

**श्री जवाहरलाल नेहरू :** मेम्बर साहब के इतने खतूत मेरे पास आते हैं कि बावजूद मेरे जवाब देने के दूसरा खत आ जाता है। मेरा सारा पेशा खाली उन के खतों का जवाब देने का ही नहीं रह गया है। फिर उन के खतों में उसी बात को दोहराया जाता है जिस का मैं जवाब दे चुका होता हूँ। इस में कोई सन्देह नहीं कि जिस असले का उन्होंने जिक्र किया वह बहुत खरूरी है और जाहिर है कि यह हाउस उस को जितना ज्यादा बक्त दे कम है। लेकिन सवाल है बक्त का और हाउस के और करने का। मैं कहना चाहता हूँ कि कोई इन्जाम होना चाहिये कि हाउस सात घंटे बैठा करे, जैसे प्रॉर हाउसेज बैठा करते हैं। चार पांच घंटे में काम नहीं चलता। सात घंटे बैठा करे तो शायद कुछ हो सके।

**श्री पी० एन० राजभोज :** मेरा यह कहना है कि हम लोगों को भी टाइम मिलना चाहिये। यहाँ मैं देखता हूँ कि काश्मीर, कोरिया और डा० श्यामाप्रसाद मुखर्जी के बारे में टाइम मिलता है, दूसरे मामलों में टाइम मिलता है, जिक्र होता है। मुझे कुछ न कुछ डेफिनिट जवाब मिलना चाहिये।

**Dr. Lanka Sundaram (Visakhapatnam):** May I also draw your attention to the statement made by the Prime Minister agreeing to a full dress debate on foreign affairs? I believe that in the Business Advisory Committee time was found available for this.

**Mr. Deputy-Speaker:** After the Estate Duty Bill is over.

**Shri K. K. Basu:** Actually the Preventive Detention Act is going to be over by December. They undertook to give an opportunity for discussion within a year. Therefore I request you, Sir, and the Leader of the House to allot two or three hours or one day for discussion of that matter.

**Shri Jawaharlal Nehru:** He may get in touch with the Home Minister. I can hardly give any details.

**Mr. Deputy-Speaker:** The House will now proceed with Legislative Business.

## COMPANIES BILL

**The Minister of Finance (Shri C. D. Deshmukh):** I beg to move for leave to introduce a Bill to consolidate and amend the law relating to companies and certain other associations.

**Mr. Deputy-Speaker:** The question is:

"That leave be granted to introduce a Bill to consolidate and amend the law relating to companies and certain other associations."

*The motion was adopted.*

**Shri C. D. Deshmukh:** Sir, I introduce the Bill.

## ESTATE DUTY BILL—Contd.

### Clause 2.—(Definitions)—Contd.

**Mr. Deputy-Speaker:** The House will now proceed with the further consideration of the Estate Duty Bill. All the amendments that have already been moved have been read out to the House yesterday. Any hon. Member in possession of the House? Yes; Mr. Barman.

**Shri Barman (North Bengal—Reserved—Sch. Castes):** Mr. Deputy Speaker at the outset while supporting the amendment of Mr. Bhagat, I should express my gratefulness to the various sections of the House. Mr. Bhagat's amendment introduces some new element in the original amendment.

**Mr. Deputy-Speaker:** Order, order. We were on a particular amendment relating to charitable endowments. The hon. Finance Minister desires to make a statement to shorten the debate.

**Shri N. C. Chatterjee (Hooghly):** I hope he will withdraw Mr. Bhagat's amendment.

**The Minister of Finance (Shri C. D. Deshmukh):** I did not think that our attempt to define would lead to so much discussion in the House. My belief was based on the fact that there was a similar verbiage in the Income-tax Amendment Act that was passed. I have listened very carefully to the debate that has taken place for a day and a half over my amendment and the crop of amendments to which it has given rise. I have come to the conclusion that in view of the relative importance of this clause it is hardly worth while prolonging the debate. It is with this object that I am trying to make a suggestion.

As I pointed out, we are concerned with deaths that take place within two years and six months of a certain gift for a public or charitable purpose having been made. Because gifts within six months as things stand today in the clause, will not be considered, no matter for what purpose and gifts beyond two years are not hit by anything in the Act. Statistically, I do not think that the number of such deaths between this period would be so great as to make any difference either way. My argument has been that it does not really matter because these gifts are only within a stated period. Then, somebody can retort, in that case, what harm is done to the revenue if you do not insist on the exclusion of these things? The second reason which weighed with me is this. By the Explanation, we have allowed a very large number of exceptions. We have also allowed the inclusion of women and children which, as I explained, is irrespective of any community. Then, there is this thorny question whether community means caste. There are many amendments to that effect. I myself would be averse to try to define this more precisely. Therefore, that matter will have to be left to the rulings of High Courts and there may be further confusion. Taking a practical view of

this question, without surrendering any of the principles which influenced me in proposing this definition, I think I ought to withdraw that particular portion which has any specific reference to religious community. My difficulty is, if I withdraw my amendment, then, there will be no definition. On the other hand, there are no other amendments which I can accept in their entirety. I was impressed by the arguments of Mr. Tek Chand when he said that something ought to be said as to whether the charities are for purposes within the country or outside the country. For that also we have an analogy in the recent amendment of the Income-tax Act. I believe therefore that to have a sort of a parallel provision, we should add the words "within the territory of India". On the other hand, his second amendment includes some modification of the words religious worship or teaching and so on. As I said, I have come to the conclusion that we had better not make any reference to this thorny issue here. This is not the place for it. If it has got to be fought out, let it be fought out in a more spacious atmosphere and not with reference to some incidental reference to religious and charitable purposes. I think the best thing would be to define public charitable purpose as including relief of the poor, education, medical relief and advancement of any other object of general public utility within the territory of India, and leave matters there. If the House will permit this eleven-hour amendment, which is a certain amalgam of all the amendments that have been introduced, then, we can proceed with the other clauses.

**Shri Jhunjhunwala (Bhagalpur Central):** In that case, would you take away the Explanation also?

10 A.M.

**Shri N. C. Chatterjee:** This is a very sensible suggestion. That means, practically the Select Committee's recommendation is accepted with slight modification. The House should immediately accept it so that we can proceed with the other clauses.

**Shri S. S. More (Sholapur):** Sir, I had submitted an amendment, No. 471 and the Minister for Finance was kind enough to accept it at the initial stage. The very fact that Mr. Chatterjee who represents the Hindu Mahasabha has characterised the proposal by the Finance Minister as sensible excited suspicion on our part and to us it means that it is a reactionary surrender on the part of the Government to the reactionary elements from their own party.

**Shri N. C. Chatterjee:** Sir, I object to the word reactionary.

**Shri S. S. More:** It is not unparliamentary. My submission is.....

**Shri A. P. Sinha (Muzaffarpur East):** There is no reactionary element in the Congress Party. He may be a reactionary.

**Shri S. S. More:**.....In that case, I will have to stick to my guns and press for any amendment, whatever the consequences which may follow and that I may be given an opportunity to state my reasons.

**Some Hon. Members:** No, no.

**Mr. Deputy-Speaker:** I believe the hon. Member has already spoken on this matter.

**Shri S. S. More:** No, Sir. The moment it was accepted by the Finance Minister, I did not say a word because it became a matter of governmental responsibility. Now, I will have to stand on my feet individually.

**Shri C. D. Deshmukh:** If I seek permission to withdraw my amendment, then, there would be no basis for the amendment of the hon. Member.

**Shri S. V. Ramaswamy (Salem):** May I point out one thing? If the hon. Finance Minister is withdrawing that portion, will the Explanation also go?

**Shri C. D. Deshmukh:** Yes.

**Shri S. V. Ramaswamy:** He has not stated that. The Explanation should go.

**Shri Syamnandan Sahaya (Muzaffarpur Central):** That would be only consequential.

**Mr. Deputy-Speaker:** The Finance Minister may formally move the amendment.

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

In page 2, after line 46, insert:

"16(A) 'public charitable purpose' includes relief of the poor, education, medical relief and the advancement of any other object of general public utility within the territory of India;"

**Mr. Deputy-Speaker:** Amendment moved:

In page 2, after line 46, insert:

"16(A) 'public charitable purpose' includes relief of the poor, education, medical relief and the advancement of any other object of general public utility within the territory of India;"

So far as the opportunity to Mr. More to speak again is concerned, what I would say is, it is not only the Finance Minister who has to be satisfied. All the hon. Members have to be satisfied about any motion. Hereafter, possibly, he may be more careful not merely to accept any assurance, but try to convince the House. He cannot have another opportunity. Now, this amendment is before the House. Any Member wanting to speak on this may speak.

**Shri S. S. More rose—**

**Mr. Deputy-Speaker:** On this amendment?

**Shri S. S. More:** Not on this.

**Mr. Deputy-Speaker:** Not on the original amendment; I am sorry, I cannot allow.

**Shri S. S. More:** I want to get a procedural matter clarified. I moved my amendment. The Finance Minister was pleased to accept it. Suppose he accepted it and now he withdraws his amendment, does that knock out my original amendment?

**Mr. Deputy-Speaker:** It does not. All I can say is, if it is an amendment to an amendment, along with the withdrawal of the original amendment, the amendment to the amendment goes. But, if it is an independent amendment, it is different.

**Shri S. S. More:** My amendment is not an amendment to an amendment.

**Mr. Deputy-Speaker:** If it is an independent amendment, whoever moves an amendment has got the right not only to move, but to express his opinion regarding it in support of it. But, if he is merely satisfied with what the hon. Finance Minister then thought might be desirable, then he must be satisfied with that. He must have persuaded the House by other arguments. I do not think I can allow the hon. Member now to speak on his original amendment. So far as the Finance Minister is concerned, certainly his first impression was that he might accept it, but in view of the discussion that has ranged over this matter and the number of amendments that have been tabled one after another, and amendments to amendments, he now thinks it is better to propose a new amendment and place it before the House.

**Shri C. D. Deshmukh:** If he wants to speak on this amendment, he can do so, and he can incorporate the same kind of observations that he would have made on the original amendment. I do not see how he loses thereby.

**Shri S. S. More:** The recent amendment moved by the hon. Finance Minister will be voted upon. I want to take my amendment with your permission, if it is permitted by the procedure of the House, to actual voting.

**Mr. Deputy-Speaker:** It will be voted upon. There will be no difficulty. But, I will not allow him an opportunity to speak on his original amendment, but he can speak on the amendment proposed by the hon. Finance Minister.

**Shri S. S. More:** With due deference to your judgment and ruling, I think as far as my amendment is concerned, it is the ruled out of the field.

**Mr. Deputy-Speaker:** He can speak on this.

**Shri S. S. More:** It is not a matter of adjustment or convenience. I want to know the procedure exactly.

**Mr. Deputy-Speaker:** The hon. Member will not be allowed a second opportunity to speak. He relied upon his own judgment as to whether he should be satisfied with the hon. Finance Minister's then saying that he would accept it. There is the House to vote for or against it. Therefore, he lost that opportunity. I do not want to create a bad precedent so far as this matter is concerned.

**Shri S. S. More:** I never wanted it.

**Mr. Deputy-Speaker:** That is all right. If he wants to speak on this amendment, he can speak.

**Shri Damodara Menon (Kozhikode):** I asked whether it would be possible for me to move an amendment to the present amendment moved by the hon. Finance Minister. My amendment is.

In the revised amendment proposed by Shri C. D. Deshmukh, *re: definition of 'public charitable purpose' add at the end:*

'but does not include any purpose which is expressed to be for the benefit of any particular religious community;

*Explanation.*—A purpose which is expressed to be for the benefit of scheduled castes, backward classes, scheduled tribes or of women and children shall not be deemed to be for the benefit of a particular religious community within the meaning of this clause.'

**Mr. Deputy-Speaker:** That is, he wants to add whatever is omitted there as supplementary or an addition to the Finance Minister's amendment. He may move it.

**Shri Damodara Menon:** I beg to move:

In the amendment proposed by Shri C. D. Deshmukh, at the end, add

"but does not include any purpose which is expressed to be for the benefit of any particular religious community;

*Explanation.*—A purpose which is expressed to be for the benefit of scheduled castes, backward classes, scheduled tribes or of women and children shall not be deemed to be for the benefit of a particular religious community within the meaning of this clause."

**Shri V. P. Nayar (Chirayinkil):** There is my amendment No. 551 which I wish to move.

**Mr. Deputy-Speaker:** Amendment No. 551 is already moved. Mr. More.

**Shri S. S. More:** I heard what the Finance Minister said today with the greatest regret and the greatest pain.

**Shri Barman:** I am not speaking at length, but I wish simply to put one question to the hon. Finance Minister.

**Mr. Deputy-Speaker:** I will allow.

**Shri Barman:** The latter portion is now eliminated about which the other day the Finance Minister said that the same phrase also occurs in Section 15(b) of the Income-tax Act. And in that connection it was stated that if that amendment of the Finance Minister had remained, gifts for temples, mosques and churches would not be included in 'public charitable purpose'. Now, what is the position after that is eliminated? Would it make any difference between the applicability of the Income-tax Act and this Act in matters of religious churches, temples or other things?

