depend on diesel pump sets for lifting water for irrigation and an industry which has to bear nearly 25 per cent enhancement by way of cost of transport will suffer greatly. I can only describe this tax as a very regressive step. An authority which can impose such a tax can only be compared to the mythological reptile which is supposed to curve itself and eat itself up starting from the tail. Therefore, I feel that the hon. Finance Minister even at this late stage would be able to consider and accept my amendment which seeks to reduce the tax burden from four annas per Imperial gallon to one anna per Imperial gallon.

Shri Velayudhan (Quilon *cum* Mavelikkara—Reserved—Sch. Castes): I wish to support the amendment moved by my hon. friend Shri A. M. Thomas. When this budget proposal and taxation measure came before the House, we were so much surprised especially that coconut oil was included in articles for taxation. However, there was a doubt in the mind of the Finance Ministry itself whether coconut oil also is included in this category, because the wording gave a little confusion not only to the public but also to the Finance Ministry. At this stage, when our State is going through a transition, it was very unkind on the part of the Finance Minister to tax particularly this coconut oil which is used by all the people in that State. It is not only an article of trade, but it is mostly used by all the people in Travancore-Cochin and Malabar for edible purposes. I do not think that the income from this tax is going to be very much. This could have been avoided especially at this time when the Travancore-Cochin State is going through a great crisis. We are already having the heaviest taxation in our State today imposed by the Centre, I mean the Central administration of the State. It is the heaviest taxation which anybody can imagine in our State. At the same time, the Finance Minister who used to be very kind to our State whenever any taxation proposal came,.....

Shri Nambiar: Never was he kind.

Shri Velayudhan:....has been unkind this time. I am only saying a fact. You may also accept it. I was told that even in the Congress Party many Members had persuaded the Finance Minister to take away this tax, but somehow or other, when an official decision is made, we find that it is very difficult to take it away. That is the method in which our bureaucracy is working.

An Hon. Member: Not bureaucracy, but democracy

Shri Velayudhan: Even at this stage I would request the Finance Minister to see that this particular item is taken away, because to tax this item would be

very unpopular at least as far the State of Travancore-Cochin is concerned. That is the only request that I would like to make, and I am hoping against hopes that even at this late hour, the duty on this item may be removed.

Shri Raghavachari (Penykonda): I have got only one point to urge. I do not wish to repeat the arguments that have already been advanced by my hon. friends. I would very earnestly and strongly support the arguments of Shri Viswanatha Reddy. I have myself received about fifty letters complaining about the hardship suffered on account of the imposition of the tax on diesel oil. You know that in our State, where there are not adequate irrigational facilities, we depend almost entirely on lift irrigation. In fact, Government themselves have supplied pumps to many persons. If this tax is imposed, then many of those who have installed pumps will be put to very great hardship.

A total taxation of about seven to eight annas a gallon comes almost to fifty per cent of the original cost itself. With the fall in prices of agricultural produce, the agriculturists will be put to very great difficulties. I do not see any reason why the Finance Minister should not see his way to grant exemption to the agriculturists. The argument that he has advanced is that administratively it is difficult to do such a thing, and that other persons in the name of agriculturists will try to evade the taxation. Still, he said that he would keep his eye on it and examine this matter.

Therefore, my submission is that something definite must be promised now so as to relieve the agriculturists from their difficulties.

Shri Achuthan: I have also moved an amendment to exempt coconut oil from item No. 23 relating to vegetable non-essential oils. My hon. friend Shri Velayudhan has already pointed out the seriousness and the urgency why this duty has to be removed. You know that the whole of the West Coast depends mainly on coconut products and hill produce.

So far as hill produce is concerned, in the case of pepper, the price has fallen down in the American market to nearly one-fifths of what it was before. Previously, the price of pepper was Rs. 4000 per ton, but now it has fallen down to Rs. 800 per ton. Next to pepper, coconut products are the important commodities on which the people of the West Coast depend for their living.

During the last three or four years, there has almost been a regular fall in the prices of coconut, as could be seen from the budget speech of the Finance Minister of Travancore-Cochin on 13th March, just before the dissolution of the Travancore-Cochin Legislative Assembly. In 1953-54, the income from coconut was Rs. 32 crores, in 1954-55, it fell down to Rs. 31 crores, and in 1955-56, it fell down to Rs. 27 crores. So, during the last three years, it has fallen down by nearly Rs. 5 crores. So, you can imagine what a fall it would have meant to the growers there.

So far as coconut plantations are concerned, as hon. Members have pointed out already, there are not any big estates. The maximum acreage in one single estate will be about ten or fifteen, and such cases are very exceptional. The normal estates are just of the order of about half an acre in extent. I could say that nearly 80 per cent of the estates of the small peasants will be holdings which will be about half an acre in extent. The income that they would get from their estates would be about Rs. 50 to 60 during three or four months in a year. But on account of this duty alone, they may incur a loss of about ten per cent, that is to say, they will be losing about ten per cent than what they were getting before the duty was imposed. Now, what is the position after this duty is imposed? If there is a rise in the prices of oil, I could understand. But is that the position?

