

**DEMAND NO. 32—PAYMENTS TO OTHER GOVERNMENTS, DEPARTMENTS ETC. ON ACCOUNT OF THE ADMINISTRATION OF AGENCY SUBJECTS AND MANAGEMENT OF TREASURIES**

"That a sum not exceeding Rs. 573 be granted to the President to make good the amount spent during the year ended the 31st day of March, 1954 in respect of 'Payments to Other Governments etc. on account of the Administration of Agency Subjects and Management of Treasuries'".

**DEMAND NO. 37—SUPERANNUATION ALLOWANCES AND PENSIONS**

"That a sum not exceeding Rs. 8,51,416 be granted to the President to make good the amount spent during the year ended the 31st day of March, 1954 in respect of 'Superannuation Allowances and Pensions'".

**DEMAND NO. 40—MISCELLANEOUS ADJUSTMENTS BETWEEN THE UNION AND STATE GOVERNMENTS**

"That a sum not exceeding Rs. 39,643 be granted to the President to make good the amount spent during the year ended the 31st day of March, 1954 in respect of 'Miscellaneous Adjustments between the Union and State Governments'".

**DEMAND NO. 50—PUBLIC HEALTH**

"That a sum not exceeding Rs. 1,58,10,262 be granted to the President to make good the amount spent during the year ended the 31st day of March, 1954 in respect of 'Public Health'".

**DEMAND NO. 53—CABINET**

"That a sum not exceeding Rs. 1,30,850 be granted to the President to make good the amount spent during the year ended the

31st day of March, 1954 in respect of 'Cabinet' "

**DEMAND NO. 104—OTHER CIVIL WORKS**

"That a sum not exceeding Rs. 10,71,297 be granted to the President to make good the amount spent during the year ended the 31st day of March, 1954 in respect of 'Other Civil Works'".

**DEMAND NO. 126—CAPITAL OUTLAY OF THE MINISTRY OF HEALTH**

"That a sum not exceeding Rs. 17,53,179 be granted to the President to make good the amount spent during the year ended the 31st day of March, 1954 in respect of 'Capital Outlay of the Ministry of Health'".

**DEMAND NO. 128—CAPITAL OUTLAY ON BROADCASTING**

"That a sum not exceeding Rs. 8,22,014 be granted to the President to make good the amount spent during the year ended the 31st day of March, 1954 in respect of 'Capital Outlay on Broadcasting'".

**CENTRAL SALES TAX (AMENDMENT) BILL, 1957**

**The Minister of Finance (Shri T. T. Krishnamachari):** I beg to move:\*

"That the Bill to amend the Central Sales Tax Act 1956, be taken into consideration".

Sir, I must apologise to the House for bringing this amending Bill so soon after the original Bill was passed. But the Bill itself seeks to remedy one or two matters arising out of certain amendments that we made to the original Sales Tax Act when it was being discussed by this House. One important matter is in

\*Moved with the recommendation of the President.

[Shri T. T. Krishnamachari]

regard to the power to exempt from the levy of inter-state Sales Tax that was taken by the Union Government in respect of Union Territories. A certain amount of apprehension has been created in the minds of the neighbouring States that if Delhi is exempted from the operation of the Sales Tax, the business will flow into Delhi from other States. There is also a slight defect in the nature of the original Act that has been passed namely that any authority which has a power to collect a tax should also have a power to exempt collection of the tax on any particular commodity. That is a general principle of taxation that has been lost sight of. The authority here is the Central Government. It gives powers to State Government to levy a certain Sales tax on inter-state sales but it does not give the power to the State Government not to levy or lower or to completely exempt certain commodities. That is one amendment that has been put in here.

The other amendment is in respect of cotton yarn. In the original list of essential commodities certain items like cotton yarn etc., were not included. In the abridged list that this Act contained, we had taken cotton but not cotton yarn. Cotton yarn falls within the category of the commodities that have to be specially selected for being protected under this enactment by the Taxation Enquiry Commission. Therefore, it is proposed to include cotton yarn but not including cotton yarn waste. Cotton yarn is a thing which is a thing which is needed by the handloom industry. The producing State is not always the consuming State. Therefore this protection is necessary and Clause 3 of the Bill now proposes to include cotton yarn in the list of declared goods.