**Mr. Deputy-Speaker:** That is the very object, to create a difference between that and this.

**Shri S. S. More rose—**

**Mr. Deputy-Speaker:** We have got a number of Clauses.

**Shri S. S. More:** Yes. I shall be as brief as possible.

I was responsible for moving a particular amendment in which I wanted to rule out gifts to charities which were designed to benefit a particular community or caste. But, at the same time, I was very particular to see that any benefits supposed to be given to the Scheduled Castes or backward classes or scheduled tribes should not be ruled out. I think I owe it to the House to explain why I made that sort of discrimination. Now, there were certain Members who made a definite allegation that this particular amendment which was accepted by the Government.....

**Mr. Deputy-Speaker:** That is not ruled out here by the present amendment.

**Shri S. S. More:** It is not ruled out. But there were many Members who complained, who did make it a ground of grievance that certain caste Hindus or other persons belonging to other religions were discriminated against. I may take the illustration which was given by the hon. Member, Shri Chatterjee. He said: "Supposing a Hindu is pleased to make a certain donation which is for the uplift, or given some relief to the widows, why should such acts be ruled out?" I did make a discrimination in favour of the backward classes, the scheduled castes and the scheduled tribes. Mr. Chatterjee stopped low to make a suggestion that the non-Brahmin Marathas are being sought to be benefited by my amendment.

**Shri N. C. Chatterjee:** I never suggested it. I did not say so. As a matter of fact, somebody said

"The Marathi mind is talking".

I said: "Only one section of the Marathi mind is talking".

**Shri S. S. More:** I accept his explanation.

**Mr. Deputy-Speaker:** Sometimes the temper of the House goes up on account of the importance of the subject and the difference of view. But, as far as possible, I appeal to all hon.

[Mr. Deputy-Speaker]

Members not to bring in any community, religion, caste or sect this or that hon. Member belongs to, or even to avoid reference to individual communities and castes and creeds in any adverse manner.

**Shri P. N. Rajabhoj** (Sholapur—Reserved—Sch. Castes): Mr. Dhulekar spoke.

**Mr. Deputy-Speaker:** There is no good attributing motives to hon. Members here. Each hon. Member does it in the best interests, according to his own lights. Therefore, such aspersions, reflections and remarks might be avoided.

**Shri S. S. More:** I will give my reasons why I wanted to serve the interests of the backward classes and the backward communities—I mean the scheduled castes and the scheduled tribes. I refer you to Part XVI of the Constitution—"Special provisions relating to certain classes". This Constitution very specifically lays down that in this great country, unfortunately due to our past.....

**Mr. Deputy-Speaker:** I do not think anybody objects except on the ground that it involves discrimination and is opposed to the fundamental rights under the Constitution.

**Shri S. S. More:** I may proceed further with the argument, that we have assured in the Preamble that there shall be equality of opportunity. This is what it says:

"Equality of status and of opportunity".

I will confine my remarks particularly to the Hindu community. Due to our past, the different *Smritis* and the different pronouncements of the sages, our Hindu community is split up into "*char varnas*", and the four "*varnas*" have now further developed about 300 castes. Now, there are some persons who believe that for the present there are only two *varnas*, the Brahmins and all the rest are *sudras*. I do not want to go into this past

history, but my argument relates to the fact that our ancient sages, the great Manu and others, when they divided the society into these four "*varnas*", gave certain privileges to the upper class, to the Brahmins and Kshatriyas, while the other "*varnas*", the Vaishyas and the Sudras were treated as less than human beings. I do not go chapter and verse into the Manu Smriti, the Apastamba Sutra or any other Sutra, but I may say that if a Sudra learns Veda, he is to be punished.

**Mr. Deputy-Speaker:** How is all that relevant here?

**Shri S. S. More:** That is why all these so-called Sudras, particularly the untouchables, were not allowed to accumulate property. The upper classes were allowed to expropriate and take over the properties of the Sudra, because he was considered to be a slave; he was prevented forcibly from acquiring property, from taking education. And now, the result is that in this country we find different sections which are at poles opposite so far as cultural development and educational development are concerned. I would submit that the man who becomes rich acquires wealth by indulging in a certain trade or business activity, and he acquires all his profits from all the persons in the country. If that be so, why should he use his profits and his wealth in favour of a particular caste or community? Due to the policy of the Britishers, and due to our past tradition, we have developed in this country not national patriotism, but caste patriotism. Even the philanthropists who give charity do not think in terms of national interests; on the contrary they think in terms of the interests of a particular caste or community. With your permission, I would like to read an extract from Dr. Ghurye's book on 'Caste and Race in India'.

"This tendency for every large caste to live in isolation from other castes has been steadily growing during the last twenty

years. It will be observed that this desire is only the old-caste practice of reserving special parts of the village for the different castes moulded to suit the changed conditions of city life. The inclination of the people was encouraged and aggravated by private charity expressing itself through the channels of caste. With the quickening of caste-consciousness and the fostering of caste-patriotism, philanthropic persons have been building houses and chawls to be rented only to their caste-members at moderate rents. Charity, intending to further the educational interests of a caste, has found expression also in providing free hostels to the student members of the caste. As a result, in those areas of Bombay which are largely inhabited by the middle classes, we find today whole chawls which are occupied by members of one or two castes with close affinity, whole buildings rented at moderate or even nominal rents only to the members of a particular caste, and hostels giving free accommodation to the students of a particular caste. Buildings meant for members of particular castes generally bear prominent boards blatantly announcing the fact of their reservation and where it is a case of individual endowment also the name of the philanthropic donor. Even the colleges and the University are infested with endowments from which scholarships are to be paid to students of certain specified castes."

If you read the Calendar of the Bombay University or the Poona University, and go through the relevant documents of the public colleges, you will find certain sections making a donation of prizes or scholarships not only in favour of their own caste, but even their particular sub-castes. You will find that persons who are spoken of as Konkanasth Brahmins donating scholarships for students coming only from their particular caste. You will also find Maharattas making donations

to students, irrespective of the merits of persons coming from that particular community. The only community in whose special favour there is no donation of this kind, is the Scheduled Castes, because they have no property, and they have no rich people among themselves, who could donate in this way and create bad blood. Supposing students belonging to the Harijan community which is poor...

श्री पी० ऐन० राजभोज : 'हरिजन' शब्द हमको बहुत खराब लगता है, मोरे साहब उसके लिए शेड्यूल्ड कास्ट बोलें, लेकिन मेहरबानी करके 'हरिजन' मत बोलें ।

Shri S. S. More: I think the word 'Harijan' is hallowed by the Congress. I once belonged to the Congress, and so I cannot give up that practice.

My submission is that I agree with Panditji that we must demolish this monster of caste-ism, and I do not question his sincerity in the matter. We are talking about national sentiments, we are talking about unity, and we say that we are going to evolve unity out of the diversity that is prevailing in the country. But can you create unity by keeping all these diversities, and not only that, but by still further aggravating these diversities in the country? It is no use talking about national unity or national solidarity, if you keep all these castes and communities, and allow them to think in terms of their own castes or groups.

This debate has convinced me about one fact, viz. Mr. Chatterjee who is supposed to lead the Hindu Mahasabha has a larger following inside the Congress than outside it. I do feel that some of these persons who are now passing as Congressmen, are possibly political revolutionaries, but they are social reactionaries. If we begin a study of social reform, the Congress, we find, has all along been pleading, let us have political independence, let us be masters in our own house, and then we can think of social reforms. But here is a very modest

[Shri S. S. More]

measure. The Finance Minister does not rule out all gifts, if the gifts are made before two years, then all such gifts even to a particular caste or community are valid. The only concession that he wanted to give was to non-communal or non-caste gifts, but even that was stoutly resisted.

**Shri C. D. Deshmukh:** Women and children.

**Shri S. S. More:** As far as women are concerned, according to our old Shastras, they are Sudras, and so I have nothing to say against them. Let them be given all benefit. I cannot understand the mentality of the old Brahmin sages.....

**Mr. Deputy-Speaker:** What about children?

**Shri S. S. More:** Before *upanayanam*, they are Sudras—I do not know what happens after that. Do these persons who have been stoutly defending the Shastras, really observe them? They now have their own businesses. I can quote you Manu Smriti, in which it has been said that a Brahmin who follows the profession of a physician is impure, and a Brahmin who accepts services under the king is impure, and is not supposed to be a true Brahmin.

**Mr. Deputy-Speaker:** Are we going into the general question of '*chaturvarnyam*'?

**Shri Gadgil (Poona Central):** He wants an opportunity to quote from scriptures.

**Shri S. S. More:** It was referred to by my hon. friend Mr. Dhulekar in the course of his speech. There was a bundle of references to this in his speech, and when he was speaking, he was almost raving.....

**Shri Dhulekar (Jhansi Dist.—South):** You are thundering.

**Shri R. K. Chaudhury (Gauhati):** You are foaming. (*Interruptions*).

**Mr. Deputy-Speaker:** Order, order. No hon. member need say that another hon. Member was raving. If he retorts, what will happen?

**Shri S. S. More:** I will exchange.

**Mr. Deputy-Speaker:** One hon. Member would say 'raving', another hon. Member would say 'thundering' and so on. Let us try to avoid both of these expressions.

**Shri S. S. More:** My object in moving this amendment of mine is that we should make an effort to take people out of their line of thinking in terms of caste communalism. Only the upper castes monopolise all business; only the upper classes monopolise all offices; they monopolise all industries; they accumulate wealth at the expense of all persons in the community. So, when they get an opportunity to make charity, they should not be allowed to benefit only their own caste. If the sentiment of nationalism is to be inculcated in the people, if the spirit of nationhood is to be developed in our people, we will have to make honest efforts,—not pay mere lip-sympathy,—to demolish all these feelings of caste-ism and caste rivalry. If one caste is out to maintain its existence naturally, it evokes a certain reaction from the other castes. If those persons coming from the upper classes and castes are not going to allow themselves to be peacefully taxed, as contemplated by the hon. Finance Minister, I fear that a day may come when the suppressed people will take the law into their own hands because you are not allowing the law to make the necessary equitable adjustment in society. It was stated in the Statement of Objects and Reasons that this measure has a social objective in view and a social justification also. I fear that the hon. Finance Minister by agreeing to give up his amendment in favour of Mr. Bhagat's amendment, has really gone against his own declaration.

He is taking away the plank of social justification and concentrating more on the economic justification, the point of getting money. I want to emphasise the social justification as fact. That is one of the reasons why I moved my amendment. I still feel that Government ought to knock out all charity. This State is a welfare State. Let this be a



welfare State in the real sense of the term; let this State be a father and mother to all the people. Whether the widows come from the Hindu religion, whether the widows come from the Muslim religion or whether they come from the Harijan community, for whom nobody cares, let this State give relief to them. Let this State be a real father and mother to all the people—a real Welfare State. If Government proposes to build up a Welfare State, then there will be no necessity for any such communal or caste charity.

**Shri C. D. Deshmukh:** May I suggest, Sir, that the hon. Member will have an opportunity to state his views in regard to charity in general when we come to clause 9? What he has said just now would be more relevant to clause 9.

**Mr. Deputy-Speaker:** Why should he repeat? I am allowing him to finish.

**Shri S. S. More:** I accept what Mr. Deshmukh says.

**Mr. Deputy-Speaker:** The hon. Member might finish with one or two more sentences.

**Shri S. S. More:** You cannot shut me out for all time. The procedure will not permit it.

So my submission is that I am very sorry that Mr. Deshmukh has been advised to withdraw this particular amendment, and if he goes on surrendering to the reactionary opinion in the country, I am sure that the declaration made by the Prime Minister on 15th August that casteism has to be demolished will not come true. On the contrary, we shall continue to think in terms of castes and communities and there shall be 3,000 nations. Yesterday Shri Rohini Kumar Chaudhury said that the Hindus are a nation. Then the Scheduled Castes, Mahars and Mogers and others will say that they are nations. Then you shall have not only one nation, but 3,000 nations, and I do not know where this country will go to. So I must express my regret at this, and com-

mend the amendment which I have moved.

**Shri Damodara Menon:** I did not want to participate in the debate on this amendment at all because I am in entire agreement with the principle underlying the amendment standing in the name of Mr. B. R. Bhagat. But today I was surprised to find the hon. Finance Minister withdrawing the whole amendment. (*Interruptions*). That amendment has been withdrawn. This has been a great surprise to me because.....