The three main centres for the coconut trade are Alleppey, Cochin and Trichur. I have got the figures with me here in regard to the prices that prevailed in these three marketing centres, soon after this duty was announced by the Minister Practically, the prices have remained more or less at the same level; there has been a variation of only about Rs. 2 or Rs. 3. In the Cochin market, on the 28th and 29th of February, the price was Rs. 385 per candy of oil, but in March it varied only from Rs. 385 to Rs. 392. Sometimes, the prices fluctuated between Rs. 392 and Rs. 393. With regard to Trichur, I find that in February, the price was Rs. 386, and in March it rose only to Rs. 395. In Alleppey, according to what I find from the Indian Express, on April 20th, business in oil actuals commenced at Rs. 396. So, practically, the growers have been adversely affected on account of the imposition of this duty.

[Shri Achuthan]

This is the position, so far as the growers are concerned. Now, let us take the case of the consumers. Are they at least benefited by this duty? They have also got to pay a higher price for coconut oil. For the common people in my part of the country, coconut oil is not a luxury, but is an every day necessity. They have to use coconut oil for their food preparations, for their medicines, and so on. In fact, this is one inevitable item that they have got to use for their curries, and for their food preparations. So, I would submit that coconut oil does not stand on the same footing as groundnut oil or mustard oil, because cocoanut oil is not an item of luxury but a daily necessity.

So, while on the one hand, the grower has to get less than ten per cent for his produce, on the other hand, the consumer also has got to pay ten per cent more, on account of the imposition of this duty. Under these circumstances, are Government justified in saying that because they want money for their Second Five Year Plan, this duty has to be imposed? I could have understood a tax being levied, if the prices had gone up. But the position is the other way round. In fact, the Finance Minister of the Travancore-Cochin State had stated in the course of his budget speech that:

> "Simultaneously there has been considerable variation in the price of agricultural commodities such as coconut, pepper tapioca etc., which has affected to a great extent, the agricultural economy of the State. The money crops have been worst affected as the slump in some of them has been very heavy."
>
> "..the agricultural income has been steadily falling—it being 21.2% less than what it was in the year 1953-54.".

So, in 1955, it has fallen by about 21·2 per cent. From this, the House can understand what the position of the coconut grower is in the State of Travancore-Cochin. When everyone says, including Government and the Planning Commission that there must be price stabilisation in respect of agricultural commodities, there is every justification for Government to exempt this commodity altogether from the proposed levy, or at least say that for the time being coconut oil would be exempted from this category of vegetable non-essential oils. I hope the Finance Minister will understand the seriousness of the situation, and see that the West Coast is relieved to some extent at least by the exclusion of coconut oil from the proposed levy.

Shri K. C. Sodhia: Out of the total additional taxation of nearly Rs. 30 to Rs. 35 crores, nearly Rs. 15 crores are going to come from the duty on cloth. The way in which this additional taxation is being raised has been pointed out in the memorandum issued by the Finance Ministry. In 1952-53, the duty collected on superfine cloth came to about Rs. 3·6 crores, on fine to Rs. 3:9 crores, on medium to Rs. 4.4 crores, and on coarse to Rs. 0.61 crores. This was the position of the revenue collected on account of the excise duty on cloth in 1952-53. In 1953-54, the income or the revenue on this account rose from Rs. 12·5 crores in 1952-53 to about Rs. 15.2 crores. In 1953-54, the revenue from medium cloth came to Rs. 5.08 crores, as against Rs. 4,42 crores in 1952-53. In the year 1953-54, the duty on medium cloth was raised and the revenue thereby went up from Rs. 5 crores to Rs. 10 crores. In the year 1955-56, it was more than 11 crores. This year we are going to increase the duty by 10 per cent and are to get Rs. 12 crores. That means, medium cloth which was three years ago giving us a revenue of Rs. 4 crores is now being taxed to the extent of 12 crores. Now, you know that medium cloth is consumed by the ordinary people of this country. Of course, those who are very poor, have recourse to coarse cloth. But ordinary people use medium cloth.

Now superfine and fine cloth, medium cloth and coarse cloth, have all been put on the same level with regard to the new taxation proposed by the Finance Minister. There is an all-round increase of 6 pies per rupee on all varities. This kind of uniform taxation on cloth which is consumed by the wealthy and rich people and also by the ordinary people is a thing which I cannot support. This sort of taxation does not come within the proper realm of the principles of taxation. Taxation ought to be based on the capacity to pay. If those who use medium and coarse cloth are made to pay the same amount of duty as the people who use superfine and fine cloth, it is an injustice.

I had a mind to move an amendment for reduction of the duty on both medium and coarse cloth, but looking to the necessity of having additional resources for the initiation and fulfilment of the Second Five Year Plan and the

Finance Minister's statement that the base of taxation ought to be extensive and even the poorest man should contribute something, I did not do it. But my present amendment is very simple and it is not likely to reduce the income from this excise duty even by Rs. 1 crore. I have simply proposed that the duty on dhoties and sarees should be kept at the present level.

Shri A. C. Guha: What is the number of his amendment?

Shri K. K. Basu: What is the number of his amendment? They want to accept it.

Shri K. C. Sodhia: I want that it may be accepted by the Finance Minister because it entails only a very small loss of income; at the same time, it will give satisfaction to us that at least some amendment was accepted by the Finance Minister as a result of the day's labour that we have all done here.

Shri T. S. A. Chettiar: It is unfortunate that in a poor country like India, where the rich people are few, if a larger amount of taxation has to be obtained, we have to go to the lower strata of society. To finance the Second Five Year Plan, we have to raise about Rs. 50 crores every year and if we are to do that, it cannot be done by merely taxing the rich because we won't get sufficient money. So however sorry we are, we have to go to the people who are earning much less.