Section 4 has an amendment which might look at first formidable. It puts a restriction on the capacity of the States to collect Sales tax to almost only once. There was an

ambiguity in the original text. If a State had a multi-point sales tax it did not very clearly indicate whether this limitation will apply to the first point or subsequent points. What is being done in section 4 is to make this particular point clear.

I cannot understand why there has been considerable amount of interest in this matter in the House, unless it be that Hon'ble Members feel that we should not give the power of exemption to the States, or they think that cotton yarn should not be included or that it should not be stated in express terms that inter-State Sales tax should be collected at only one point and not at several points. The authority should be there, subject to the limits prescribed and the amendment is brought in to give the States the power to vary the terms of the tax or to exempt it altogether which power every collecting authority has in all civilized countries. Sir, I move.

**Mr. Speaker:** Motion moved:

"That the Bill to amend the Central Sales Tax Act, 1956, be taken into consideration."

**Mr. Speaker:** Shri Tangamani.

**Shri Tangamani (Madurai) rose....**

**Shri T. T. Krishnamachari:** Very hesitant. Sir.

**Mr. Speaker:** I am calling upon him to speak. If the hon. Members are anxious to speak, they may speak; otherwise, they need not. Probably, he wants certain doubts to be clarified.

**Shri Tangamani:** Sir, this Bill has got many welcome features. We on our part want more powers to be given to the States on the question of the imposition of sales tax. We are happy to find that by expanding the powers of the State Governments in respect of these special commodities, the Central Government has conferred more rights on the State Governments.

Secondly, cotton yarn is also sought to be included and that is also a welcome feature. The power which is given to the State Governments to exempt cotton yarn will certainly benefit handloom weavers.

But, our objection is this. When we seek to impose a ceiling on the sales tax, the State Governments impose the maximum percentage. Sales tax first imposed in 1937 in Madras State; then it was half a per cent. It was subsequently increased to 1.5 per cent. Now, two per cent is sought to be fixed as the ceiling. My fear is that the Madras State Government, like other State Governments, will try to impose this two per cent. That is why, I have given notice of an amendment that this may be deleted.

When restriction is sought to be imposed on goods of special importance, we must also bear in mind the power conferred upon this House by the latest amendment of the Constitution. When sales tax was imposed on goods which were being transported from one State to another, the Supreme Court intervened and said that the States had no power. The Constitution had to be amended; articles 269 and 286 had also to be amended to give powers to Parliament.

Articles 286(2) says:

"(2) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1).

(3) Any law of a State shall, in so far as it imposes, or authorises the imposition of, a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce, be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify."

This Bill seeks to amend the original Act which gives powers only to the Central Government for granting exemption; it is now sought to be given to States also. That is a welcome feature. At the same time, under the original Act, where there were multi-point sales taxes, the percentage imposed was one. In the case of articles of special importance, the percentage sought to be imposed is two.

So, on this point also, namely, fixing a ceiling for imposition of tax, I have to oppose this motion, otherwise the Bill contains very salutary provisions.

**Shri T. T. Krishnamachari:** Sir, I do not think my hon. friend has understood the position clearly. Clause 4 of the Bill seeks to substitute section 15 of the Act, which says:

"Notwithstanding anything contained in the sales tax law of any State, the tax payable by any dealer under that law in respect of any sales or purchases of declared goods made by him inside the State shall not exceed two per cent. of the sale price thereof, and such tax shall not be levied at more than one stage in a State."

The amendment is:

"Every sales tax law of a State shall, in so far as it imposes or authorities the imposition of a tax on the sale or purchase of declared goods, be subject to the following restrictions and conditions, namely:—

(a) the tax payable under that law in respect of any sale or purchase of such goods inside the State shall be levied only at a last stage of sale or purchase and shall not exceed two per cent., of the sale or purchase price at that stage;"

It now precisely indicates where this two per cent can be levied. If the sales tax law of a State is something which, as my hon. friend puts it levies a lower percentage, there is

[Shri T. T. Krishnamachari]

no compulsion on the part of the Central Government asking them to levy a higher percentage. All that we can do is to tell them that it shall not be levied at a higher rate, and that is made very clear by this amendment. Therefore, I cannot see the point of what my hon. friend mentions.

The Central Government has certainly inhibited the States from doing one thing; that they cannot levy a tax beyond two per cent., and that too shall be levied only at the last stage on commodities specified under section 14 of the Act, which has now been further added on by cotton yarn. Beyond that the Central Government does nothing. It is quite within the competence of the State to say: "We won't levy any tax", or "We will levy only one per cent., half per cent or quarter per cent." There is nothing to bar them from doing that.