**Shri R. K. Chaudhury:** On a point of information. How can the Finance Minister withdraw Mr. Bhagat's amendment?

**Shri Damodara Menon:** It is a Government amendment.

**Shri S. S. More:** Mr. Bhagat is a part and parcel of the Government.

**Shri Damodara Menon:** It is always the case that whenever any progress is being contemplated, technical difficulties are pointed out by lawyers, and here the Finance Minister has retreated in the face of this opposition. I never thought that he was so timid. It is a matter of principle.....

**Shri C. D. Pande** (Naini Tal Distt. cum Almora Distt.—South West cum Bareilly Distt.—North): He is wise.

**Shri Damodara Menon:**... Whether we should in this country now wage a direct battle against all kinds of narrow and sectional prejudices and also communal feeling.

**Shri C. D. Deshmukh:** All I said was that we should choose another time and occasion for waging such a battle.

**Shri Damodara Menon:** That has always been the plea of the Government. Whenever occasions arise in this House for our expressing unequivocally our condemnation of narrow, communal feeling, some technical difficulties will come up and the excuse will be 'let us consider it at a future time'.

[Shri Damodara Menon]

Now, Sir, I fail to see why we should not accept the amendment as it has been proposed by Mr. Bhagat. Now the question is this. We do not ban any kind of charity or donation for the benefit of a particular religious community. They may do that; only they have to pay the tax. That is only the mildest form of condemnation that we can show to this kind of communal feeling that is going on in this country. This has been our curse for a long time. Probably we have inherited this curse from centuries. But this has been standing in the way of our progress. Now here we find people in their full charitable inclination making donations for the benefit of their particular caste and also of their particular community. Why should that happen in free India? Why not we ask these gentlemen who are charitably-inclined to expand their charity a little more so that members belonging to other communities also benefit by that? Now it is time we showed our mind to these reactionaries, and if we yield on this matter at this time, it will only serve to encourage people who are on the side of reaction. I would therefore request the hon. the Finance Minister to stand by the amendment he moved.

**An Hon. Member:** He has already withdrawn it.

**Shri Damodara Menon:** Even now he can accept my amendment, as I have moved, because there is no question of our going back upon our declared principles.

**Shri P. N. Rajabhoj:** May I speak, Sir?

**The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat):** Sir, I beg to move:

"That the question be now put."

**Pandit Thakur Das Bhargava (Gurgaon):** Is it the contention of the hon. Member, Mr. Damodara Menon, that castes can ever be con-

strued as religious communities? Will any court of law uphold it?

**Shri Damodara Menon:** The question is whether.....

**Mr. Deputy-Speaker:** The hon. Member has closed.

**Shri Damodara Menon:** Because he has raised a point.....

**Shri C. D. Pande:** A motion has been moved that the question be put.

**Shri K. K. Basu (Diamond Harbour):** You cannot allow him to put it. Why should the question be put now?

**Mr. Deputy-Speaker:** I cannot prevent any question being put. (*Interruption*)

**Shri S. S. More:** His object is served.

**Shri Damodara Menon:** My contention is only this. The idea behind this amendment is very clear even to my hon. friend, Pandit Thakur Das Bhargava. We do not want any kind of charity to be given for any particular community or any kind of narrow sectional interest. His complaint is that this probably may not have the desired effect. This kind of technicalities have always been set up by our legalistic-minded friends. Whenever any such proposal is before the House, they will not help us by suggesting in what particular manner the difficulty can be got over. If they are standing by the principle underlying this amendment, of course it will be possible for them to frame a legal phraseology by which this idea can be expressed. But they do not want to do that. Therefore it is that I say that it is always the legal technicalities that come in the way of progress and always lawyers find difficulties whenever we make an attempt to see that the community progresses along the right lines. Even if there are some difficulties, let the court decide. Let us accept this amendment and show that we are totally against any kind

of communal feeling and communal charities in this country.

**Shri Tulsidas (Mehsana West):** May I raise a point of order?

**Mr. Deputy-Speaker:** I will put the question. There has been enough discussion. (*Interruption*). Order, order. I will take the sense of the House.

**Shri K. K. Basu:** You cannot stop members from speaking. I would earnestly request you, Sir, not to shut out different groups from expressing their views. Yesterday we rose five times and we were told we could speak today. But now the question is being put.

**Shri P. N. Rajabhoj:** The Scheduled Castes' view is not placed before the House.

**Dr. M. M. Das (Burdwan—Reserved—Sch. Castes):** We have been getting up 15 times and we do not get a chance.

**Mr. Deputy-Speaker:** It is not that all the 500 members can speak on a particular clause.

**Shri K. K. Basu:** Why should it be restricted?

**Mr. Deputy-Speaker:** There is no question of restriction.

**Shri Tulsidas:** On a point of order, Sir. Is it proper for a Member of the Select Committee who has not put in any Minute of Dissent on this particular question of public charitable purpose and has agreed with the Report of the Select Committee which is in the hands of the Members, to raise another issue which he has not raised in the Select Committee?

**Mr. Deputy-Speaker:** There are two points. So far as the question is concerned, a Motion for closure has been moved. So far as the point of order is concerned, normally any hon. Member who is a Member of a Select Committee has to say what all he must before the Committee. Otherwise, the object of referring the matter to the Select Committee is not

fulfilled. On fundamental issues, if he wants to differ, he must make a reference to it in a Dissenting Minute and so on. But there are exceptions where by oversight a matter might have been overlooked. The House will always expect that matters of policy which are not referred to in the Select Committee and are of far-reaching consequences ought not normally to be raised here, but I do not know what procedure there is. But unless there is a large concensus of opinion in favour of it, normally one ought not to do it. Of course, there are exceptions. I do not want to give a ruling on this. But there is no rule preventing it.

The question is:

"That the question be now put."

*The motion was adopted.*

**Mr. Deputy-Speaker:** I will now put Shri Damodara Menon's amendment to the amendment moved by the hon. the Finance Minister.

The question is:

In the revised amendment proposed by Shri C. D. Deshmukh, re: definition of 'public charitable purpose' add at the end:

"but does not include any purpose which is expressed to be for the benefit of any particular religious community;

*Explanation:* A purpose which is expressed to be for the benefit of scheduled castes, backward classes, scheduled tribes or of women and children shall not be deemed to be for the benefit of a particular religious community within the meaning of this clause."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 2, after line 46, insert—

"(16A) 'public charitable purpose' includes relief of the poor,

[Mr. Deputy-Speaker]

education, medical relief and the advancement of any other object of general public utility within the territory of India;"

*The motion was adopted.*

**Shri S. S. More:** I have got an amendment to move.

**Mr. Deputy-Speaker:** So far as Mr. More's amendment is concerned, I am afraid it is blocked. Now there is a definition of "public charitable purpose" and the other amendment is also a definition of "public charitable purpose". We cannot have two swords in the same cover. Therefore, that is barred. All the other amendments are also barred.

I shall now put the clause to the vote of the House.

**Shri S. S. More:** There are certain other amendments to the definitions. On the previous occasion you said, "let us take first Government amendments and then we shall come to private amendments."

**Mr. Deputy-Speaker:** I have got a list of amendments. I have allowed hon. Members to suggest all the amendments that they want to Clause 2.

**Shri S. S. More:** I wanted a definition of "public charitable purpose". That is over. There are others too.

**Mr. Deputy-Speaker:** There are many other matters other than "public charitable purpose". I agree.

**Shri S. S. More:** What happens to the other amendments?

**Mr. Deputy-Speaker:** All the other amendments are lost. With respect to any particular sub-clause I have allowed all the amendments to be indicated to me and have treated them as moved. That is the rule that I have adopted so far as clause 2 is concerned.

**Shri S. S. More:** No, I am speaking of the whole clause.

**Shri Tulsidas:** You allowed amendments only on the "public charitable purpose". What about other definitions?

**Mr. Deputy-Speaker:** If there has been a misunderstanding, I will allow other amendments to be moved. What are the other amendments that you want to move?

**Shri Krishna Chandra (Mathura Distt.—West):** The discussion was only confined to Mr. Deshmukh's amendment.

**Mr. Deputy-Speaker:** I will allow all the other amendments to the other sub-clauses now. Whichever hon. Member wants to speak on his own amendment or on any other amendments moved by others relating to clause 2 can speak. Let that be the understanding. Let me ask hon. Members to indicate to me what amendments they want to move.

**Shri Telkikar (Nanded):** I have also an amendment 468.

**Shri H. G. Vaishnav (Ambad):** I want to move 370.

**Shri Tuls'das:** Sir, I beg to say that amendment No. 5 is a consequential amendment. As such I am not moving it.

**Shri S. S. More:** I want to move 469.

**Mr. Deputy-Speaker:** So, the amendments that are now to be moved are 5, 370 and 469.

**Shri Telkikar:** The amendment proposed by me is:

In page 1, line 24, add at the end:

"and 'dying' and 'death' include legal death, as in the case of a *sanyasin* renouncing the world;"

When I first proposed this amendment, I thought the idea behind it was simply that Government should not miss the earliest chance of getting the duty. Now, I suppose it has got some more significance. The definition of 'death', as it is framed,

when read along with clause 6, gives more chances of evading taxes. There is a very large loophole for tax evaders. What a man who wants to evade tax has to do without infringing the law in the least is, he has to become a *sanyasi* only some hours before his death. I think this definition and clause (6) seem to have been copied from the English law. It is all right when the conditions obtaining in England are taken into consideration. But in the background of the Indian tradition and in the context of the Hindu law in India, I think this definition would defeat the object of the legislation under consideration. Of course we have been trying our level best to minimize the number of chances for tax-evaders, but we shall fail in our attempt, if we allow the definition of death to stand as it is, it would entail evasion of taxation. Because, what a person who wants to evade estate duty without infringing the law in the least has to do is this: he has to become a *sanyasi* some hours before his death.

**An Hon. Member:** He can as well make a gift, so many hours before his death.

**Mr. Deputy-Speaker:** If he survives, what happens? (*Laughter*).

**Shri Telkikar:** If he becomes a *sanyasin*, we cannot charge his property. Unless a person dies, according to clause 5, no duties are levied on the property. So, death is an initial think. If they would wait till the death of the *sanyasin*, the legal position is different. Then again the property cannot be charged, because the *sanyasin* cannot possess any property, nor can he dispose of any property.

**Mr. Deputy-Speaker:** The property, if any, will continue to be his property.

**Shri Telkikar:** According to clause 6, we can charge that property  
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which is deemed to pass on his death. No property can be deemed to pass on the death of the *sanyasin*. Only that property can be charged which is deemed to pass on the death of a particular person. If a *sanyasin* dies, no property can be considered to pass on his death, because he is considered to possess no property, nor has he the right to dispose of it. In any case, the whole property escapes the estate duty. If his successors followed the same example, I think—in the case of a Hindu—one can easily evade the tax. The whole tax can be evaded.

**Mr. Deputy-Speaker:** Apart from that, instead of allowing the law to take its course he can dispose of the property to the next reversioner.

**Shri Telkikar:** Again, the death of Hindu widows may also create some further complications. The death of a Hindu lady, I mean the remarriage of a Hindu woman. It is taken to be her legal death in her first husband's family or in her deceased husband's family. It might create some further complications. Of course, I have not considered the matter fully; so I leave it to be considered by the able Finance Minister. But I suppose there is no difficulty in just having the clause amended as I have proposed, in which case these difficulties will be avoided.

**Mr. Deputy-Speaker:** The hon. Member may still take time to consider and then say later on: "Death, for the purpose of this section means civil death." We need not now encumber this definition. This will be physical death.

**Shri C. D. Deshmukh:** I can reply after he says something on that aspect—death. Then there is No. 370.

**Mr. Deputy-Speaker:** What about No. 5?

**Shri Tulsidas:** That will come automatically—a consequential amendment—if my amendment to (4) is accepted. I am not moving it now.

**Mr. Deputy-Speaker:** Yes. So, amendment No. 5 is treated as not moved. Now, amendment No. 469.

**Shri S. S. More:** I beg to move:

In page 2, for lines 25 to 29, substitute:

“(15) ‘Property’ includes any interest in property, movable or immovable, the proceeds of transfer thereof and any money or investment for the time being representing the proceeds of transfer and also includes any property converted from one species into another and also any debt and anything in action, and any other right or interest in the nature of property whether in possession or not;”

I have accepted the amendment as submitted to us by the Select Committee and over and above that, I have made some addition to that amendment. When I spoke first at the time of the general discussion, I had made a request to the Finance Minister that his definition of ‘property’ is rather a limited one, and I was particular to point out that, for instance, a claim for damages will not be included in that definition of property. So, I am trying to make the whole definition of property more comprehensive, so that more items of property which are substantial items should not be excluded from the assessment; because, under clause 5, a man’s property is supposed to be subject to a levy, but if this word ‘property’ is not described with sufficient comprehension, then it will mean that certain items given in the definition may be excluded. That is my purpose, and I believe the Finance Minister will at least apply his mind to this particular definition and see whether he could accept it or not.