I am in deep sympathy with the point of view put forward by my hon. friends from Travancore-Cochin, knowing the economy of that State as I do. They have to depend to a larger extent on copra. Copra means everything to them. This may hit them hard. But I hope it will be for the Finance Minister to see whether any concession can be given to them on this point, because I know they will be hit hard.

Coming to the other matter mentioned by Shri Viswanatha Reddy, I do not think I should say anything more about it, because the Finance Minister has already promised that he would examine whether agriculturists who are hit by the tax on diesel oil could not be relieved in any manner possible, by way of a system of rebates or otherwise. Since we cannot just now think of any device. I leave it to the ingenuity of the department to find a way out in this case.

Now, I come to another matter—regarding the cottage industries. It seems to me that various departments of the Government of India are acting against each other. There is the Production Ministry which we have specially constituted to look after the cottage industries. We want to spend nearly 200 crores on the promotion of cottage industries. But here we have got a taxation proposal which wants to equalise the difficulties between the power and non-power factories. Regarding the tax on soap and paper boards, the plea of the Finance Minister is that these small cottage factories are also producing to a greater extent and are able to compete with some of the larger power using factories, and so there is justification for taxing them. May I point out to him and to the House why we want to encourage cottage industries? Wherever power is not used and wherever there is a large production, it means that a larger number of people are employed there. From the point of view of employment potential, we want it to be subsidised. When that is the case, I do not see the reason behind the argument that they must try to equalise between cottage industries and power factories on the ground that the production in the cottage section is equal more or less. If the production there is more, that means it gives greater employment. If it gives more employment, that is the reason why we should support it and not tax it. So I think there is a difference between the philosophy which the Production Ministry is advocating and the philosophy which the Finance Ministry wants to follow by taxing these cottage industries.

We want to encourage the Ambar Charkha. We want to do many other things. We want to subsidise them because they have a large employment potential. If it is proved that they can work it with man power as against electric or any other power, that means there is greater employment. From the point of solving the unemployment problem, we want to support it. Even if we do not subsidise it, at least we should leave it as it is without taxing it. That is the request I would like to make on behalf of these cottage industries to the Finance Minister, that in view of the employment potential, tax on them may not be levied.

Shri A. C. Guha: Mr. Speaker, Sir, I think most of the objections to clause 34 were relating to the tax on edible oil. A number of Members have spoken against the excise duty on coconut oil.

An Hon. Member: Mustard oil?

Shri A. C. Guha: Some say, also mustard oil, but it is not so vocal as the coconut oil. (*Interruption*).

Shri Thomas tried to show that the incidence of duty is very heavy whereas the Taxation Enquiry Commission has suggested a low duty. I think one anna per seer is not a heavy duty, if you compare.....

Shri A. M. Thomas: What is the price per seer? Then only you can compare.

Shri A. C. Guha: If you compare the current prices of these edible oils, I think this one anna per seer even on coconut oil cannot be called a heavy duty. All that has been said about the coconut oil industry in Travancore-Cochin has been considered by the Government and all the arguments that have been adduced were also considered not only by the Finance Ministry but also by the other Ministry, which is directly dealing with agricultural products.

Shri A. M. Thomas: Have you consulted the Food and Agriculture Ministry?

Shri A. C. Guha: I have said that all the points mentioned here were considered not only by the Finance Ministry but they have been considered by the other relevant Ministries also, including the Ministry of Food and Agriculture.

The consumption of coconut oil is only 8 to 9 per cent of the production of all the edible oils.

Shri Velayudhan: Have you discussed wtih the Travancore-Cochin Government?

Shri A. C. Guha: It is not the practice.....

Mr. Speaker: Hon. Members who wanted to have a say have had their opportunities. Why should they do so in bits now?

Shri A. C. Guha: Hon. Members will also admit that it is neither possible nor it is practicable to consult all the State Governments when the Central Government is going to prepare its Budget for the year. Budget is supposed and taken to be something secret and confidential and we cannot go on consulting all the Governments whose people are likely to be affected.

As I was saying, coconut oil is only 8 or 9 per cent of the edible oils produced in the country. There is hardly any reason why this 8 or 9 per cent of edible oil should be exempted. I think, in other parts of the country, several other varieties of edible oil must be in use and those parts also must have felt the incidence of this duty. I can only say with particular reference to coconut oil, that its present price compares favourably with the price of other edible oils in the country. If hon. Members want to compare the present price of coconut oil with the price prevailing in 1950, 1951 that is in the post-Korean peak period, that would not be a very fair comparison. But, if we make a comparative study of the prices prevailing for all edible oils, I think, the present price of coconut oil cannot be considered to be too low. Rather, it is higher than the price of many other edible oils. So it is not in a depressed state. Therefore, I find no reason to accept the argument of the hon. Members that coconut oil should be exempted from this duty.

Some hon. Members said something about coarse cloth. Shri Choudhury, particularly, is against the duty on coarse cloth, not only on the coarse varieties of dhoties and saris but also on any kind of coarse cloth. He should know that other varieties of coarse cloth are mostly very costly and luxury articles. Sometimes, they are selling at Rs. 3, Rs. 4, Rs. 7 or even Rs. 8 per yard. I am rather surprised that hon. Members have not suggested that the excise duty on other varieties of coarse cloth should be higher than what we have put. There has been no increase in the excise duty on dhoties and saris belonging to the coarse cloth variety. The duty on coarse dhoties and saris has been continuing for a number of years and there is hardly any occasion to withdraw the duty which has been there for many years.