That is precisely, Sir, what we intend to do by the other provision, namely, exemption regarding inter-State sales tax. That is left to the sweet will and pleasure of the State Government.

If the hon. Member seeks to make out that I am imposing some of my authority on the State Government, I am afraid, he is wrong. If the idea that he seeks to make out is that I am not imposing my authority on the State Government, I would like to tell him that all that I am doing is to restrict the powers of the State to impose a sales tax of two per cent. only at the last stage and on commodities mentioned in section 14 of the Act. That is all what we are trying to do. Well, if it is right it is right, if it is wrong it is wrong, but I cannot understand what my hon. friend wants to convey.

**Shri Tangamani:** Under section 8 of the original Act, tax payable was only one per cent of the turn-over., whereas under section 15 it was 2 per cent. My point is whether we cannot have that one per cent in this amending Bill also.

**Shri T. T. Krishnamachari:** Two per cent is the maximum tax that can be levied on the commodities mentioned in section 14 of the Act. One per cent is the maximum tax that can be levied on inter-State sale of any commodity including those commodities mentioned under section 14. Therefore, so far as we say that this tax should be levied at the last stage at the rate of two per cent, if it is inter-State sale it is all right, otherwise, as the section was originally, they might have levied tax at any earlier stage not exceeding two per cent before the declared goods are exported to another State. We have made that very clear now. I do not want the hon. Member to confuse two per cent with one per cent; one is different from the other; one per cent is on inter-State sales and two per cent happens to be the aggregate amount of sales tax on any commodity specified in section 14 and that has to be levied at the last stage.

**Shri Tangamani:** In view of what the hon. Minister has said....

**Shri T. T. Krishnamachari:** I am afraid, I cannot elucidate the position further.

**Shri Tangamani:** ..... I do not want to press my point further.

**Mr. Speaker:** So long as the hon. Member does not press it, it is all right. I shall now put the motion to the vote of the House.

The question is:

"That the Bill to amend the Central Sales Tax (Amendment) Bill 1957, be taken into consideration."

*The motion was adopted.*

13 hrs.

**Clauses 2 and 3**

**Mr. Speaker:** There are no amendments to clauses 2 and 3.

The question is:

That clauses 2 and 3 stand part of the Bill

*The motion was adopted.*

*Clauses 2 and 3 were added to the Bill*

#### Clause 4

**Mr. Speaker:** There are some amendments to clause 4.

**Shri Hajarnavis (Bhandara):** I beg to move:

Page 1, line 20, for "last stage of sale or purchase" substitute

"stage of last sale or purchase"

Page 2, line 2, omit

"at the last taje of sale or purchase"

Page 2, line 3, after "intended" insert "by the purchaser"

Page 2, line 3, after "sale" insert "by him"

Page 2 line 5, for "last stage of sale or purchase" substitute

"stage of last sale or purchase"

I am moving all these amendments of mine together. These amendments seeks to make verbal alterations in the wording of the section. By my first amendment, instead of "the tax payable under that law in respect of any sale or purchase of such goods inside the State shall be levied only at the last stage of sale or purchase" I want to substitute "last stage of sale or purchase" at the end. The reason, is this. There is a slight possibility of ambiguity arising. There are certain expressions in a decision of the Supreme Court. That decision was given in Papatjal Shah's case in which it said that sale of goods is a composite transaction in which there are various elements or components. It consists of a bargain, the payment of price or the promise of the payment of price, delivery of goods, and so forth, so that the sale itself consists of various elements, components or stages. So, it might be possible to argue that when the expression that

is used here, "last stage of sale or purchase" is adhered to, it refers to that elements in the sale which comes last in point or time. Of course, I am aware this expression has been defined in the explanation but I want to point out that in the United Motors case, there was a considerable discussion and divergence in the judicial opinion as to what exactly is the function of explanation. The concept of sale includes many elements or stages. Now in order to make it quite clear what exactly is the stage at which the State will be able to impose a tax, and to make it clear that that stage will be the stage of last sale, I have put in this amendment. In order that there may be no doubt about it, I want to transpose the word "last" from "last stage" to "stage of last" etc. This is in accordance with the scheme of the Act, because, probably by this Act uniformity in the imposition of tax is intended to be achieved. Further that is the stage at which the stream of the commerce is at its broadest. That is where the net gathering the tax ought to be put in, but, in order that there should be no room for any ambiguity, I am moving this amendment.