**Shri H. G. Vaishnav:** I beg to move:

In page 3, after line 3, insert—

“(20) “death” includes legal death of a person caused by his

becoming an ascetic or a *sanyasi* by renouncing the worldly affairs; and

(21) “accidental death” means death caused by any accident not within the control of the deceased.”

I have suggested this amendment to add sub-clauses (20) and (21), to clause 2. First, clause (20) is about the definition of deaths. What is death? What is death, in the sense, or for the purpose of, estate duty? As my friend just now stated, when one becomes a *sanyasi*, according to Hindu law, it is a civil death. My hon. friend has stated that when a Hindu becomes a *sanyasi*, according to Hindu law, he dies a civil death. No provision has been made in the Estate Duty Bill to provide against this. When a man dies (if it is a civil death) no estate passes. This will be a further means of evading the tax. A tax can be evaded in so many ways. What I submit is that this will be the easiest way to evade the estate duty.

I take a concrete case. A man possesses property worth five lakhs. They expect his death at any moment. Immediately he dies the property will pass and it will be taxed according to the provisions of the Estate Duty Bill. A few days before his death he becomes a *sanyasi*. What will happen is that immediately he becomes a *sanyasi*, no property passes, according to the definition of the Estate Duty Bill. This is a legal factor which we have to consider very carefully. The whole property immediately he becomes a *sanyasi* will pass to his heirs.

**Mr. Deputy-Speaker:** If he is only an Arjuna-*sanyasi* for the purpose of evading the tax?

**Shri H. G. Vaishnav:** So the matter has to be tackled in a practical manner. After he becomes a *sanyasi* the property will pass to his heirs. If he survives for one year

the property will remain without tax. When he actually dies there will be no property for him which can be taxed because the property is already vested in his heirs. So, this anomalous position will arise. In this manner the practice may be continued with the result that heir after heir will avoid the payment of estate duty. There will be a great number of *sanyasis* solely for the purpose of avoiding the tax. So I suggest that death should be defined as: "civil death of a person caused by his becoming an ascetic or *sanyasi* by renouncing worldly affairs". When the property passes to his heirs it should be taxed.

**Shri Morarka** (Ganganagar-Jhunjhunu): What if he comes back?

**Shri H. G. Vaishnav:** A *sanyasi* cannot come back to his previous *ashram*. There are no instances where a man who has become a *sanyasi* and had his property vested in his heirs, has come back.

**Shri Dhulekar:** May I point out to the hon. Member that *sanyasis* are being elected to this House?

**Shri H. G. Vaishnav:** For property purposes, for civil purposes, he does not exist.

**Shri Dhulekar:** If he is 'civilly' dead, how can he become a Member here?

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**Shri H. G. Vaishnav:** It is for the people to decide. I am discussing the aspect according to Hindu Succession law.

According to Hindu law nobody can deny, it is a fact, that immediately a man becomes a *sanyasi*, renounces the world, his estate passes to his heirs. Will that fact be denied by any legal authority? So, the property will immediately be taken by other persons and there will be no property left to be taxed. This loophole may lead to the property being left untaxed from generation to generation. To avoid this con-

tingency my suggestion is that death should be defined to include 'civil death' as well when a man becomes a *sanyasi* by renouncing the world. The Finance Minister should consider this aspect. Otherwise, there will be a lot of encouragement for people to become *sanyasis* and there will be a number of *sanyasis*.

The second part of my amendment relates to the definition of 'accidental death'. These words relate to clauses 9, 30, etc. What is the definition of 'accidental' death? 'Accidental death' means death caused by any accident not within the control of the deceased. A man is driving a motor car; something happens and he dies in that calamity. That is an accidental death. This definition is necessary because in further clauses whenever the limitation of two year period, or any further limitation for transfer of property, is mentioned, a doubt should not arise there. That is why I am particular that the definition of accidental death should not be left ambiguous.

**Shri Dhulekar:** Is the dictionary not sufficient for this? Do we not understand what is an accidental death?

**Shri H. G. Vaishnav:** You may understand it; but it should be beyond ambiguity.

I request the hon. the Finance Minister to give due consideration to the amendments suggested by me and accept them.

**Shri S. S. More:** I want to put a concrete case to the Finance Minister. Supposing a man becomes a *bona fide sanyasi*. According to the fiction of the Hindu Law he is supposed to be dead and his property passes on to his heirs. The man becomes a *sanyasi* at the age of 40; he dies at the age of 60. During twenty year period the property left with his heirs is squandered. Then how is the duty to be recovered?

**Mr. Deputy-Speaker:** Whatever remains at the time of his death.

**Shri S. S. More:** When you are making adjustments in the personal law which defines death.....

**Mr. Deputy-Speaker:** What happens if he abandons and goes away? Apart from becoming a *sanyasi*, if he goes away what happens?

**Shri S. S. More:** The presumption under the Evidence Act is if a person is not heard of for seven years he is supposed to be dead.

**Mr. Deputy-Speaker:** That is legal death.

**Shri S. S. More:** I have put a concrete case to the Finance Minister. He will have to wait for twenty years. The man might have gone to the Himalayas. Nobody will know whether he is dead or not.

**Mr. Deputy-Speaker:** Mere *kashayam* is enough for *sanyasi*, is it?

**Shri S. S. More:** I am not going into that. Under the Hindu Law his heirs are put in possession of the property as soon as he becomes a *sanyasi*, and the moment they take up the property as heirs of the *sanyasi* it should be taxed. That is my submission. It is much more in the interests of Government to do so.

**Shri Barman:** I do not want to deal with the question of *sanyasis* which has been dealt with thoroughly. I want to refer to some other case, namely the Hindu widow succeeding to the husband's property. So long as she lives she is the owner of the property and she has a right to the usufructs. But suppose the widow remarries. According to Hindu Law her right ceases.

**Mr. Deputy-Speaker:** Does she "die" then? Is it said anywhere in Hindu Law that she dies civilly?

**Shri Barman:** That is not included in definition or under the clause 6?

**Mr. Deputy-Speaker:** There is no civil "death" on re-marriage, of a widow. The property passes under the law.

**Shri Dhulekar:** "Person" includes a *sanyasi*. There is no question

about that. Therefore any person who dies physically, dies. Therefore the provision in the Hindu Law as it pertains to *sanyasis* is abrogated by this definition. Because, here it is clearly laid down that when a person becomes a *sanyasi* he does not die, but when he dies actually, that is physically, then he dies. That *sanyasi* is a person. He is not supposed to die when he becomes a *sanyasi*. He dies only on the day when he actually dies physically. Therefore to that extent the Hindu Law may be supposed to be abrogated.

**Pandit Thakur Das Bhargava:** I want to say a few words on this. It is quite true, as my hon. friend Mr. Dhulekar says, that if "deceased" and "death" are defined as they are in this Bill the law shall consider only a person's physical death as the point of death when the question of taking a share out of the property arises. There is no doubt about it. But the principle of Hindu Law is quite clear that a *sanyasi* becomes civilly dead as soon as he becomes a *sanyasi*. It is not every *fakir* that renounces the world and goes away; many remain, and after taking that sort of *sanyas*, enjoy worldly comforts. There are those who really renounce the world and go to the Himalayas, and so civil death takes place at the time they take *sanyas*. A very difficult question may arise in practice. If a person dies today.....

**Mr. Deputy-Speaker:** If he contracts a debt and becomes a *sanyasi* will a suit be not pursued against him?

**Pandit Thakur Das Bhargava:** If he incurs a debt, that debt will be binding on his sons if it is a good debt.

**Mr. Deputy-Speaker:** Suppose he has no property.

**Pandit Thakur Das Bhargava:** Then the debt cannot be recovered.

**Mr. Deputy-Speaker:** There will be no decree against him?



**Pandit Thakur Das Bhargava:** No decree can be passed against him.

**Shri C. D. Pande:** Nobody will give a loan to a *sanyasi*.

**Shri Gadgil:** He will get it as gift.

**Pandit Thakur Das Bhargava:** If he is civilly dead, all those consequences follow which follow from death. There is no doubt about it.

I will give another example. Suppose a person becomes a *sanyasi* and the property is inherited by his heirs. After twelve years the people will have acquired a position adverse against Government. This is a legal proposition, and unless and until you bring it in line with the Hindu Law you will not be doing the right thing. This is going to happen in very few cases. When a person becomes a *fakir* he does not become a *sanyasi* in the sense in which Hindu Law understands it, because after a person takes *sanyas* he cannot do anything so far as civil rights are concerned. His death is a question of fact. He becomes civilly dead when he renounces the world. We have known of *fakirs* becoming members of legislature, etc. But *sanyas*, in the true sense is when he renounces the world. We ought to provide in this Bill what would happen to these cases.

**Mr. Deputy-Speaker:** Suppose a Roman Catholic becomes a priest, joins the Holy Order.

**Pandit Thakur Das Bhargava:** A Muslim *fakir* and a Christian priest do not become civilly dead in the sense in which a *sanyasi* becomes civilly dead under the Hindu Law. If we follow the Hindu Law—and we must follow it—what is the position?

According to personal law the person really becomes “dead” and the continuance of his life makes no difference in the matter of inheritance of his property. Are we going to abrogate it? And it will stand abrogated, as my hon. friend says. According to the present Bill his property will not be taxable until he dies say

for twenty years or more if he survives the date of renunciation. In the meantime his property may be squandered or wasted. The treasury will as a matter of fact be deprived of its right dues. (An Hon. Member: Delayed.) There is no question of delay. Suppose the property, for good consideration, is sold and disposed of. In that contingency no tax will be leviable from him. Therefore it is not a matter which we can ignore.

This is a serious matter and we should make our law rightly that “death” as defined in clause 2 includes the civil death of a *sanyasi*. Even though, as I have said, such cases will be rare, they may occur, and in respect of very very rich persons also I know of very rich persons, men who are masters of crores, especially among Jains, who have become *pucca sanyasis* leaving all their property. Therefore in respect of those who become *sanyasis*, according to the civil law of the land, I think we should make a provision. We should seriously think about the matter and not think it is a matter which will not arise.

**Shri N. C. Chatterjee:** Sir, it is not every *sanyasi* who becomes civilly dead. According to Sir Dinshaw Mulla's Hindu Law when a person enters into religious order renouncing all worldly affairs, his action is tantamount to civil death. Then all property which belongs to such a person at the time of renunciation passes immediately on his renunciation to his heirs. But, Sir, there is a qualification. Property acquired by him subsequent to the renunciation passes to his spiritual heirs. You know that can't be claimed.

**Mr. Deputy-Speaker:** Spiritual heirs on physical death.

**Shri N. C. Chatterjee:** Therefore, there will be two Estate duties which can be extracted if the law is properly made. There is one other trouble and Mr. More should consider it. This law cannot be applied to the *sudras*. If a *sudra* becomes a *sanyasi*, even renouncing all worldly affairs, you cannot exact this Estate duty from him.

**Shri S. S. More:** *Sudras* have no property.

**Shri N. C. Chatterjee:** As a matter of fact, so far as I know, specially in Bengal, they are richer than the poor Brahmins.

**Dr. M. M. Das:** Brahmins are richer and more influential than *sudras* everywhere.

**Shri N. C. Chatterjee:** The Hindu law texts applicable to the ascetics do not apply to *sudras* unless usage to that effect is established. In 40 Calcutta 545, so far as Bengal is concerned, the Calcutta High Court has held that no such usage is there. Madras has taken the same view in 40 Madras 846. The principle is that a *sudra* cannot really enter into the order of *yati* or *sanyasi* from the canonical point of view. It has got to be considered seriously whether you will allow any discrimination between Brahmins and *sudras* and *sudras* and non-*sudras*. (Some Hon. Members: No discrimination.) The same law should be applied. It should be carefully considered.

**Shri S. S. More:** May I make one point clear?

**Mr. Deputy-Speaker:** No, no. How long are we to be on this?

**Shri Gadgil:** The only thing is, why worry the *sanyasis* unnecessarily? Because of the worries of the world, he renounces. Let us not worry about him in this House. Let me understand from my hon. friend how many people are likely to become *sanyasis* in order to avoid the Estate duty?

**Shri S. S. More:** We do not say, in order to avoid.

**Pandit Thakur Das Bhargava:** People do not become *sanyasis* to avoid this duty; but as a matter of course.

**Shri Gadgil:** What was suggested was that this taking to *sanyas* tantamounts to civil death, but he will continue to live and meanwhile the property will pass and his heirs will

squander. Let me understand how many such cases are going to happen, how many happen at present. Let us have a little more sense of realism. Should we legislate for abnormal cases?