I would like to remind hon. Members of what Shri Chettiar has said, namely, that ours is a poor country. If we want to raise. Some extra revenue for development works, the benefit of which will mostly go to the poorer sections. I think, we cannot keep the poorer sections free from paying any extra duty or any extra tax. If we simply try to collect the revenue by direct taxation, it is not possible because the rate of direct taxation in our country is almost the highest prevailing in any country. In any case, we shall have to go in for indirect taxation; yet

we have been paying particular attention to see that the incidence of indirect taxation does not press very hard on the poorer sections of the people. We have also been paying attention to the fact that smaller units, particularly those belonging to the cottage and village industry group, may get benefit. In some cases, we have been giving a sort of subsidy and, in most cases, we have been giving exemptions up to a particular capacity of production, to a variety of these industries. When Government frame their Budget proposals, they keep in view all these relevant factors. It is not possible, in the present context of our development programme, that the poorer sections of the people would be left completely free from any new tax obligation.

Something has been said about the medium variety of dhoties and saris and that is the largest consumption item. I think the duty has been raised only by 2 pice per square yard. That would not be a very big burden for the middle class people. The total amount of revenue that we have to raise also has to be borne in mind, when hon. Members press for exemption from or relaxation of the taxation proposals. This particular suggestion involves a loss of Rs. 4.30 crores.

Some hon. Members have mentioned something about diesel oil. The total incidence of the new excise duty on diesel oil where power pump is used, for a farm of 25 acres, would be only .66 per cent. Some other hon. Members have said that it will increase the cost of transport. But, I think, they have simply forgotten this fact that this excise duty is just a counter part of the present import duty. Now, with 3 refineries going into production, we shall hardly have any necessity of importing diesel oil. There was an import duty on diesel oil and we have calculated that would come to about four annas per gallon, and that is the rate we have put for the excise duty.

Shri Viswanatha Reddy: The hon. Minister has said that it is merely a countervailing duty. Is he in a position to assure us that as a result of the imposition of this duty, the net price of diesel oil is not going to increase? If it is merely a countervailing duty, it should not increase.

Shri A. C. Guha: If there is inordinate increase in the price of diesel oil as in the prices of mustard oil and other edible oils, some businessmen may take undue advantage. It is hardly possible for the Government at every step to interfere, but surely if things continue at that state, then the Government may take some measures. But we expect that the price will find its own level, natural level, and that the consumers will not tolerate this extra price which they have now been made to pay for some of the edible oils.

If there is any inordinate rise in the price of diesel oil also, I think the trade conditions will bring down the price to the natural level. If not, and if there is any necessity for Government to interfere in such a contingency, Government may do something in the matter. But at present there is no necessity to be concerned about.

There is hardly anything else to which I have to give a reply .

Shri N. B. Chowdhury: There are certain coarse varieties of cloth included in the luxury cloth for this duty. Is it not possible to sort out certain varieties of coarse cloth which are used by the common man ?

Shri A. C. Guha: That has been exempted. The duty is mostly on luxury cloth.

Mr. Speaker: Let me put the amendments to the vote of the House.

The question is :

Page 17—

omit lines 9 and 10.

The motion was negatived.

Mr. Speaker: The question is :

Page 17, line 11—

(i) *after* "sorts" *add* "other than dhoties and sarees"; and

(ii) *for* "One anna" *substitute* "Six pies"

The motion was negatived.

Mr. Speaker: The question is:

Page 18, line 26—

after "Oils" *insert* "except the edible oil or the quantity of which is used for edible purpose".

The motion was negatived.

Mr. Speaker: The question is:

Page 18, line 26—

after "all sorts" *insert* "except coconut oil".

The motion was negatived.

Page 18, line 26—

after "Oils" *insert* "excluding coconut oil"

The motion was negatived.

Mr. Speaker: The question is:

Page 18, lines 29 and 30—

after "Imperial gallon" *add*:

"Provided that where the oil is used for agricultural purposes, the rate shall be one anna per Imperial gallon."

The motion was negatived.

Mr. Speaker: The question is:

Page 17—

omit lines 30 to 36.

The motion was negatived.

Mr. Speaker: The question is:

Page 18—

omit lines 29 to 47

The motion was negatived.

Mr. Speaker: The question is:

Page 18, line 29—

for "Four annas" *substitute* "Two annas".

The motion was negatived.

Mr. Speaker: The question is:

Page 18, line 26—

for "Rupees seventy" *substitute* "Rupees thirty-five".

The motion was negatived.

Mr. Speaker: The question is:

Page 18, line 29—

for "Four annas" *substitute* "One annas".

The motion was negatived.

Mr. Speaker: The question is:

Page 17, line 2—

after "One anna per square yard"

insert "except in case of dhoties and sarees"

The motion was negatived.

Mr. Speaker: The question is:

Page 17—

for lines 6 to 12, *substitute*:

for lines 6 to 12 *Substitute*:

"(4) Cotton fabrics, coarse-that is to say fabrics in which the average count of yarn is less than 17s—	Six pie per square yard."

The motion was negatived.

Mr. Speaker: The question is:

"That Clause 34 stand part of the Bill."

The motion was adopted.