My next amendment seeks to omit "at the last stage of sale or purchase" from sub-clause (b). The sub-clause, as it is, is as follows:

"notwithstanding anything contained in clause (a), no tax shall be levied at the last stage of sale or purchase if the declared goods purchased are intended for sale in the course of inter-State trade or commerce".

Now, the object of this clause is this. If a sale attracts the tax in (a) but that last stage is in the course of inter-State commerce and trade, then, no tax shall be attracted. But, from reading the explanation, it is quite clear that the sale, in the course of inter-State trade and commerce could never be covered by the expression at all, because the last stage of sale or purchase has been defined to include what I might call

[Shri Hajarnavis]

'the consumer sale within the State'. This expression "last stage of sale or purchase" covers all those sales which firstly take place within the State itself and secondly are consumer sales. Therefore, such a sale can never be said to be in the course of inter-State trade and commerce.

In my opinion, nothing would be lost if this expression "at the last stage of sale or purchase" is omitted, and the meaning would be brought about much more clearly. Thus, the clause should read:

"notwithstanding anything contained in clause (a), no tax shall be levied if the declared goods purchased are intended for sale in the course of inter-State trade or commerce".

That is to say, if the sale is in the course of inter-State trade or commerce, it may be the last sale or the first sale or the second sale, and it is immune from taxation. It is not necessary to include this expression. Otherwise, it is likely to lead to some confusion as to why this phrase which serves no function has been included in this clause.

In my amendment No. 3, I have said that the declared goods must be purchased by the person claiming exemption with the necessary intention, that is, the goods purchased are intended "by the purchaser" for sale in the course of inter-State trade or commerce. The exemption should not attach to the goods but to the purchaser. It may be contended that if the goods are intended for inter-State commerce or trade and if they pass within the State, in the hands of two or three persons and ultimately if they are exported, and if each of these three had an intention to send them outside the State, then, each one of them may claim exemption on the ground that each one of them intended that they were for sale in the course of inter-State commerce or trade. In order to leave no scope for doubt, I am suggesting

that it is necessary to say that they are intended by the purchaser for sale by him in my amendment No. 3. I am merely drawing upon the language of section 18(3) of the principal Act where the same language has been used. There should be no scope for any argument founded on the difference between clause (b) and the wording in section 8.

These are my reasons for my amendments. I commend my amendments to the acceptance of the House.

**Shri S. M. Banerjee (Kanpur):** There is my amendment.

**Shri T. T. Krishnamachari:** There is no notice.

**Mr. Speaker:** It is not in the Order Paper. The hon. Member must know that unless due notice is given, no amendment shall be brought before the House.

**Shri S. M. Banerjee:** I am sorry I was not in Delhi.

**Mr. Speaker:** Unless of course the hon. Minister who sponsors the Bill agrees to accept the amendment, it cannot be brought in. What is the reaction of the hon. Minister?

**Shri T. T. Krishnamachari:** I am completely innocent of the intention of the hon. Member. I have not received notice.

**Shri S. M. Banerjee:** It can be treated as moved.

**Mr. Speaker:** Due notice of the amendment ought to be given, a couple of days in advance.

**Shri S. M. Banerjee:** I explained my difficulty. I was out of Delhi. That is why I could not give notice.

**Mr. Speaker:** What can be done now? The hon. House cannot be taken by surprise. If the hon. Member wants to speak, he may. I cannot accept the amendment unless the Minister himself is agreeable to accept it. He says he has not even seen the amendment.

**Shri S. M. Banerjee:** It is a small amendment regarding the percentage.

**Mr. Speaker:** Yes; but Shri Tanga-mani has spoken about it....

**Shri S. M. Banerjee:** But he spoke for the entire deletion of the clause.

**Mr. Speaker:** I am not going to allow the amendment. If the hon. Member wants to speak, he may speak.

**Shri S. M. Banerjee:** I may be allowed to speak.

**Mr. Speaker:** He can speak. Some of the hon. Members who are new must know that due notice of amendments ought to be given in advance and if something crops up as ancillary to an amendment which could not have been thought of, some discretion could be allowed, but this is not such a case. In all cases where amendments are brought at the last stage, unless the sponsor of the Bill agrees to the amendment and accepts it, the amendments will not be accepted. Due notice of them should be given.