**Pandit Thakur Das Bhargava:** This is not abnormal.

**Shri Gadgil:** Or should we legislate for normalcy of experience? I do not think any such definition is necessary. The question for consideration is whether for the purposes of this Act we contemplate real physical death or some notional death like a man taking to *sanyas*. Probably in his case it may be that all the interests that pass to his heir may be as well a gift and not a passing of the estate as contemplated in section 5.

**Shri T. S. A. Chettiar (Tiruppur):** There is another difficulty. There may be people who become *sanyasis* and after some time, come back to ordinary life. When once civil death has happened, he comes back.

**Mr. Deputy-Speaker:** He is re-born.

**Shri T. S. A. Chettiar:** What will happen to his property? I do not think it is necessary for this amendment to find a place here.

**Shri C. D. Deshmukh:** This quest of perfection is admirable. But, really I have not got statistics about *sanyasis*. As far as I can gather from the observations of Mr. Chatterjee, you can get *sanyasis* only from a small section of the Hindu community.

**An Hon. Member:** And also from the Jains.

**Shri C. D. Deshmukh:** If *sanyas* was taken two years or more before death, then, it really does not matter and you might consider it as if a gift had been made. One is concerned with deaths that occur before two years after taking *sanyas*. Otherwise this feeling that something is escaping Estate Duty does not haunt me as it seems to haunt hon. Members. I have reconciled myself to the prospect of a lot of property escaping this Estate duty. Gifts

will be made, trusts will be made and so on. We are really concerned with that critical period. Statistically I think the problem is so unimportant as not to deserve attention at the present moment. But, if later on, I find in the light of experience that a lot of people are taking to *sanyas*, I shall be able to bring in an amendment and prevent the re-enactment of, so to speak, the original Act. That is my second reason why we should avoid all these great many complications. The questions whether a *sanyasi* will be able to acquire property whether it is going to devolve on his spiritual heirs, etc., would be very difficult to determine for the administrative machinery. I think it is a wrong principle to try to legislate for an odd and remote contingency. These remarks apply both to amendment number 463 and a part of 370.

The same objection, or I think of a rather different kind, applies to the attempt to define accidental death. That is to say, it is a kind of over-refinement. Everybody knows what an accidental death is and the difficulty about distinguishing between suicide and accidental death is the difficulty of the coroner or some official who is equivalent to the coroner. Once that is decided, we clearly know whether it is accidental death or not. It is not by definition that we are going to be able to decide whether a particular case of death, of suspected suicide or accidental death. That is implicit in the argument of the hon. Member. Therefore, I think both these amendments are unnecessary.

With regard to property also, I have given careful thought to this question and I have taken counsel from my legal advisers. They advise me that this change is not necessary: that is to say, the change of the word 'sale' to 'transfer'. Apart from this, the other thing is: "debt and anything in action, and any other right or interest in the nature of property whether in possession or not;" The point to remember is that the definition of property as given in the Bill is not an ex-

haustive definition. That is to say, it does not keep out other kinds of property which could be held as property. It is therefore unnecessary to describe exhaustively the items which are ordinarily understood as falling within the scope of the meaning of the word property. I shall quote an analogy. In the Income-tax Act, the term income is nowhere exhaustively defined although an inclusive definition does appear in section 2(6)(c). When we define in a Bill a term which is otherwise commonly understood, it is the ordinary practice to include those items only about which there may be some doubt. Here, there is no doubt regarding debts and anything in action. These are covered by Explanations 1 and 2. Regarding subsequent part of the addition, we are not clear as to what an interest in the nature of property means, seeing that property includes interest in property. Transfer really includes, if we analyse the position, sale, exchange, mortgage and gift. Exchange is covered by the words 'any property converted from one species into another'. Mortgages are covered by Explanations 1 and 2 and there is a special provision for gifts in the body of the Bill. Therefore, we are advised that it is not necessary to have the amendment which has been proposed by the hon. Member. I therefore oppose all the three amendments.

**Mr. Deputy-Speaker:** I will now put the amendments to the House unless they are withdrawn.

**Shri H. G. Vaishnav:** I withdraw my amendment No. 370.

**Shri Telkikar:** I withdraw my amendment No. 468.

*The amendments were, by leave, withdrawn.*

**Mr. Deputy-Speaker:** The question is:

In page 2, for lines 25 to 29, substitute—

'(15) "property" includes any interest in property, movable or immovable, the proceeds of transfer

[Mr. Deputy-Speaker]

thereof and any money or investment for the time being representing the proceeds of transfer and also includes any property converted from one species into another and also any debt and anything in action, and any other right or interest in the nature of property whether in possession or not;”

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

“That clause 2, as amended, stand part of the Bill.”

*The motion was adopted.*

*Clause 2, as amended, was added to the Bill.*

**Clause 3.—(Interpretation)**

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

In page 3, omit lines 8 to 10.

**Shri Tulsidas:** May I move my amendment No. 7?

**Mr. Deputy-Speaker:** It is the same as the Finance Minister's amendment.

**Shri C. D. Deshmukh:** He can move it. I withdraw mine.

**Shri Tulsidas:** I beg to move:

In page 3, omit lines 8 to 10.

In page 3, after line 26, insert—

“Provided that no property taken under a gift, settlement, disposition or transfer made prior to the passing of this Act shall pass or be deemed to pass on the death of the deceased or be deemed to be included in the property passing on the death for the sole reason that the prescribed period of time has not elapsed prior to the death.”

With regard to Amendment No. 7, I must congratulate the hon. Finance

Minister for having accepted the amendment which I moved because it is a clause which does not appear at all in any of the Estate Duty Acts of the United Kingdom and I could not get any explanation from the Finance Ministry. As the Finance Minister has accepted it, I am thankful to the Ministry for the same. May I go on to my other amendment?

With regard to my amendment No. 8 this is inserted in the original sub-clause (2) to remove the possibility of doubt as to the scope of the provisions contained in Parts 2 and 3 of the Bill. My object of inserting this new provision is to provide against the possibility of a property taken under a gift, settlement, disposition or transfer prior to the passing of this Act being included in property passing on death for the sole reason that the prescribed period of time has not elapsed prior to this. This has got to a certain extent retrospective effect. I would like to ask the hon. Finance Minister that when a particular person has given a gift to a charitable institution before the passing of the Act, say last month, and when the Act is passed this month, in the middle of this month, and within three months or two months he dies, what is the position? The effect of this Act will be that that property or gift which has been given to a charitable institution would be taxed because to the extent of six months the period has not elapsed. The man has given the gift before the Act is passed. He does not know what will be the provisions of the Act, what is going to be passed, and therefore, it will create a certain amount of complications.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

I feel that there will be a lot of hardship, and as this is a measure, the first of its kind in this country, it would be advisable that any gift or settlement or trust which has been created before the passing of this Bill should not be brought within the

scope of this Act. I do not know, perhaps this may also be against the Constitution. I feel very strongly that the amendment which I have moved is correcting the position as I pointed out above, and I hope that the Finance Minister will accept it, as he has always been open-minded.

After all, a number of things have been changed in this Bill, and therefore, one does not know before the passing of the Bill what is going to be the Act. Therefore, whatever has been done before the passing of the Act should not be affected. I request the Finance Minister to accept this amendment.

**Shri M. S. Gurupadaswamy** (Mysore): Mr. Chairman, Sir, I rise to oppose this amendment moved by my hon. friend Mr. Kilachand. Mr. Kilachand, coming as he does from a business community, is naturally sensitive to certain provisions of the Bill. He was complaining just now that the Bill will prove hard in those cases wherein you find transfer of property before the passage of the Bill. Certainly, Sir, I agree with him that it will prove very hard on those people who have attempted or who have already passed on property to others. He was also complaining that many people do not know the provisions of the Bill, so it will be very inequitable to make the Bill retrospective. I submit that many people who have transferred their property recently have anticipated the Bill. I want that this amendment should not be accepted by the hon. Finance Minister and those transfers which have already been made by certain vested interests should be taxed, should be brought within the ambit of the Bill. Such an amendment, if it is accepted, will encourage vested interests and it will encourage the tax-dodgers. I submit once again that properties have been transferred already with a view to evade taxation under the Bill and that thing should be stopped immediately. We do not want any tax evasion by way of anticipating the passage of the Bill. I submit that this amendment should

not be accepted by anybody in the House.

**Shri C. D. Deshmukh:** I rise to oppose this amendment. I know at least one case where, when in 1938 the question of imposing some form of death, succession or estate duty was first broached, very clever people started making transfers of their property. That process has, I have no doubt, been accelerated as the chances of this Bill becoming law have appeared dreder from their point of view, rosier from our point of view. And, therefore, I am quite certain that, if we are concentrating attention on possible tax-evaders, a large number of people have made dispositions of property in order to escape the tax in spite of lack of precise information—obviously, that is natural—and prediction as to what form the law will take finally, because they are taking no chances. So far as the transfers before two years are concerned, there is nothing one can do about it, but there is no reason why the law should go out of its way to crown their efforts with success, so to speak. And, therefore, I think it will be against the public interest to accept any such exemption of these people.

**Shri S. S. More:** May I seek some clarification from the Finance Minister? Amendment No. 7 is equal to Amendment No. 466 of the Finance Minister. Why is he proposing deletion of these lines in Clause 3? Is it needless, or will some other definition of property etc., cover even such cases? Can he give us some more light?

**Shri C. D. Deshmukh:** This clause dates from the original drafting of the Bill, and the original draftsman—which I had occasion to mention at one time—was Shri B. N. Rau, who thought it a measure of abundant caution to include these words. But then afterwards we were put on inquiry, and we were asked to explain what exactly they meant, and none of us is able to see what purpose these words serve.

**Shri S. S. More:** You are deleting everything we cannot understand?

**Shri C. D. Deshmukh:** I think it should be the rule. Otherwise I should be able to say that this clause was for this purpose. Applying my mind to it, I really could not give myself any satisfactory explanation of the purpose which these words serve. Therefore I have come frankly before the House to say that I am accepting this amendment, supporting the view taken by the hon. Member that these words are unnecessary.

**Shri Gadgil:** Mr. Chatterjee also wanted that.

**Mr. Chairman:** This forms the subject matter of amendment No. 466. This appears in the order paper first, before amendment No. 7. Which is to be put to the vote, No. 466 or No. 7?

**Shri C. D. Deshmukh:** No. 7 is going to be put first.

**Mr. Chairman:** The question is:

In page 3, omit lines 8 to 10.

*The motion was adopted.*

**Mr. Chairman:** I shall now put amendment No. 8 to the vote of the House.

The question is:

In page 3, after line 26, insert—

“Provided that no property taken under a gift, settlement, disposition or transfer made prior to the passing of this Act shall pass or be deemed to pass on the death of the deceased or be deemed to be included in the property passing on the death for the sole reason that the prescribed period of time has not elapsed prior to the death.”

*The motion was negatived.*

**Mr. Chairman:** The question is:

“That clause 3, as amended, stand part of the Bill.”

*The motion was adopted.*

*Clause 3, as amended, was added to the Bill.*

**Clause 4.—(Estate Duty authorities.)**

**Shri S. V. Ramaswamy:** I beg to move:

In page 3,

(i) after line 28, insert—

“(a) The Appellate Estate Duty tribunal”.

(ii) lines 29, 30 and 31, for “(a), (b) and (c)” substitute “(b), (c) and (d)” respectively.

In page 3, after line 31 insert—

“(1A) The Central Government shall appoint an Appellate Estate Duty Tribunal, which shall be presided over by a Judicial Officer not less than the rank of a District and Sessions Judge.”

**Shri Tulsidas:** I beg to move:

In page 3, omit line 31.

In page 3, omit lines 45 to 49.

In page 4, line 6, omit “other than valuers”.

In page 4, after line 7, insert—

“4A. Appellate Tribunal.—(1) The Central Government shall appoint an Appellate Tribunal consisting of an equal number of judicial members and accountant members as defined in sub-section (2) to exercise the functions conferred on the Appellate Tribunal by this Act.

(2) A judicial member shall be a person who has exercised the powers of a District Judge or who possesses such qualifications as are normally required for appointment to the post of District Judge; and an accountant member shall be a person who has, for a period of not less than six years practised

professionally as a Registered Accountant enrolled on the Register of Accountants maintained by the Central Government under the Auditors' Certificate Rules, 1952.

(3) The Central Government shall appoint a member of the Tribunal to be President thereof.

(4) The powers and functions of the Appellate Tribunal may be exercised and discharged by benches constituted from members of the Tribunal by the President of the Tribunal.

(5) If the members of a bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority; but if the members are equally divided, they shall state the point or points on which they differ and the case shall be referred by the President of the Tribunal for hearing of such point or points by one or more of the other members of the Tribunal and such point or points shall be decided according to the opinion of the majority of the members of the Tribunal who have heard the case, including those who first heard it.

(6) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of benches of the Tribunal in all matters arising out of the discharge of its functions including the places at which the benches shall hold their meetings.

