

ESSENTIAL GOODS (DECLARATION AND REGULATION OF TAX ON SALE OR PURCHASE) BILL.

The Minister of Finance (Shri C. D. Deshmukh): I beg to move:

"That the Bill to declare, in pursuance of clause (3) of article 286 of the Constitution, certain goods to be essential for the life of the community, be referred to a Select Committee consisting of Shrimati B. Khongmen, Dr. Ram Subhag Singh, Shri Tulsidas Kilachand, Acharya Shriman Narayan Agarwal, Shri P. T. Chacko, Shri B. Das, Shri Gurmukh Singh Musafir, Col. B. H. Zaidi, Shri S. V. L. Narasimham, Shri S. V. Ramaswamy, Shri G. D. Somani, Shrimati Sucheta Kripalani, Shri Rajaram Giridharlal Dubey, Shri Keshav Dev Malviya, Shri Arun Chandra Guha, Shri Liladhar Joshi, Shri Balwant Sinha Mehta, Shri Dev Kanta Borooah, Shri Sarangadhar Das, Shri Mahavir Tyagi, Shri M. V. Krishnappa, Dr. Shaukatullah Shah Ansari and the Mover with instructions to report by the 12th June, 1952."

Sales tax was developed as a major source of State income soon after the cessation of the last war, partly to finance the ever-increasing expenditure of development and partly, principally after 1947, to make up for the loss of revenue on prohibition. In the initial stages of this tax it was confined to retail sales and to consumers in the Provinces. But subsequently the States started attempting to levy this tax on items entering into inter-State trade and commerce, on export and import trade, and on important industrial raw materials like coal, cotton, jute, steel, etc. These attempts, as was to be expected, resulted in conflicts with the other Provincial Governments, and more especially with the Centre who desired to intervene in the wider interests of national trade and commerce. As an example of this conflict I might cite the Bihar sales tax on mica and the Madras sales tax on tea. It was natural, therefore, that some attempt should be made to settle these issues, and that attempt was made by way of a Finance Ministers Conference which was held in October, 1948. It emerged that there was general agreement that certain conventions might be established to achieve uniformity in sales taxes and to exempt certain essential articles—although a number of States, including some which derived important revenue from this, found themselves unable to agree even to this measure of self-

imposed uniformity. Then it became evident that a certain amount of Central control on the imposition of sales taxes by, what were then, Provincial Governments was essential and it was with this end in view that the Ministry of Finance addressed the various Provincial Governments in the matter in April 1949 and, after a careful consideration of the reactions of the Provincial Governments, it was decided to introduce an amendment in the Draft Constitution of India which was then under consideration, providing for a modicum of Central control. This amendment was adopted by the Constituent Assembly of India as a new article, namely, article 286 and it is to give effect to one clause of this article that this present Bill has been introduced. Article 286 of the Constitution consists of three clauses. Clauses 1 and 2 provide that no sales tax can be levied by the States on goods in the course of export outside or import into the territory of India, on the sale or purchase of goods outside the state and on sale or purchase of goods in the course of inter-state trade or commerce. However, in respect of the last restriction, the President allowed, under the Sales Tax Continuance Order 1950, the continuance of such taxes up to the 31st March 1951 as were by law in force before the commencement of the new Constitution. This order expired on the 31st March 1951, so that clauses 1 and 2 of article 286 came into full operation with effect from the 1st April 1951. A great many representations were received by the Government of India that the State Governments were levying sales taxes in contravention of the provisions of the Constitution of India and requests were also received from various quarters, official and unofficial, for the correct interpretation of article 286 of the Constitution. We obtained legal opinion and advised the State Governments, so that the respective Sales Tax Acts were brought into conformity with the Constitution so as to avoid the possibility of a taxpayer challenging the levy in a court of law. According to our information, most of the State Governments have taken action to make the necessary adaptations and modifications in their respective laws in force, although some complaints continued to come.

Coming to clause (3), the main object of the legislation is to prevent the States levying sales taxes on important industrial raw materials like coal, cotton, jute, steel, etc., which by the very nature are produced in certain parts, but used all over the country and on essential consumer goods or commodities like foodgrains, coarse

cloth and this has been all the more necessary in the present context. In pursuance of a decision which Government took about a year and half ago, a list of commodities which we considered as essential for the life of the community was drawn up and circulated in January 1950 to the State Governments for their comments. The whole matter was then considered in the light of the representations which we received from the public and associations as well as States and that occupied us for about 1½ years. We made sure that all shades of opinions were thoroughly looked into and that any legislation that we wished to bring forward represented the minimum of common consent for the range of goods to be declared as essential for the life of the community. As might have been expected there was a wide divergence of views in the matter, but we found that, on certain common items, the majority of opinion was more or less in accord and that is how we have prepared this list of essential items. The proposals were finally approved in May 1951 and the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Bill, 1951, was introduced in Parliament in June 1951. Owing to other important legislative work, this Bill did not come up for discussion and lapsed. It was, therefore, re-introduced on the 16th May 1952 and is now before the House.