**Shri S. M. Banerjee:** I have already regretted.

**Mr. Speaker:** There is no question of mere regret. I am sorry. He may speak on his point. He may be brief—within 5 minutes.

**श्री स० म० बनर्जी :** अध्यक्ष महोदय, सेल टैक्स अमेन्डमेंट बिल पर आज जो बहस हो रही है, इसके अन्दर कुछ फीचर्स ऐसे हैं, जिनको मैं नैलकम करता हूँ। इसके अन्दर स्टेट्स को कुछ पावर्स दी गई हैं, जिनका मैं स्वागत करता हूँ। लेकिन परसेंटेज का जहाँ तक सवाल है उसके बारे में कहा गया है :—

“The tax payable under that law in respect of any sale or purchase of such goods inside the State shall be levied only at the last stage of sale or purchase and shall not exceed two per cent. of the sale or purchase price at that stage;”

इस सम्बन्ध में, अध्यक्ष महोदय, मैं आपका तथा माननीय मंत्री जी का ध्यान टैक्ससेशन इनक्वायरी कमीशन की रिपोर्ट की तरफ ले जाना चाहता हूँ। इस रिपोर्ट के अन्दर कहा गया है :—

“The rate shall not exceed quarter of an anna in the rupee, the same rate of central tax that will be included in the course of inter-State trade or commerce.”

मैं मंत्री महोदय से जानना चाहता हूँ कि आखिर टैक्सेशन इनक्वायरी कमीशन की रिपोर्ट जिसको कि हम और वो काफी हद तक मानते हैं तो फिर क्या वजह है कि हम यहाँ पर २ परसेंट रखते हैं ? उसके हिसाब तकरीबन डेढ़ परसेंट होता है तो फिर आपने यह २ परसेंट कैसे रक्खा है ? मैं ने अपने अमेन्डमेंट में जो कि डिसएलाउड हो गया है ? १ परसेंट चाहा है।

आज हम देख रहे हैं कि सेल्स टैक्स जिसका कि सारे देश भर में युनिफार्म एप्लीकेशन होना चाहिये नहीं होता है और युनिफार्मिटी आफ सेल्स टैक्स नहीं है। चूँकि मैं उत्तर प्रदेश से आता हूँ इसलिये वहाँ के बारे में मुझे जानकारी है कि वहाँ इस सेल्स टैक्स के सवाल को ले कर व्यापारी वर्ग में काफी असन्तोष फैल रहा है और एक एनार्की फैल रही है। मैं समझता हूँ कि माननीय मंत्री को भी पता होगा कि आज से कुछ दिन पहले उत्तर प्रदेश में सेल्स टैक्स के सवाल को ले कर एक आन्दोलन चला था और व्यापारियों ने जो कि हमेशा से शान्तिप्रिय होते आये हैं एक आन्दोलन किया गया और हड़ताल, डिमॉन्स्ट्रेशंस किये और काले झंडों से सेल्स टैक्स का 'स्वागत' किया। उनकी एक विशेष आपत्ति यह थी कि सेल्स टैक्स युनिफार्म बेसिस पर होना चाहिये।

मैं समझता हूँ कि आज माननीय मंत्री या केन्द्रीय सरकार को कोई ऐतराज नहीं है कि सेल्स टैक्स युनिफार्म बेसिस पर किया जाये लेकिन सवाल आता है स्टेट गवर्नमेंट्स

[श्री स० म० बनर्जी]

का क्योंकि वे भी सेल्स टैक्स के जरिये अपने रेवेन्यूज को बढ़ाना चाहती हैं। लेकिन यह कोईकोई ऐसी खास बात नहीं है और मंज महोदय से निवेदन करूंगा कि इस सेल्स टैक्स को युनिफार्म बेसिस पर ऐप्लाइ किया जाये ताकि उत्तर प्रदेश में जो विजनेस चौपट हो रहा है वह सम्हल जाये और व्यापारियों में जो व्यापक असन्तोष फैला हुआ है वह दूर हो जाये और व्यापार ठीक से चलने लगे।