**4B Board of Valuers.**—(1) The Central Government shall appoint a Board of Valuers consisting of a sufficient number of qualified persons to act as Valuers for the purpose of this Act and shall fix a scale of charges for the remuneration of such persons.

(2) The Central Government may from time to time appoint persons to be members of the Board of Valuers.

(3) The Central Government shall appoint one of the members of the Board to be President thereof.

(4) The powers and functions of the Board may be exercised and discharged by benches constituted from members of the Board by the President of the Board.

(5) Subject to the provisions of this Act, the Board shall have power to regulate its own procedure and the procedure of benches of the Board in all matters arising out of the discharge of its functions, including the places at which the benches shall hold their sittings."

**Shri S. S. More:** I beg to move:

In page 4, lines 2 and 3, for "a Controller" substitute "The Board".

In page 4, line 4, for "him" substitute "a Controller".

**Shri Barman:** I beg to move:

In page 4, line 2, before "the conditions" insert "the appointment and".

**Shri C. C. Shah (Gohilwad-Sorath):** On a point of information, Sir. Some of these amendments now moved, e.g. 304, 305 and 12 relate to the creation of an Appellate Estate Duty Tribunal. There are amendments on the same subject, but of a different character, e.g. amendments Nos. 179 and 187, the former by Shri Chand Singhal, and the latter by me. Clause 61 deals with appeals. My amendment provides for appeals not to any appellate tribunal to be created expressly for the purpose of this Act, but to either the High Court of a State or a District Court of the State. So, there is no necessity to create any appellate tribunal as such.

So far as Clause 4 is concerned, it only mentions the authorities under this legislation. But the substantial question is whether an independent appeal to a judicial or other authority

[Shri C. C. Shah]

should be provided or not. My respectful submission is that these amendments may be discussed, when we come to Clause 61, for they will be more appropriate at that stage. The discussion on that clause would rather be a long one, because as far as I could judge from the debate during the first reading, I find that there were so many hon. Members who had spoken in support of the creation of a judicial authority for an appeal against the Central Board of Revenue. Instead of bringing up a discussion at this stage, I would submit that these amendments that have now been moved may stand over until we come to clause 61.

**Shri S. V. Ramaswamy:** We may discuss the general principle whether there should be an appellate tribunal at all.

**Mr. Chairman:** There are two questions to be decided. Clause 61 relates to appeal against determination by Controller. The first question is whether we should have a judicial appellate tribunal or a controller. Unless this is decided, the question of an appeal to the High Court would not arise. Therefore I think clause 61 may be discussed at the time it comes up for discussion in the normal order in the Bill, and there is no point in having a discussion at this stage, so far as an appeal to the High Court against the determination by the Controller is concerned.

The main question is whether we should have a system as given in the Bill or an appellate tribunal. I think we should confine our discussion at this stage, to this aspect of the question, unless the hon. Finance Minister thinks that we will be better advised if we have all the discussion at one place, in regard to determination by courts.

**Shri Gadgil:** I find that Amendment No. 12 provides for the addition of two new clauses 4-A and 4-B. If that amendment is moved now, the whole

matter can be discussed. If it is rejected, then the other amendments will be barred. So this amendment can as well be discussed now.

**Mr. Chairman:** Supposing the House takes a decision in regard to the question whether there should be an appellate tribunal or not, subsequently this question will not be allowed to be discussed again. At this stage, if we confine ourselves to this question alone, I think nothing will be lost.

**Shri S. S. More:** May I make a submission. Sir? We may postpone the discussion of clause 4(1), till we reach clause 61, while we may discuss the other sub-clauses now. My hon. friend Mr. Gadgil suggested that if we come to any particular conclusion at this stage, the result will be that when we come to clause 61, all these amendments will be ruled out, supposing the verdict of the House goes against them.

**The Deputy Minister of Finance (Shri M. C. Shah):** Subject to that, we can pass clause 4, and if there is any change later on alter it.

**Shri S. S. More:** It won't be a consequential change. Amendments to sub-clause (1) of clause 4 and to clause 41 are—some of them—based on principle: what is to be the authority, whether a bureaucratic authority or a judicial authority? It covers a larger canvas and will have to be gone into in greater detail. Supposing on this particular amendment we arrive at a decision, then all discussion about a judicial tribunal at the stage of clause 61 will be ruled out.

**Shri Tulsidas:** May I point out that my other amendments Nos. 9, 10 and 11 are consequential amendments, after amendment No. 12 is taken up. Therefore, if you take up the other sub-clauses now and sub-clause (1) later on, that again does not serve the purpose.



**Mr. Chairman:** The point we are discussing is not that. There is no difficulty in taking up amendment No. 12 at this stage which relates directly to clause 4. The question is about clause 61—whether we should include the discussion of it at present; that is, so far as clauses 4 and 61 are concerned. Whether there should be one discussion now or at a later stage, clause 61 can be discussed and we can now discuss clause 4. That is the question.

**Shri S. V. Ramaswamy:** May I suggest, Sir, that amendments to clause 61 may be taken up as well so that they can be discussed at this stage?

**Mr. Chairman:** I would ask the opinion of the House as to how would we be losing if we allow discussion of clause 4 at this stage. If we take a decision, then in the natural course of events when we reach clause 61 we will be discussing it on the basis that clause 4 is not amended—if we do not amend it—or if amended, then on that basis the discussion will proceed. There is no difficulty to my mind.

**Shri K. K. Basu:** What should be the tribunal and in what manner it should be constituted will all come under clause 61.

**Mr. Chairman:** I should think there will be no difficulty. Unless the House directs me to do otherwise. I should think that we proceed with clause 4 and then 4A and 4B at this stage.

**Shri N. C. Chatterjee:** As a matter of fact, I ought to tell the House that the Business Advisory Committee took the view, which you had been pleased to communicate, and the Deputy Minister will support me, that at this stage we could discuss amendment No. 12 of Mr. Kilachand and clause 61 would come later. On that basis, Sir, the time-table was prepared and we have been allowed three days and an afternoon. Of course, it knocks out the whole time-table if this discussion is shut out. That is a small point but....

**Mr. Chairman:** There is no inconvenience in taking up clause 4 now and subsequently clause 61. May I just know what the Finance Minister has to say?

**Shri C. D. Deshmukh:** Some time or the other a good deal of discussion has to take place on the whole system—how the valuation is to be arrived at and who is to decide appeals etc. Now, it is really a question of allowing time for it on a certain occasion. Now, as the hon. Member has said, their own assumption is that the whole matter will be discussed now rather than when we come to clause 61. So far as we are concerned, we are ready, that is to say, we have no objection to urge against the discussion taking place now which will be inclusive implicitly of discussion on clause 61. There may be certain residual matters to which we shall come only when we come to clause 61. But I have no objection to the whole principle involved in this being discussed at length now, as has been arranged by the Sub-Committee of the Business Advisory Committee.

**Mr. Chairman:** Mr. S. V. Ramaswamy.

**Shri S. V. Ramaswamy:** I beg to move:

In page 3,

(i) after line 28, insert—

“(a) The Appellate Estate Duty Tribunal”.

(ii) lines 29, 30 and 31, for “(a), (b) and (c)” substitute “(b), (c) and (d)”, respectively.

In page 3, after line 31 insert—

“(1A) The Central Government shall appoint an Appellate Estate Duty Tribunal, which shall be presided over by a judicial Officer not less than the rank of a District and Sessions Judge.”

I submit this raises a question of fundamental importance. The question is whether the appeal should be to a Judicial body or to a departmental body. Now, according to clause 4, there are only three Estate duty authorities—the Board, Controllers

[Shri S. V. Ramaswamy]

of Estate Duty and Valuers. These amendments seek to introduce a fourth category, namely, the Appellate Estate Duty Tribunal. The object is this. In this connection, I have to make a reference to clause 61. That clause provides for appeals to the Central Board of Revenue against the orders of the Controller. It may be noted that appeals under this clause are granted only against orders of the Controller. For instance, there is no appeal against the determination by the Controller that a certain person has taken possession of or administers any part of the estate which, however, is disputed by such person. Further, under clauses 42, 44, 45 and 46, certain matters have to be proved to the satisfaction of the Controller and no appeals are provided for against the decision of the Controller. In fact, there is no reason why there should not be an appeal against any determination by the Controller.

Secondly, Sir, as both the Controller and the Central Board of Revenue are limbs of the same revenue collecting machinery, an appeal from one to the other is not of any practical value. Further, the Board sits in Delhi and the appellant has to incur the expenditure of going to Delhi if he wants to be personally heard in appeal. In small cases, it will not be possible for the appellants to go to Delhi and they will be unable to have the opportunity of being heard personally. In order that justice is not only done, but may also appear to be done, it is necessary that the parties get the opportunity of arguing their case before an impartial appellate body sitting at a reasonable distance from the place where the parties reside. Under the Income-tax Act, an Appellate Tribunal is provided, to which appeals must be made. Even the majority of the Members of the Select Committee support this, though they have said that the question can be considered later on. In

view of our experience under the Income-tax Act where an appellate tribunal is provided for, it is absolutely necessary that an independent appellate authority should be set up here even now to hear appeals against the Controller.

Sir, strictly speaking, it would be a great asset to the country if we have got judicial officers presiding over Appellate Tribunals. The atmosphere of a judicial body is entirely different from that of a departmental body. Confidence should be infused in the minds of the assesses and one way to infuse such confidence is to set up judicial bodies. It is in that view of the matter that I urge that these amendments should be accepted.

**Shri Tulsidas:** Sir, this clause prescribes the various authorities for the purpose of administration of estate duty and their functions. These include the Controllers of Estate Duty, the Central Board of Revenue and the Valuers. The Controller of Estate Duty will be the first authority to make assessment of estate duty, and against an order of the Controller an appeal has been provided to the Central Board of Revenue under clause 61. If the dispute relates to valuation of property under clause 61, the Board may, and if the person accountable so requires it shall refer the matter to Valuers. As the Controller and the Central Board of Revenue are both limbs of the same revenue collecting machinery of the Government, the latter occupying a superior status and position, an appeal to the Central Board of Revenue against the order of the Controller may not be found of much practical value. Besides, it will also not create that much confidence amongst the assesses because, as I just now pointed out, both are limbs of the same revenue collecting authority, one making the valuation and the other hearing the appeal, the one hearing

the appeal being a superior authority. But generally, as we all know, even in income-tax matters, some of the instructions are always sent from the Central Board of Revenue. Therefore, the appeal may be going to the same authority. Therefore, it will definitely not create the confidence among the assesseees that full justice is done.

Sir, usually the Board will not only be guided by the guiding principles on which assessments are to be made under the Act but will also be dealing with cases which come to it in appeal. This militates against the objectives of an impartial and unbiassed decision taken by an independent tribunal entirely divorced from the considerations of revenue accruing to Government. It is necessary that the assessee must feel that he has been justly dealt with and that in the execution of law the scales have been held even as between himself and the revenue imposing authority. There ought, therefore, to be an independent tribunal on the lines of the independent tribunal under the Income-tax Act to which appeals should be provided from the orders of the Controller. The final fact-finding authority, as in the case of the Income-tax Act should be an independent appellate tribunal as otherwise the benefit of the appeal to the assessee would be of an illusory character.

Sir, I have also provided in my amendment for a Board of Valuers. If I may say so, this matter was discussed in the Select Committee. I do not wish to say what happened in the Select Committee but I know that most of the opinion was in favour of the Board of Valuers as well as the question of Appellate Tribunal. Even when the Bill was discussed last session a very large number of Members had expressed that there should be an appellate authority which would create confidence amongst the assesseees and they should feel that proper justice has been done.

Sir, even in income-tax matters the Government has felt after some experience that an appellate authority should be created and they have created an appellate authority. Under the U.K. Act, both on matters of law as well as fact, an appeal can be made to the County court and to the High Court. Here most of the appeals are to be made to the Central Board of Revenue. Even on the question of valuers the Bill has provided that if an assessee is not satisfied with the valuation by the Controller the matter may be referred to the arbitration of valuers.

You know very well that when these valuers are appointed by the Central Board of Revenue—whether it may be one arbitrator appointed by an assessee or the other appointed by the Government, these valuers will naturally be to a certain extent biassed. Therefore, even regarding the question of valuers, in my amendment, I have provided that a Board of valuers may be appointed on the same lines as the Appellate Tribunal.

12 Noon

Sir, I know most of the Members have experience of this matter and will appreciate that particularly if the smaller assesseees have to come over to Delhi, say, from Travancore-Cochin for appeal to the Central Board of Revenue they will find it difficult. If you have a Court of Appeal they will have to attend the hearings on the appeals. The valuation or Controller's decision may go against them and the appeal will be so costly that it will not be possible for them to have justice at a cheap cost. Therefore, either we must accept the principle of the Appellate Tribunal or we must allow the assesseees to go to the District Courts. It will, otherwise, create confusion and people will naturally feel that proper justice has been denied to them. Therefore, I have tabled this amendment. I know it is a very controversial point. I know that the Government feels, "let us have some experience of the administration of

[Shri Tulsidas]

this Act and if necessary we may have this changed later on." But when a new legislation of this type is being enacted, it will naturally be proper to create a machinery whereby there will be a sense of confidence amongst the people that justice will be done properly.