The main object of this legislation is easily described. It is to prevent essential goods being unduly taxed and it is to achieve a certain measure of uniformity in the taxes. It is clear that if a large number of goods are added to the Schedule of goods declared essential for the life of the community, the disparity in taxation of goods in the various States is likely to remain. The States were allowed one year to adjust their Sales Tax Acts to be re-cast in conformity with the provisions of the Constitution and thereafter the restrictions laid in article 286 were to come into force as early as possible. So, if this Bill is enacted, it will secure a certain minimum measure of uniformity in the various States, in that it will prevent essential goods being unduly taxed in future. There is another consideration which we had to bear in mind in drawing up the schedule of essential articles. We had to give due regard to the consideration whether the State Governments are not embarrassed from the revenue point of view by our unduly widening the scope of the schedule. It has become one of the major sources of revenue, which could be described as elastic to the States.

[MR. SPEAKER in the Chair]

The restrictions under clauses 1 and 2 have already adversely affected the sales tax revenues of various States and we feel that they cannot afford any further loss, especially in view of the present financial stringency and particularly when they are on the eve of incurring heavy development expenditure. The loss on account of the operation of clauses 1 and 2 of article 286 on a total of about Rs. 45 crores has been estimated at about five to ten per cent., the figure, of course, varying from State to State. It is necessary here to make a few observations in regard to the effect which this enactment will have on the levy. The Law Ministry have advised that article 286(3) will apply to items only after certain goods have been declared by Parliament by law to be essential for the purpose. Also, when a pre-existing State or Provincial Act empowers the withdrawal of an exemption or enhancement of a rate of the tax by rule or order made under the Act, this proposed Act of the Parliament will not affect that power. In view of this legal advice, the present Bill, clause (3), has been so framed that after its enactment it will apply to items declared as essential only in respect of new levies, or increase of existing levies on such items. In other words, the State Governments will be competent to continue to levy such sales tax as they do prior to the enactment of the proposed Bill. This means that they are not likely, just by the operation of this piece of legislation, to suffer any loss in their present revenue from sales tax.

It would be noticed that there are a number of essential articles or commodities, at least articles which could be regarded by some people as essential, which have not been included in the Schedule to the Bill. Prominent among such articles are meat, fish, electric energy for domestic use, jute, paper, newsprint, books, etc. In regard to uniformity, apart from the range of articles, which are subject to the tax, there are certain exemption limits expressed in terms of money. But, they vary over a wide range from State to State. It is difficult to draw any hard and fast datum line. Broadly speaking, the limit had been put higher in States with a multiple point tax than in States with a single point tax. We find that the pattern of the sales tax varies from State to State according to the peculiar conditions prevailing in the individual States. In some, the incidence of sales tax is very much higher than in other States. The actual collections are naturally poor in

[Shri C. D. Deshmukh]

comparatively backward States with a small proportion of urban population. Probably any excessive attempt to standardise the sales tax in all the States will involve considerable adjustment in tax rates, exemption limits, etc. Such adjustments may actually cause other hardships to the local population or loss of revenue to the State Governments concerned. On these grounds, it may not be desirable, even if it were to be feasible from the constitutional point of view, to enlarge or aim at an excessive degree of uniformity or standardisation.

From the point of view of the Constitution, the position is that there is no enabling provision for the Centre to take over this levy except under article 249 on a resolution of the Council of States and under article 353—emergency provisions—but, in effect, the taking over of sales taxes for any purpose like standardisation, uniformity and so on, can only be done with the consent of the State Governments which I am afraid is unlikely to be given in view of the fact that this is the only expanding and important source of revenue left to the State Governments after the losses of revenue which some of them have voluntarily elected to suffer under the head "excise".

Then the question arises: do we give up any attempt at rationalisation which it is universally recognised will be in the interests of the country at large or in the general economic interest of the country? The answer is that we can only have recourse to persuasion. We may bring persuasion to bear on State Governments in the matter of some kind of uniformity of rates of tax, exemption limits, ranges of commodities tax, the mode of taxation and so on. There are beginnings of such uniformity as for instance in the matter of taxation of luxuries. It is our intention at an appropriate moment to call together the Finance Ministers of the various States as soon as it is feasible in order to pose the problem of rationalisation before them and to take counsel. We realise that any significant modification will necessarily involve a review and survey of the whole field of the financial resources of States. At the moment there is a likelihood of that field being affected by the findings of the Finance Commission. It may be after receipt and acceptance of the recommendations of the Finance Commission that the time will be appropriate for comparing notes on the question of the rationalisation of sales taxes in India.

Mr. Speaker: Motion moved:

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FIRING ON RAILWAY EMPLOYEES AT GORAKHPUR

Mr. Speaker: The House will now proceed with the half-hour discussion on points arising out of the answer given on the 20th May, 1952, to starred question No. 56 regarding firing on railway employees at Gorakhpur. As we have started five minutes late we shall sit five minutes late and make up the thirty minutes' time.

Shri A. K. Gopalan (Cannanore): This question is a matter of very great public importance. I have got two petitions said to be copies of petitions sent to the Prime Minister and the Railway Minister, one by the leader of the delegation and another by the father and widow of the late Shri Jivnand who was killed on 24th May in the Gorakhpur firing.

According to these reports, briefly, the incident was as follows:

"On 23rd April 1952 a peaceful demonstration waited upon the C.O.P.S. to oppose shifting Claims and Rates Branches work and to press upon the C.O.P.S. to confirm all the temporary staff who have at least served for more than 2 years.

The C.O.P.S. asked the demonstrators to send their representatives to him. One Shri T. N. Shastri was sent in. But immediately to the surprise of the demonstrator the C.O.P.S. was seen chasing the said clerk out of his office uttering most abusive