दूसरी चीज मैं यह कहूंगा कि टैक्सेशन एनक्वायरी कमिशन की रिपोर्ट में यह कहा गया है कि दो परसेंट का सवाल नहीं है। बल्कि दो परसेंट से कम हो और अगर यह मुमकिन हो तो उसको टैक्सेशन एनक्वायरी कमिशन की रिपोर्ट तक महद्द रखें।

मुझे सिर्फ इतना ही कहना है कि सेल्स टैक्स को ले कर हिन्दूस्तान भर में बिजनेस को काफी धक्का लगा है। मैं यह मानता हूँ कि सेल्स टैक्स लगाना आपके लिये कुछ ले जाना है और जाहिर है कि उसके लिये आपके टैक्स लगा कर रुपया हासिल करना होगा लेकिन यह एक युनिफार्म पालिसी और युनिफार्म बेसिस पर लगाया जाना चाहिये। कुछ चीजें इसमें ऐसी हैं जिनका कि मैं स्वागत करता हूँ कि लेकिन साथ ही साथ मैं निवेदन करूंगा कि अगर आप मेरे १ परसेंट और श्री तंगामणि के प्रमोंडमेंट को नहीं मान सकते हैं तो कम से कम मैं इतना कहूंगा—

In the larger interests of business, uniform application of sales-tax is necessary. As far as I know, there was no objection from the Centre, but because the State Government raised some objections and they wanted to reserve this right, sales-tax is not imposed on a uniform basis.

So, I would request the hon. Minister to consider the entire question of sales-tax; let him convene a meeting of the Finance Ministers of the various States. It is absolutely essential,

because in certain States, the imposition of sales-tax and the whole procedure for the collection of sales-tax is complicated. The small businessmen want to pay sales-tax, but the whole procedure, which is so complicated, is telling on their nerves; rather it is shattering their nerves.

I request the hon. Minister to consider two points. One is that it should be dealt with on a uniform basis. The second is that it should be not 2 per cent, but he should stick to 1 per cent; and if not at least he must stick to the recommendation of the Taxation Enquiry Commission. I would submit that in the larger interests of the businessmen, this amendment should be accepted. It is my suggestion; I do not say 'amendment', because it has not been allowed to be moved. I have placed my suggestion before the hon. Minister and I would request him to consider it.

**Shri T. T. Krishnamachari:** The hon. Member, Mr. Hajarnavis, apparently is a very studious person and has some experience of sales-tax administration in his own particular province. But I am afraid that the refinement in language, which I think is perhaps desirable, is one which I cannot accept for the reason that my advisers would prefer to stick to the present form.

**Mr. Speaker:** I had my own doubts about it—the stage of a sale is only a part or limb of the sale. There is a proposal, offer and acceptance, which make a contract for consideration. Sale consists of various portions. Of course, bargain is not the legal expression. There is an offer, acceptance and delivery. So, there may be a lacuna in any particular stage; therefore, he may consider the whole thing.

**Shri T. T. Krishnamachari:** I had sent on the amendment to my legal advisers. I can explain the position this way. The question is, where this word 'stage' qualifies. If we take the goods, which is really the



material for the sale, as the main entity, then it passes through various transactions as A, B, C, and D; the last transaction through which it passes will be the transaction on which no tax shall be levied by the State. On the other hand, if the relationship is not established between the goods and the sale, the point of my hon. friend might be correct.

**Mr. Speaker:** The point is this. The hon. Minister has in mind a chain of sales.

**Shri T. T. Krishnamachari:** Yes, Sir.

**Mr. Speaker:** Each sale is independent; it is only a link. Each sale is complete. Before the last man sends the goods away to some other place outside the State, it is at that stage that the hon. Minister wants to impose the tax. Before that, sale from one person to another is complete as soon as delivery is made; there is an offer, acceptance and price fixation. Therefore, treating all these sales inside the territory as a single stage and treating the other sale is the last stage of the sale does not seem to be quite legal.

**Shri T. T. Krishnamachari:** I am not a lawyer, as the Chair knows. But, I am familiar with the sales-tax legislation for the last 18 years. The Chair will also remember that a particular eminent lawyer introduced an explanation to article 286 at the time of promulgation of the Constitution, which has carried with it a trial of trevails. The eminence of the lawyer does not mean he carries with him certain preciseness in expression. The Chair knows all about it. In this particular case, the words "at the last stage of sale" has gone into usage in various Supreme Court Judgments in regard to the question of sales-tax, particularly in regard to export and sale.