Sir, even in the English Act (Diamond p. 323, Fin. Act. 1894 s.10) you will observe that "any person, aggrieved by the decision of the Commissioners as to repayment of overpaid duty or the amount of the duty claimed, may appeal to the High Court or to the County court when the value of the property does not exceed £ 10,000/-". We have adopted the provision from the U.K. Act where, whether it is points of law or points of fact, the matter can be referred to the court. Here we have provided that on the decision of the Controller the appeals can only be made to the Central Board of Revenue.

In the question of valuers, as I pointed out, it will be the question of arbitration. The arbitrators will also be appointees of the Central Board of Revenue. Therefore I have provided both with regard to the valuers and with regard to the Appellate Tribunals. Sir, it is absolutely important that we must create confidence amongst the people that proper justice will be done, otherwise this will create a lot of confusion. Besides, this Act is a very complicated one. In certain questions, the Controller may have a certain point of view but the assessee is always satisfied if any other authority hears the appeal and gives a decision. It is, therefore, absolutely essential that the amendment which I have moved is incorporated. It will be in the larger interest of the people because they will have confidence that there is an appellate authority to whom they can go even if the Controller or the Valuer has not given a proper judgment.

On this point we have had a lot of discussion both in the Select Committee and here. I had occasion personally to make my observations in the Select Committee. I do not wish to go any further into this matter but I do feel that this is a matter on which I am sure the hon. the Finance Minister will keep an open mind and will judge it from this point of view that this is a thing in which they should create confidence amongst the people who should feel that in the administration of this Act there will be proper justice done. Otherwise, already the Act is complicated; there are so many points of view, so many rulings of the court. We have always been told that on a particular point of view, there is a ruling of a court. If we have not to go to a court on a question of even facts where the ruling has been given by other courts, how is the appellate authority going to understand that ruling? The appellate authority must be the authority appointed by the Law Ministry or it must be a court. Otherwise, even the rulings cannot be interpreted in the manner that could be understood, unless the person is from the judiciary.

I know that even in the Select Committee and even otherwise, there has been an open mind on this point. Naturally, the authorities are also keen that in this matter, whatever is considered fair and equitable should be done. I feel that unless we provide an authority from the Ministry of Law or from the Judiciary, it would be unsatisfactory. For, if a person is free to go to the court, it is not because he is unable to get proper justice. Besides, as I pointed out, it is very expensive for a person to come to Delhi to give a hearing to the Central Board of Revenue, from States like Travancore-Cochin and Madras, or even from other places. Therefore, it is absolutely essential that either he has to go to a court or, as my amendment is, an appellate

tribunal should be appointed forthwith. I have made my points. I hope the hon. Finance Minister will take into consideration the points that I have made.

**Shri C. C. Shah:** Mr. Chairman, Sir, The question which we are discussing does not involve any question of principle or policy regarding the imposition of estate duty. It is only a question of administrative machinery to be created for the purpose of deciding questions arising out of the administration of the Act. Therefore, my first respectful submission is that the Government should not treat this as a question involving any policy or principle, but as I have always said, view it with an open mind.

I heard the hon. Finance Minister on two occasions on this subject. First, when he moved the motion for consideration of the Bill as reported by the Select Committee, and secondly, when he replied to the debate on the first reading. And on both the occasions, I am quite sure after giving his most careful consideration to the matter, he gave certain reasons why the Government do not consider it advisable or necessary, at this stage, to accept the suggestion of a judicial authority over the Board of Revenue or the Controller. The three reasons which he gave, as far as I remember—because I am speaking from memory—were, firstly, that an appeal to the Central Board of Revenue will create a certain degree of uniformity. Being persons in charge of the administration of the Act, they know precisely what they want and what kind of precedents they wish to create and what kind of policy they want to adopt in the administration of the Act. Therefore, it is best, the Finance Minister said, that in the initial stages, the appeal is made to the Central Board of Revenue. The second argument which the Finance Minister advanced was that there would be a certain degree of flexibility in the administration of the Act when it is left to executive authorities rather than to judicial authorities, and he

suggested that the judicial authorities are bound by the letter of the law whereas the executive authority will act according to the spirit of the Act and will, therefore, introduce a certain degree of flexibility in the administration of the Act to the advantage of the assessee. The last argument which the Finance Minister advanced was that the executive authority, the Central Board of Revenue, are likely to be more generous than the judicial authority. These are substantially the three arguments, as far as I recollect, which he advanced on both the occasions. While replying to the debate on the first reading, he gave certain statistics of appeals to the income-tax tribunal to show that appeals to the income-tax tribunal are gradually being reduced, that therefore there is greater confidence in the executive authority and its orders, and that the experience of the income-tax tribunal appears to show as if there is no longer any necessity for an independent judicial tribunal. I will briefly deal with each of these arguments. As I said, I have given careful consideration to each of these arguments, and I feel that both on the grounds of convenience as well as inspiring confidence in the public in the administration of the Act, it will be advisable, at this stage, to have a judicial authority. It can be done in more than one way.

**Shri C. D. Deshmukh:** The Board of Revenue is hearing you.

**Shri C. C. Shah:** The suggestion which I have made is this. I admit that there should be a first appeal on a question of fact to the Central Board of Revenue, as it is, under the Income-tax Act, to the Appellate Assistant Commissioner. That first appeal will bring to the administration that uniformity, that flexibility, that generosity—in fact everything which the Finance Minister envisages by an appeal to the Central Board of Revenue. If the assessee is satisfied with the first appeal, they need not go over it. Therefore, my amendment does not eliminate the first appeal to the Central Board of

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Revenue. But my amendment is asking for a second appeal on a question of fact, to a judicial authority. Under the Act, a second appeal is provided to the High Court only on a question of law and few questions of law can arise as such which can be taken to the High Court. Therefore, I am providing for a second appeal on a question of fact to the judicial authority. That judicial authority can be of two kinds. It can be either an appellate tribunal specially created for the purpose of this Act as is done under the Income-tax Act or under the various Sales Tax Acts, or it can be the district courts in the various districts. You need not create an independent tribunal only for the purposes of this Act. Whichever of these two suggestions is acceptable to the Government may be taken; it is immaterial as to which one of them is accepted. But I wish to submit that sales tax is one of those taxation measures which have been adopted in all the States now, and each one of these Acts has provided an appeal to a judicial authority on a question of fact. This stands almost on the same footing. There are three principal taxation measures. One is sales tax, the second is income-tax and the third is the Sea Customs Act. Out of the three, two have provided for appeals to judicial tribunals or the judicial authorities. The Sea Customs Act has not provided for an appeal to a judicial tribunal, but there is an appeal to the Central Board of Revenue, and a revision application to the Government in the nature of a second appeal both on a question of fact as well as on the question of law. Therefore, in a way, we provide also for two appeals. Thus, every important measure provides for two appeals; in the case of two of them, namely, the income tax and sales tax to a judicial authority, and in the case of the third of them, namely, the Sea Customs Act, to the Government itself. I will point out that the second appeal to the Government which means, to the Secretary of the Finance

Department dealing with the matter, has not proved satisfactory, and a situation has arisen when it may be necessary to create even a tribunal under the Sea Customs Act. But I will not deal with that at this stage.

Now, having dealt with the arguments which the hon. Finance Minister advanced for not acceding to our request for a judicial tribunal, I will put the positive case for what I consider to be the necessity for it. I do admit, and I know as a matter of experience, because in the course of my profession I come across many instances, that there is large evasion of tax, whether it be income-tax, whether it be sales tax or whether it be customs duty.

**Shri S. V. Ramaswamy:** It is a fine art.

**Shri C. C. Shah:** It is a fine art exceedingly well practised by those who are well-versed in it.

But I want to make this submission. There are also now we find—I will not call them illegal impositions—excessive penalties being levied by departmental authorities which, I am speaking from my experience again, in certain cases I find are far beyond the measure. Innocent people who probably come within the letter of the law, but by no means come within the spirit of it, have been visited with heavy penalties under the Sea Customs Act and other Acts and appeals to the Central Board of Revenue or to the Government have been of no avail. Now, it is no consolation to an innocent man to be told that many tax evaders escape duty and therefore you should atone for the sins of others. I wish people accepted vicarious liability for the sins of others; but they do not. But the executive seems to feel—well I can understand their justifiable feeling—that so many people escape duty and tax by such fine means that it does not matter that some of those who need not pay are made to pay. Now, I do not know whether it is a right

thing to do, or a wrong thing. But in any event, I submit it is better that the public should have the confidence that the matter will be reviewed by a judicial authority and not merely by an executive authority. With all the best intentions, executive authorities have an executive mind,—with the best intentions, I say. I have appeared before the Central Board of Revenue; I have appeared before other executive authorities; I have argued matters. My hon friend Mr. Nathwani has done and so many others have done. But it is rather difficult to persuade them to take, what I may call with respect, a judicial view. Yes, it will happen, it does happen, in some cases that if you take a judicial view, sometimes a person whom you consider to be guilty escapes. Sometimes, I say, it does happen. But it is better, I submit in a Bill of this nature that we are introducing for the first time that people feel that not only that justice is done, but they feel that there is an authority which will do that justice.

Now, there is a progressive tendency I find in all legislation which is now coming before the House to oust the jurisdiction of the courts—progressive tendency,—either by way of delegated legislation or by express provisions. Whether it is good or bad, I do not know. I heard the Deputy Finance Minister saying it is good. It is a debatable question. I agree if you wish to have speedy administration of Acts, sometimes delegated legislation is inevitable. But it depends upon the degree to which you shall have it and the persons to whom you will entrust it. Now, there is no doubt and we cannot mince matters on that, there is a distrust of executive authority. I do not say that it is wholly justified; but it is a problem of creating confidence.

There is no doubt that tax evasion has occurred not merely because there are tax evaders, but it has occurred partly because of the inadequacy of the administrative machinery, or

inefficiency of the administrative machinery, and partly on account of corruption. The problem of tax evasion cannot be dealt with by merely denying to the people a judicial authority to review their cases. I am not very much enamoured of courts.

**Shri Gadgil:** But you make your living out of them.

**Shri C. C. Shah:** Yes, I make my living out of them. At the proper time I will speak about it.

**Shri Gadgil:** I too have made my living out of them.

**Shri C. C. Shah:** In this connection I would like to point out that I have appended a strong note to the All India Bar Committee Report on the subject of reform of the present judicial system; but that is a different subject altogether, and I know that the delay and the cost involved in going to a court of law is sometimes disproportionate to the claim which you make. Even knowing that I have come to the conclusion, and balancing all factors I have come to the conclusion, that it is better to provide a judicial authority for a second appeal than to deny it.

The Finance Minister said: "Let us have some experience of this Act in the hands of the Central Board of Revenue, and if experience shows that we need it, we shall do it." Now the experience of the Income-tax Act has shown the necessity of it; the experience in the administration of Sales Tax Act has shown the necessity of it. If that experience is not enough to show the necessity of it in this Act, I do not know what more experience we need. And I will say this that the delays in appeals to the Central Board of Revenue are no less than the delays in courts. In several appeals to the Central Board of Revenue I have found it takes anything between twelve to eighteen months to get a decision. And I have known of cases where even after the appeal has been heard, for six months, eight months, even up to a year, no

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decision is given, no judgment is given. Also, in hearing before the Central Board of Revenue they do not generally call the party in person. The party has a satisfaction that he is heard only when he is called in person and that he gets in a court and before a judicial authority. However much you may wish to do justice by reading the papers and reading a file, it is quite a different thing when the man or his duly accredited representative appears before you and places his case. After all advocacy and argument have some meaning. It is intended to persuade you to take his view. But most of the appeals are disposed of on files. It is no satisfaction to the man that the officer has carefully read the file and taken account of every factor. Also it has been my experience that when a case comes in appeal to the Central Board of Revenue, sometimes they take into account facts which they do not even disclose to the other side. They make their own enquiry. They gather their own facts and give their judgment on enquiry made by them or facts gathered by them which the other side does not know, or have no opportunity of meeting. It may be that if he is heard in person and told what are the facts which are going to be taken into consideration, he may be able to dispel doubts.