Clause 34 *was added to the Bill.*

Clause 35 *to* 37 *were added to the Bill.*

First Schedule

Shri M. C. Shah: I beg to move:

(i) Pages 22 and 23—

for lines 35 to 42 and lines 1 and 2 respectively, *substitute*:

	Rate
"On the first Rs.40,000 of total income.	Nil
On the next Rs. 35,000 of total income.	Nine pies in the rupee.
On the next Rs. 75,000 of total income	One anna in the rupee
On the balance of total income.	One anna and six pies in the rupee."

(ii) Page 25, line 8—

for "paid-up capital; and" *substitute*:

"paid-up capital, except to the extent to which such bonus shares or bonus have been issued out of premiums received in cash on the issue of its shares; and"

(iii) Page 25, line 44—

add at the end:

"increased by any premiums received in cash by he company on the issue of its shares, standing to the credit of the share premium account as on the first day of the previous year aforesaid".

(iv) Page 25—

after line 47, *add*:

"(iii) where any portion of the profits and gains of the company is not included in its total income by reason of such portion being exempt from tax under any provision of the Income-tax Act, the amount of the 'paid-up capital' of the company, the amount distributed as dividends (not being dividends payable at a fixed rate), the amount representing the face value of any bonus shares and the amount of any bonus issued to the shareholders, shall each be deemed to be such proportion thereof as the total income of the company for the previous year bears to its total profits and gains for that year other than capital gains or capital receipts, reduced by such allowances as may be admissible under the Income-tax Act which have not been taken into account by the company in its profits and loss account for that year."

These are the four amendments with regard to the First Schedule, and they relate to the concessions announced by the Finance Minister. These categories have been circulated. The first is with regard to the exemption given to the first Rs. 40,000 so far as registered firms are concerned. The second is that in the paid-up capital we propose to include the premium on shares. The third is that the paid-up capital means the paid-up capital increased by any premiums received in cash by the company on the issue of its shares, standing to the credit of the share premium account as on the first day of the previous year aforesaid. The fourth is with regard to giving concession to those companies whose profits include certain sums which are not assessable under the Indian Income-tax Act, as for example, in the tea companies, certain percentage will be from manufacture and all that, and certain percentage will be agricultural income, which will not be taxed. While considering the question of special tax on bonus or dividend, only that portion which is leviable under the Income-tax Act will be proportionately considered.

Shri Tulsidas: I beg to move:

(i) Page 25, lines 10 and 11—

after "preceding proviso" *insert* "not being a company to which section 23A is applicable".

(ii) Page 25—

after line 23, *add*:

"Provided that where in respect of any one or more of the three previous years immediately preceding the previous year, the profits and gains distributed as dividends by a company are at a rate less than the percentages, specified above, of its paid-up capital free reserves and premiums, if any, on shares in that year, but in respect of the previous year the profits and gains distributed as dividends by it are at a rate in excess of the percentages, specified above, of its paid-up capital, free reserves and premiums, if any, on shares, so much of the said deficiency, if any, as has not been adjusted under this proviso in a preceding year, shall be taken into account in determining whether dividends exceed the percentages referred to above in sub-clause (b) of clause (i)."

(iii) Page 25, line 8—

for "paid-up capital; and" *substitute*:

"paid-up capital, except to the extent to which such bonus shares or bonus have been issued out of premiums received in cash on the issue of its shares or out of capital gains; and".

I have moved only these three amendments and the balance of my amendments I am not going to move.

On amendment No. 48, I would say this. The sub-clause as now worded does not exclude all section 23A companies from the operation of the excess dividend tax. These companies are required to distribute compulsorily specified percentages of their profits; if they

[Shri Tulsidas]

retain more, they have to pay a super-tax on their excess retention. It is unjust that you, on the one hand, compel a company to distribute dividends; and on the other, if such distribution amounts to more than the specified percentages of paid-up capital, you impose a tax on the excess distribution. Such a company is in the anomalous situation of having to pay a tax, whether it distributes its profits or not. I, therefore, suggest that section 23A companies may be exempted from the tax on excess dividends.

In regard to my amendment No. 55, in many enterprises, incomes fluctuate from year to year. It may not be possible for such companies to pay dividends at constant rates from year to year. In many years their profits may not be sufficient to cover the tax-free rate of dividend and in others it may be in excess. If such companies are taxed on their excess dividends in good years without any allowance being made in the bad years, such companies will pay higher tax, though over a period they will have distributed the same per cent. as companies having constant profits from year to years. Such a provision will be inequitable between companies. Provision should, therefore, be made to allow companies to carry over their deficiency in dividends from year to year. Such a provision is to be found in section 23A, where a company which distributes its profits in excess of specified limit can carry over such excess for three years. A similar provision should be introduced here also.

Amendment No. 115 seeks to exclude bonus shares issued against capital gains. The Finance Minister has accepted the position in regard to premiums on shares. My only point is this. A company can issue bonus shares against premiums on shares, against capital gains, against reserves made of taxable profits and against reserves made of non-taxable profits. The Finance Minister has, by his amendment, excluded bonus shares issued against premiums on shares. I want that this exemption should be extended also to bonus shares issued against reserves formed of non-taxable profits. The tax on bonus shares issued against taxable reserves may be justified on the ground that on such profits tax is not levied at rates applicable to shareholders. However, the capital gains and and non-taxable profits I refer to are not liable to tax in the hands of the company. Let me take the case of section 15C company. Its income, up to 6 per cent. of capital employed, is tax-free in the hands both of the company and its share-holders. Suppose such company ploughs back its profits—it would need to do so in the early years when it needs funds—and later capitalises such profits and issues bonus shares. Is it fair that the company should be taxed on such shares? Is it not necessary that you distinguish such shares from shares issued out of taxable profits, when you distinguish between taxable and non-taxable profits? I, therefore, suggest that bonus shares issued against reserves made of non-taxable profits should be exempted from the new tax on bonus shares. For section 15C companies, we have given a particular reason, namely for encouraging new enterprises. Even when they are distributed as dividends, they are not taxable. Why then tax on reserves when they are capitalised and issued as bonus shares?