**Shri Hajarnavis:** He will kindly check it up. I am familiar with most of the decisions and as far as I remember and the term "last stage of

the sale" does not occur in any decision, except that the word "stage" occurs in the principal Act. Even in the Taxation Enquiry Commission's report, the expression "last stage of sale" does not occur. That is what I remember; my memory may be wrong.

**Shri T. T. Krishnamachari:** The hon. Member may be right. I am not a lawyer. My recollection happens to be that in one of the judgments, particularly in regard to a Travancore matter, the phrase was used; I may be wrong. In any event, the hon. Member has an advantage in that he has experienced; he is a lawyer and he can pronounce the verdict. So far as I am concerned, I am dependent on my legal advisers. Therefore, if the Chair does not mind, I think I might leave it as it is.

The other point I would like to mention at this stage is that this particular article 286 and the legislation emanating therefrom has been the subject-matter of discussion between the Law Department, even myself in my capacity as Commerce and Industries Minister and the Attorney-General. I have attended a few conferences in regard to the wording of this particular amendment of the Constitution that we thought of, namely, article 286. I do not think that the amendment has come through without being checked up at a fairly high level. I think the best thing is to leave it as it is, unless it be that the Chair wants me to put off the matter. I am in the Chair's hands.

**Shri Pattabhi Raman** (Kumbakonam): The word 'sale' has got a technical import, while 'stage' is not a legal term as such. The Bombay company case has been referred to, I had the good fortune to be associated with it. In that case there was a complete sale; it was an export sale altogether. If I may say so, the word 'stage' will lead to some doubt. 'Stage' is not a legal term, while sale is passing of property.

[Shri Pattabhi Raman]

There may be a sale on completion of delivery—the incident of a particular sale. That would be different. The word “stage” will lead to ambiguity; it is not a legal term. “Stage” may be one of suspended animation; there may not be any definiteness about it.

**Shri T. T. Krishnamachari:** In fact, the hon. Mover of the amendment does not take away the word “stage”. The “illegality” connected with that word still remains, to the extent to which it can be used for purposes of interpretation. But export is a stage. An article passes from production...

**Mr. Speaker:** Why not omit the word “stage” and say “last sale or purchase”? That will meet the situation.

**Shri T. T. Krishnamachari:** If it is a question of the commodity, whose sale is the last one, I think the commodity passes through various sales, and therefore the ‘last sale’ is also correct.

**Mr. Speaker:** The hon. Minister will consider this point. Sub-section (2) of section 4 of the Central Sales Tax Act of 1956 says:

“(2) A sale or purchase of goods shall be deemed to take place inside a State if the goods are within the State—

- (a) in the case of specific or ascertained goods, at the time the contract of sale is made; and
- (b) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale by the seller or by the buyer, whether assent of the other party is prior or subsequent to such appropriation.

*Explanation.*—Where there is a single contract of sale or purchase of goods situated at more places than one, the provisions of this sub-section shall apply as if there were separate

contracts in respect of the goods at each of such places.”

And then section 5 says, “A sale or purchase of goods shall be deemed to take place in the course of the export of the goods out of the territory of India only if the sale or purchase either occasions such export or is effected by a transfer...etc.” We need not go into that.

Now, each transaction between one person and another is a completed sale. If there are a number of sales, at the time of the last sale before export to the foreign buyer, that is the sale by which the export takes place, at that stage we normally use the word at that “stage”. It is that sale that is taxed, is it not so?

**Shri T. T. Krishnamachari:** May I make a submission, Sir? As a matter of fact, I am not in a position to say anything in this matter. If the Chair wants to put it off...

**Mr. Speaker:** Let us take it up an hour hence.

**Shri T. T. Krishnamachari:** At 2-30.

**Mr. Speaker:** Yes, and in the meanwhile he may consult his legal advisers. Let us proceed to something else. Here the only thing is about ‘sale’.

**Shri T. T. Krishnamachari:** That, more or less, seems to be the change.

**Mr. Speaker:** Yes, the others are only ancillary.

**Shri Hajarnavis:** If these words “at the last stage of sale or purchase” are deleted...

**Mr. Speaker:** The others are consequential. Very well. There is no clause 5; clause 4 is the last clause. To the other clauses there are no amendments. So there is no purpose in my putting clause 1 and the Enacting Formula now. We shall take this up at 2-30 and go to the next item now.