I, therefore, submit that for all these reasons it is desirable to have a judicial tribunal. It was said that the most important question in the administration of this Act will be valuation and so far as valuation is concerned they have provided for arbitration. That takes away, we were told, 95 per cent. of the disputes which are likely to arise under this Act. I beg to submit it is not so. Very important questions and complicated questions are likely to arise under this Act apart from the question of valuation. The question may arise whether a particular property passes on death. The question may arise whether a person is liable to

pay the estate duty. The question may arise whether a gift is *bona fide*. A question may arise whether a settlement is valid. Many other complicated questions of fact and law may arise. It would be wrong to say that valuation is the only important question involved and that having been left to arbitration it serves the purpose and therefore no judicial authority is necessary.

For all these reasons I submit that the hon. the Finance Minister may consider and provide what I have submitted, namely a second appeal on a question of facts to a judicial authority, either an independent tribunal or the courts of the district.

**Shri Tek Chand (Ambala-Simla):**  
Sir, I rise to support all that has fallen just now from the lips of my hon. friend Mr. Shah. One of the well known cardinal principles of law is—and the Bill as it stands will be violating that cardinal principle—that nobody ought to be a judge of his own cause: *Nemo debet iudex in sua causa*. The executive who are issuing instructions from one side will be called upon to sit in judgment on those very instructions which they have issued. That is a very dangerous proposition.

It is said that the members of the Central Board of Revenue are likely to be more generous. I do not accept that statement. But assuming that were so, an honest assessee does not want that generosity. I want them to be just rather than generous.

The proposition that whenever there is a conflict they will follow the spirit of the law rather than the letter, that again, I submit, is a most dangerous proposition. There is no such thing as the spirit of law. There must be a letter of law, letter and letter alone. It is for the Legislature, for their advisers to see now that they should make clear, precise law, certain and ascertainable. I do not want that the law should be flexible. I do not want that the law should be stretched or contracted according to the whim, caprice or pleasure of the members of



the Central Board of Revenue or any other members of the executive. I want that the law should be precise and certain so that it may be possible for them to know exactly how it stands. The most dangerous proposition is to introduce the doctrine of *sententia legis* as against *verba legis*. There is a school of thought that it should be the spirit of the law which should prevail. The result will be that the spirit of the law becomes something flexible like rubber and instead of making those who are called upon to administer justice the servitors of law, they become the masters of law in so far as they start on the process of making law. In their process of interpreting law they start making law. They arrogate to themselves the functions of the Legislature. It has a most dangerous propensity.

On the one side there is an inroad on the part of the executive into the realm of the Legislature in so far as there are these popular provisions that the executive "may make such rules as they deem fit", with the result that the Legislature surrenders its legislative powers to the executive. And when you have got the executive tribunals the result is a second inroad on the part of the executive into the realm of the judiciary. These three functions ought to be kept apart. And whenever we have executive tribunals, justice is the first casualty.

Therefore, I would rather that they could weigh the points before them, measure them by the yardstick of interpretation of law and not import their own sentiments of generosity. The danger to the assessee will be as grave as is the danger to the Government. That should be avoided.

The great point about independent judicial tribunals is that they have in their forefront the law and they do not take liberties with the letter of the law. They consider the law as passed by the Legislature as a supreme command and they rigidly endeavour to adhere to it rather than try to give it a turn or a twist by

their own reflective mind, by their own intentions, by their own notions of what is generous, what is just and what is wrong. The greatest asset about any law is its certainty rather than its flexibility.

Then the next question that arises is this. It is of the utmost importance to the subject that not only should justice be done but justice should also appear to be done. The distinction is this. It is no satisfaction that the members of the Central Board of Revenue who are very esteemable and capable gentlemen will do justice, will read the files and will do the needful. But it is necessary that whatever point the assessee wants to raise he should be able to impress upon the tribunal; and whatever is lurking in the minds of the tribunal they should be in a position to state it and give him a fair opportunity to repel that contention or rebut the argument which is advanced. This is the judicial function.

Another thing is there is a tendency—pardon me for saying so if I stigmatize the tendency as undemocratic—to take away whatever power there is from the judiciary. Why should our High Courts, why should our judiciary be a suspect? Whether it is the Sea Customs Act or the Income-tax Act or any other similar provision passed, judicial functions are arrogated to itself by the executive who have not the same judicial experience, who do not pay the same homage to the letter of the law or the rule of the law which the judiciary does.

Talking of convenience, the Central Board of Revenue will be located in New Delhi. There will be appeals from every conceivable quarter of the country. And they will be absolutely inundated with work leaving no time for any other work unless they further delegate their powers to one particular member. The result will therefore be that the assessee will be rotting here for days and days and never getting an opportunity of a hearing.

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So far as administrative expenditure is concerned it will be tremendous.

But the fear is they will endeavour to resolve the difficulty by some artificial, technical rules for guidance and apply some rule of thumb whereby they can dispose of cases—a sort of demarcation line without going into the respective individual merits of the case. Therefore it is desirable that the High Courts preferably—and we have practically a High Court for every State—ought to be left to examine the disputed matters. The language of the statute, as is admitted on all hands, is very cumbrous, very complex. Without casting any aspersion on the capacity and capability of the executive tribunals, permit me to say that the members of the highest judiciary are the persons who are best equipped for dis-entangling complicated points of law, for unravelling knotty questions and interpreting difficult language. They and they alone can best do it—sometimes even they with the best of desire cannot. Therefore when it comes to a question of interpretation of this complicated skein of legal texture, it should better be left to the highest judiciary in the land. We have paid very great homage to the United Kingdom—and I am willing to concede in most cases justly—so far as borrowing their statute law is concerned. We might as well have borrowed the English procedural law. So far as England is concerned, appeals in England lie to the High Court and, if need be after obtaining special leave, to the House of Lords. Where a dispute arises regarding an amount not exceeding £ 10,000, the first appeal lies to the County court. Why can't we have a similar provision and say that up to a limit of say Rs. 100,000 or may be Rs. 50,000, appeals will lie to the District Judges or a person having the qualifications of a District Judge, and that appeals involving property of a higher value to be disposed of by the High Court? It will be extremely necessary to do

that, because, the danger will be both to the assessee in the case of over-valuation and to the Government in the case of deliberate under-valuation, which is likely to follow. Therefore, whether you examine this matter from the point of view of administrative convenience or you look at this matter from the point of view of pure justice, or you see it from the point of view of capacity to unravel knotty and difficult points, the only conclusion will be that this matter of legal interpretation should be left to those who are best equipped for the purpose.

Lastly, my hon. friend mentioned certain points from the Sea Customs Act, as administered now. I am not now dealing with that Act; I refer to it only by way of illustration. The executive can confiscate, they can impose crippling fines relentlessly and heartlessly. They have that power and nobody can question them. There might be cases where due to the clumsiness of their own officers one type of order is sent, then that type of order is found to be wrong and the man to whom it was communicated is said to have committed breach of the law and all his imports are confiscated and he is saddled with a fine running into Rs 50,000 and according to law reports, as much as Rs. 4 lakhs have been imposed as fines. Whenever any such matter came before the courts, under articles 226 or 227 of the Constitution, they took a very serious view of the matter. Therefore, the dangers of justice being administered by those who lay down the policy become obvious. Justice has to be administered by an independent body who evenly holds the fulcrum, and holds the scales absolutely even as between the assessee and the tax gatherer. I therefore commend to the House the absolute and imperative necessity that this matter should be left to the discretion of the judiciary, preferably to the High Court and in the case of smaller amounts to the lower judiciary, like the District Judge.

**Shri Raghavachari (Penukonda):**  
 Mr. Chairman, I have listened to the debate carefully. Four or five hon. friends have elaborately examined this question of the independent tribunal. This is a matter on which, in the Select Committee, I and my friends on behalf of my Party felt that there was a great need for consideration by the Government about the need to constitute an independent tribunal. This is the only point on which we have disagreed. Again I wish to state before the House and for the consideration of the Government that they should not stick to their previous decision and force that decision on the House and on the country. You know as my hon. friend Mr. Kilachand was referring, there is a very great volume of opinion in favour of an independent tribunal. The arguments advanced by the Finance Minister on both the occasions were carefully examined and controverted and answered by my friend Mr. Shah. I only wish to say this that the Bill lays down somewhere in clauses 4 or 5 that their own officers are bound by the instructions given by the Board. Clause 4 sub-clause (5) says:

"All officers and persons employed in the execution of this Act other than Valuers, (We are not concerned with Valuers now) shall observe and follow the orders, instructions and directions of the Board."

So, the appeal or dispute has to be decided by officers who are bound to follow the instructions of the Board. We know, Sir, and it is everybody's experience that when a legislature contemplates taxation and the officers are there as gatherers of the tax from one end to the other, and they follow uniform instructions, they will always have an eye on the amount that should come into the Treasury more than anything else; justice or injustice or fairplay or hardship or inconvenience. When we are enacting a new legislation of this kind to which the estates of almost every person in India must be exposed at some stage or other, provided, of course that the

estate exceeds in value the limit, these people must have the confidence and feeling that the machinery provided is a sound one, with whose decisions they will be satisfied. This argument does not require to be stressed further. As a result of long experience of the tax collecting Acts, such as the Income-tax, etc., the need for having an independent tribunal has been pressed successfully upon the Government. Similar is the experience in other countries also. My hon. friends have already referred to the provision of such an independent tribunal in other countries. In spite of all this experience, we still want to wait for new experience to be gathered so that the matter may be remedied. That is the attitude taken by the Finance Minister. During the time that you wait for new experience, there will be innumerable cases of suffering. What will be the reaction it will produce on the people in the country who have got to be guided or ruled by an imperfect system of administration. Naturally, very unpleasant. Even apart from the point of view of the need to appear to be doing justice, to prevent the growth of popular discontent, it is essential that you provide an independent tribunal which ultimately will decide these matters. I do not wish to go into the details as to how it should be done, because now it is only the principle that is under discussion. I for one feel that, from the experience that we have had of the administration of the Acts concerned with taxation, it is always essential that there should be an independent tribunal. This is an Act in which the disputes will involve very great amounts. It is a matter in which a few lakhs or even crores may be involved. As was pointed out, it is not merely questions of valuation which will come up for decision. There will be many other complicated questions. Therefore, I would with all earnestness appeal and urge that it is essential to agree to the institution of a tribunal to consider matters of this sort, particularly so when it is not a matter of any principle that is involved or committed to by the Government.

[Shri Raghavachari]

but purely an administrative convenience. Keeping in view the feeling in the country and among the various sections of the House, it would be in the interests of fair administration of law for the Government to agree for such a tribunal.

#### REHABILITATION FINANCE ADMINISTRATION

**Mr. Chairman:** Now we take up the half-an-hour discussion.

**Shri V. P. Nayar (Chirayinkil):** Mr. Chairman, Sir, I am raising this discussion to bring within the focus of attention of this House, certain very despicable affairs which have been happening in what we call the Rehabilitation Finance Administration. The points on which I would like to raise, as enumerated in the notice which I gave, are the following:

- (1) Lack of proper, efficient or adequate control of Government over the Rehabilitation Finance Administration.
- (2) Disregard of governmental rules in the matter of appointments in the Rehabilitation Finance Administration which is spending crores of Rupees.
- (3) The huge drain from funds of the Rehabilitation Finance Administration towards the meeting of establishment charges.
- (4) The favouritism or nepotism prevailing in the administration and
- (5) The extreme necessity of appointing a Parliamentary Commission to investigate into the affairs of the Rehabilitation Finance Administration.

This Government has absolutely no control worth the name, over this Administration which has already spent

Rs. 7 to Rs. 8 crores. They may claim to have some control. I find from the enclosure to a letter which my hon. friend Mr. A. C. Guha was kind enough to send me, that all the appointments to the higher posts are made either by Government direct or with the prior sanction of the Government. For example, the post of the Chief Administrator is an appointment to be made by Government. Then the posts of Deputy Chief Administrator and the Assistant Chief Administrator, Managers, Chief Accountants, Secretary and Internal Auditor are to be made by the Administration, subject to the prior approval of Government. So there are certain rules under which Government could have assumed some control, but what I submit is this; there has been absolutely no control over the affairs of the Rehabilitation Finance Administration, and by the negligence or acquiescence or whatever it is of this Government, the Rehabilitation Finance Administration has actually been reduced to an organisation which affords more protection to those of the retired pets of this Government than to the actual refugee who wants money for starting some business.

In answer to a question, the Government has revealed that all the three Administrators whom we have had were retired officials. We know that this is a work which calls for all the skills and tools of administration, and we know that people with unquestionable honesty and integrity should be appointed, but what we find is that certain persons are picked up from somewhere, why I do not know.

For example, I will relate the case of Mr. S. S. Rachhpal which has been given in answer to a question, that he was formerly in the Imperial Bank of India. Mr. Rachhpal is succeeded by another, Mr. Ram Gopal. Mr. Ram Gopal did not come from the same Imperial Bank of India. He was perhaps from the Finance Ministry. And then when Mr. Ram Gopal retires, when he goes away from the Administration, you find another man from the Audit