Shri Bansal: I have my amendments Nos. 92, 93, 94, 96, 97, 99 and 100. Out of these, I am not moving Nos. 94 and 97.

I beg to move:

(i) Page 25, line 11—

after "proviso" *insert* "to which the provisions of section 23A cannot be made applicable".

(ii) Page 25, line 14—

after "its paid-up capital" *insert* "premiums on shares and free reserves, if any".

(iii) Page 25, line 20—

add at the end "premiums on shares and free reserves, if any".

(iv) Page 25, line 23—

add at the end—

"premium on shares and free reserves, if any".

(v) Page 25, line 42—

after "at a fixed rate" *insert* "premiums on shares and free reserves, if any,".

Of these amendments, amendment No. 92 relates to section 23A companies. My amendment is more or less similar to that of Shri Tulsidas. He has already advanced his arguments and I am not going to repeat what he has said already.

The remaining amendments relate to the definition of paid-up capital. The Finance Minister has been good enough to include premiums on shares to be included in the paid-up capital. My suggestion is that the free reserves should also be included in the definition of paid-up capital. There are precedents for this. The Profit Sharing Committee had reported on the question of sharing —the share of the workers in profits and bonus—in very great detail. Our hon. Minister, Shri Khandubhai Desai was a member of that Committee. They came to the conclusion that free reserves were a part of the capital. I am quoting from that report just two lines: "Taking all factors into account, six per cent. of paid-up capital plus reserves held for the purpose of the business would be a fair rate in the present circumstances".

The Minister of Labour (Shri Khandubhai Desai): Read the minute of dissent also.

Shri Bansal: It was not stated that no part of the free reserves should be included in the paid-up capital. If I remember aright, he was of the view that 50 per cent. of the free reserves should be included. I quoted from the majority report. All I am saying is this. After all, capital is what is employed in business. It is not only paid-up capital which is employed in business but also free reserves which are used for the purpose of earning profits. Inasmuch as there is going to be a tax on dividend, which is after all a return on capital, my suggestion is that free reserves should also be included in the paid-up capital.

Shri M. C. Shah: I am afraid that I cannot accept any of the amendments. The arguments advanced seem rather plausible but at the same time they are fallacious. Whether it is 23A or public company, it is all on the same basis. If they are asked to distribute 60 per cent. or one hundred per cent., they are asked to do so because they want to avoid a higher level of super-tax. Everybody knows that the private limited company may have just four or five share-holders and when the profits are not distributed, then they may just escape the super-tax. Therefore, it has been thought desirable to have this provision.

With regard to this special super-tax on dividends, we must take into account a uniform policy to be adopted towards all companies whether they are 23A companies or public companies. We cannot discriminate between the share-holders of a public company who may have to pay two or three annas as special super-tax on dividends and the private share-holders. We cannot accept a policy of discrimination between the share-holders of 23A companies and other companies. With regard to expanding the scope of the paid-up capital, where we have thought that it was reasonable to have a premium on the shares wherever funds are held on account of premium on shares that may be included in the paid-up capital. Free reserves will widen the scope and therefore the chance of obtaining a legitimate super-tax on dividends will also lessen. I do not think Government can accept such a position.

Mr. Speaker: The question is:

Pages 22 and 23—

for lines 35 to 42 and lines 1 and 2 respectively, *substitute*:

	Rate
"On the first Rs. 40,000 of total income.	Nil.
On the next Rs. 35,000 of total income.	Nine pies in the rupee.
On the next Rs. 75,000 of total in the rupee.	One anna in the rupee.
On the balance of total income.	One anna and six pies in the rupee,".

The motion was adopted.

Mr. Speaker: The question is:

Page 25, line 8—

for "paid-up capital; and" *substitute*:

"paid-up capital, except to the extent to which such bonus shares or bonus have been issued out of premiums received in cash on the issue of its shares; and".

The motion was adopted.

Mr. Speaker: The question is:

Page 25, line 44—

add at the end:

"increased by any premiums received in cash by the company on the issue of its shares, standing to

[Mr. Speaker]

the credit of the share premium account as on the first day of the previous year aforesaid".

The motion was adopted.

Mr. Speaker: The question is:

Page 25—

after line 47 *add*:

"(iii) where any portion of the profits and gains of the company is not included in its total income by reason of such portion being exempt from tax under any provision of the Income-tax Act, the amount of the 'paid-up capital' of the company, the amount distributed as dividends (not being dividends payable at a fixed rate), the amount representing the face value of any bonus shares and the amount of any bonus issued to the shareholders, shall each be deemed to be such proportion thereof as the total income of the company for the previous year bears to its total profits and gains for that year other than capital gains or capital receipts, reduced by such allowances as may be admissible under the Income-tax Act which have not been taken into account by the company in its profit and loss account for that year."

The motion was adopted.

Mr. Speaker: I shall put the other amendments to the vote of the House.

The question is:

Page 25, lines 10 and 11—

after "preceding proviso" *insert*:

"not being a company to which Section 23A is applicable."

The motion was negatived.

Mr. Speaker: The question is:

Page 25—

after line 23, *add*:

"Provided that where in respect of any one or more of the three previous years immediately preceding the previous year, the profits and gains distributed as dividends by a company are at a rate less than the percentages, specified above, of its paid-up capital, free reserves and premiums, if any, on shares in that year, but in respect of the previous year the profits and gains distributed as dividends by it are at a rate in excess of the percentages, specified above, of its paid-up capital, free reserves and premiums, if any, on shares, so much of the said deficiency, if any, as has not been adjusted under this proviso in a preceding year, shall be taken into account in determining whether dividends exceed the percentages referred to above in sub-clause (b) of clause (i)."

The motion was negatived.

Mr. Speaker: The question is:

Page 25, line 8—

for "paid-up capital; and" *substitute*:

"paid-up capital, except to the extent to which such bonus shares or bonus have been issued out of premiums received in cash on the issue of its shares or out of capital gains; and"

The motion was negatived.

Mr. Speaker: The question is:

Page 25, line 11—

after "proviso" *insert* "to which the provisions of section 23A cannot be made applicable".

The motion was negatived.

Mr. Speaker: The question is:

Page 25, line 14—

after "its paid-up capital" *insert* "premiums on shares and free reserves, if any".

The motion was negatived.

Mr. Speaker: The question is:

Page 25, line 20—

add at the end "premiums on shares and free reserves, if any".

The motion was negatived.

Mr. Speaker: The question is:

Page 25, line 23—

add at the end "premium on shares and free reserves, if any".

The motion was negatived.

Mr. Speaker: The question is:

Page 25, line 42—

after "at a fixed rate" *insert* "premiums on shares and free reserves, if any,".

The motion was negatived.

Mr. Speaker: The question is:

"That the First Schedule, as amended, Stand part of the Bill."

The motion was adopted.

The First Schedule, as amended, was added to the Bill. The Second Schedule, the Third Schedule, the Fourth Schedule, Clause 1, the Enacting Formula and the Title were added to the Bill.

Shri C. D. Deshmukh: I beg to move:

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

Mr. Speaker: Motion moved:

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

पंडित ठाकुर दास भार्गव : जनाब स्पीकर साहब, मैं फाइनेन्स मिनिस्टर (वित्तमंत्री) साहब को जब कि यह फाईनेन्स बिल पास होने वाला है, इस के पास होने के ऐन्टीसिपेशन (पूर्व ही) में मुबारकबाद देता हूं। जहां तक फायनेन्स मिनिस्ट्री का सवाल है, जब यहां पर टैक्स लगाये जाते हैं और हम स गुहा साहब खड़े हो कर बतलाते हैं कि यह टैक्स दुरस्त हैं और हमनें किसी पर सख्ती नहीं की है, तो हम यकिन करते है कि जो मिनिस्टर टक्स की वाज बियत के हकमें कहते है वह यकिन के काबिल है जब शाह साहब खड़े होते और कहते है कि यह बातें सही हैं हम बिल्कुल यकीन करते हैं उन की बातों पर जब फाइनेन्स मिनिस्टर साहब कहते है कि इतना टैक्स लगाना फाइव इअर प्लेन की कामयाबी के लिये जरूरी है, तो हमारे वास्ते कोई चारा नही रह जाता है, चारा ही नहीं होने का सवाल नहीं है, हमें पूरा भरोसा होता है कि जो टैक्स उन्होंने लगाये हैं वह देश की भलाई के लिये लगाये हैं और हम उन को फौरन मंजुर कर देते हैं।

हमारे फाईनेन्स मिनिस्टर साहब ने कई मर्तबा यहां पर बतलाया है कि हमारे देश में खांड की खपत एक मिलियन टन से बढकर १·८ मिलियन टन हो गई है, इसी तरह से कपड़े की खपत काफी बढ गई है। तो जब खपत और प्रोडक्शन (उत्पादन) बढ गई है चीजों की तो मैं यह मानने के लिये तैयार नहीं हूं कि देश के अन्दर आदमियों की आमदनी नहीं बढी है। इस बारे में मुझे कोई शुबाह नहीं है, और इस लिये मैं यह समझता हूं कि जिस मल्लाह के हाथ में हम ने अपनी किश्ती दी है उस पर हम पूरा ऐतबार करें, इस के सिवा और कुछ नहीं कर सकते। लिहाजा जहां तक फाइनेन्शियल प्रपोजलस्स (वित्तिय प्रस्ताव) का सवाल है, मैं उन को पुरे जोर के साथ सपोर्ट (समर्थन) करता हूं।

लेकिन ताहम इस वक्त मैं अन्दरूनी दुःख को जाहिर किये बगैर नहीं रह सकता। जिस वक्त सन् १९४८ में हमारे सामने इनकम टैक्स इन्वेस्टिगेशन कमिशन बिल (आयकर जाँच आयोग विधेयक) पेश हुआ था उस वक्त मैं ने अर्ज किया था कि मुझे डर है कि जितनी पावर्स (शक्ति) इनकम टैक्स आफिसर्स को दी जा रही है वह जेनरल ला (सामान्य विधी) में आ कर हमारे ला को डिस्फिगर (शून्य) कर देंगी, और आज हम देखते है कि जो कुछ मैं ने उस वक्त अर्ज किया था वह सही निकला। मैं नहीं चाहता हूं कि इस देश में टैक्स डाजर्स !(दीखेबाज) और इवेडर्स हों, और आप को टैक्स न दें, लेकिन साथ ही में यह भी नहीं चाहता कि आप के इनकम टैक्स आफिसर्स में वह पावर्स जायें क्योंकि उन के अन्दर अभी आप जैसी स्पिरिट इन्जेक्ट (भावना जाग्रत) नहीं हुई है। उन में करप्शन (भ्रष्टाचार) भी है अगर हम उन को और पावर्स दे देंगे तो उससे लोग हैरेस होंगे। आज कोई नहीं चाहता कि हमारें मुल्क के अन्दर टैक्स इवेडर्स हों लेकिन यह भी कोई नहीं चाहता कि लोगों को बेजा हैरेसमेंट (तंगी) हो जब यह मामला सुप्रीम कोर्ट में गया तो वहां भी इस चीज को नाजायज करार दिया गया। मैं बतलाना चाहता हूं कि वहां पर भी उन्हीं बुनियाद पर नाजायज करार दिया गया था जो कि मैं ने इस हाऊस में कानून बनते वक्त बयान की थी

[पंडित ठाकुर दास भार्गव]

आज आप जो पावर्स इनकम टैक्स आफिसर्स को दे रहे हैं उन से मुझे तकलिफ है। मैं जानता हूं कि जो भी पावर्स इनकम टैक्स ला में मौजूद हैं उन से इस देश के अन्दर आप पूरा टैक्स वसूल कर सकते हैं बिला किसी और पावर्स को लिए हुए जब सन् १९५५ में सुप्रीम कोर्ट ने इस कानून को नाजायज करार दिया और वह हौउस के अन्दर फिर आया तो मैं ने अपील की थी शाह साहब से कि आप उन लोगों पर इस कानून को न लागू कीजिये जो कि सुप्रीम कोर्ट के फैसले के बाद उस की जद से बच गये हैं, आज उसी चीज को मैं फिर दोहरना चाहता हूं और अर्ज करता हूं कि मैं नहीं चाहता कि इस कानून के दूसरें ऐमेंडमेंट (संशोधन) की वजह से अगर कोई टैक्स इवेडर साबीत होता है तो उस के बख्लिाफ आप किसी तरह रियायत करें, लेकिन मैं यह नहीं चाहता हूं कि आपने जो नया ला बनाया है उस के ऊपर अमल कर के मामूली आदमी को आप तकलीफ पहुचायें। आप ने फरमाया है कि सात सालों में सिर्फ दो दफा इनवेस्टिगेशन कमिशन ने तलाशी का हुकम दिया। उन्होंने तो सात बरस में ऐसा किया। मैं चाहता हूं कि साठ बरस में भी किसी एक आदमी के घर की तलाशी न ली जाय। जो टैक्स इवेडर्स है उन के लिय मामूली कानून आप इस्तेमाल नहीं करते हैं। वह इतना जबरदस्त है कि सारी खराबियां दूर हो सकती है। इस कानून को पास हुए आठ वर्ष हो गय हैं, इस अर्से में हमारें नार्मेलिसी (साधारण-स्थिति) आ गई है। वह दिन अब दूर नहीं है जब हम इन प्राविजनस को जो मीयाद व तलाशीके आप नये बना रहे हैं हटा कर छोड़ेंगे, लेकिन ताहाल

6 P.M.

Mr. Speaker: The question is:

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

The motion was adopted.

BUSINESS ADVISORY COMMITTEE

THIRTY-THIRD REPORT

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Sir, with your permission, I beg to present the Thirty-third Report of the Business Advisory Committee.

APPROPRIATION (No. 2) BILL —*contd.*

Mr. Speaker: The House will now take up further consideration of the Appropriation (No. 2) Bill. Half an hour has been allotted for this. I have received chits from several hon. Members, although some of them are not here now. I will allow 10 minutes to the hon. Minister and 5 minutes each to hon. Members who want to speak.

Shri Velayudhan (Quilon *cum* Mavelikkara—Reserved—Sch. Castes): Are we allowed to discuss any Ministry during the course of this debate?

Mr. Speaker: Only the Ministries of Information and Broadcasting and the Law Ministry which have not been touched during the course of debate on the General Budget.

Shri N. B. Chowdhury (Ghatal): Mr. Speaker, I only want to draw the attention of the hon. Law Minister to one specific point and that is with regard to the lack of proper arrangement for the enlistment of voters.

Shri Bansal (Jhajjar-Rewari): Sir, I rise on a point of order. Has the Consideration Motion been moved?

Mr. Speaker: It was moved earlier.

Shri N. B. Chowdhury: Sir, I was trying to draw the attention of the hon. Minister to this specific question of enlistment of voters. At the preliminary stage when the Presidents of Union, Boards, Panchayats or other agencies are required to enlist the voters, at that stage, we have noticed, they do not take particular care to approach the people and thus make an attempt to enlist the names of all eligible voters. The result has been that after some time, when that stage was over and there was time for objections, in a large number of cases we have seen that although the people approached the registrars or some other persons to record their names there was a lot of difficulty in getting that done.

I know of one particular instance where, in the case of one panchayat area only one Union, No. 5, having a population of 9000 in the District of Midnapore within the jurisdiction of police station, Ghatal, as many as 500 people applied to the Registrar for enlistment of their names as voters. But the Registrar wanted that they should personally