Shri S. M. Banerjee: What about individuals?

Mr. Speaker: He only appealed to the main political parties to treat it as a national Plan, and he said that if there was any credit, it would go to them, and he would be prepared to take discredit if any. Some hon. Member said that he will take this discredit also. Let him do so by all means. The hon. Minister did not appeal to government servants. He never thought that they would become political parties.

Shri S. M. Banerjee: I appeal to you to look at it in an impartial way. You are upholding the banner of democracy here.

Mr. Speaker: I agree. I have been allowing a number of opportunities to hon. Members. Even day before yesterday, this matter was raised.

Shri S. M. Banerjee: You have misunderstood me.

Mr. Speaker: Government servants' attending election meetings is a different question. It is not in the Plan.

Shri S. M. Banerjee: I cannot say anything to government servants on the Plan. (*Interruptions*).

Mr. Speaker: It is not part of the Plan—the question of government servants attending a public meeting where they have to decide for whom they have to give their votes. It is a different matter.

Now, is it necessary for me to put Shri Ranga's amendment to vote?

Shri Ranga: Yes.

Shri S. M. Banerjee: Let him withdraw it; otherwise, we will defeat it.

Mr. Speaker: Does he want a division also on this?

Shri Ranga: Yes.

Mr. Speaker: This is not the time for division. Many hon. Members have gone away for lunch. I will take this up at 4·30 P.M. All parties and groups may arrange for all their Members to be present at the time of voting.

13·52 hrs.

INCOME-TAX BILL—*contd.*

Mr. Speaker: The House will now take up further consideration of the following Motion moved by Shri Morarji Desai on the 18th August 1961, namely:—

> "That the Bill to consolidate and amend the law relating to income-tax and super-tax, as reported by the Select Committee, be taken into consideration."

The time taken was 3 hours and 20 minutes out of the 7 hours allotted. Therefore, 3 hours and 40 minutes remain. Shri Naushir Bharucha, who was in possession of the House, may continue his speech. A number of hon. Members want to speak.

Shri Ram Krishan Gupta (Mahendragarh): I also want to speak.

Mr. Speaker: I shall call upon those hon. Members who had no opportunity to speak during the debate on the Plan. I will give call Shri Harish Chandra Mathur and Shri Ram Krishan.

Shri Harish Chandra Mathur (Pali): I am not interested in speaking. I only got up to enquire.

Shri C. K. Bhattacharya (West Dinajpur): An opportunity may be given to this side also.

Mr. Speaker: Let hon. Members rise in their seats. I will call them one after the other.

Shri Naushir Bharucha (East Khandesh): I had just begun my speech on the last occasion. I said that the Income-tax Bill was, on the whole, acceptable, but I also said that that did not mean that it was free from defects. It is to these defects that I shall invite the attention of the House.

Before I do so, I should like to pay a tribute to those draftsmen who have drafted this measure which is highly complicated. If with all the attempts to simplify this legislation, it has not been practicable to do so, I believe it cannot be attributed to the fault of the draftsmen; it can only be ascribed to the complexities of life which have increased so much that a measure of this type cannot be too very simple.

The Bill, as it has emerged from the Select Committee, contains certain notable departures from accepted principles and it is to these that I desire to invite the attention of the House. One of the clauses, that is, clause 10, on page 14, deals with incomes which are not to be included in computing total income. The House will observe that universities or other educational institutions have their incomes excluded from the computation of the total income.

13·55 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

But it is strange that at the same time, under clause 11, even educational trusts would be taxed to the extent that the unspent portion of their income exceeds 25 per cent. I cannot understand the logic of it—excluding universities and educational institutions from taxation on the ground that Government want to encourage education and in the same breath, subjecting to tax a private agency, having the same aim, which deserves to be encouraged. That is why I say that there are certain departures from existing practice which are not logical and, therefore, the attention of the House should be invited to them.

Then take another example. Subclause (23) of clause 10 exempts from income-tax the incomes of associations for the encouragement of cricket, hockey, tennis etc., on the plea that a nation that plays and indulges in physical exercise is always healthy. But on the other hand, when there are trusts which provide for better housing for the poor, which make for the same aim, namely, a healthy nation, we keep on taxing them. I ask, what is this conflict of aims and objects so far as Government are concerned. If in one case it is accepted that education or public health must be encouraged, I see no justification for taxing other sources which aim at the same purpose just because they happen to be in the private sector, so to say.

However, there is one notable departure which I welcome very much, that is, the exemption of other gratuities subject to a ceiling of Rs. 24,000 or 15 months' salary, whichever is less. Prior to this amendment, there was an irrational distinction between government employees and private employees. I am very glad that this distinction has been removed. But still I cannot understand the logic of one thing. Why should we restrict it to 15 months' salary? If a generous employer wants to give a gratuity exceeding that amount—after all, gratuity is a lifetime saving; it comes once in the life time of a person—why should that be subjected to tax? I think there should be no ceiling whatever in this connection.

The most controversial clauses, in respect of which I desire to take some time of the House, are clauses 11 to 13. They relate to income-tax on incomes of trusts for charitable or religious purposes. First, I propose to analyse clause 11, because the full import of it has not yet been understood. While some amendments have been made by the Select Committee I am of the opinion that the amend-

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ments are not altogether satisfactory. Analysing clause 11, it will be found that this clause charges the unspent income of trusts in excess of 25 per cent. The Select Committee has made a change, "or rupees ten thousand, whichever is higher". In other words, anything in excess of Rs. 10,000 or 25 per cent will be chargeable to income-tax, if the amount is not spent. This is the operative part of clause 11.

Then it provides for other types of trusts. In the case of trusts, the income of which is partly applicable or usable for charitable or religious purposes, which are created before the commencement of the Act, the 25 per cent rule would be applicable; if they are created after the commencement of of the Act, they are not entitled to exemption.

Then it deels with those types of trusts which promote international welfare. If they are created after the 1st April 1952 then exemption to the extent of the income applied for such purposes in India is given; if they are created before 1st April 1952, exemption is given to the extent to which such funds are applied to such purposes outside India.

14 hrs.

Before I explain my objections to this clause, I shall briefly mention that certain exemptions have been provided by the Select Committee which would very much minimise the mischief of the clause as it stood originally. The Committee have laid down that if investments are made in trustee securities and if certain amounts are earmarked for specific purposes and that fact is indicated to the Income-tax Department, the incomes without being subjected to income-tax would be permitted to be accumulated. Now, I examined what would be the effect of this clause 11. As I said before, trusts with long-range objectives will very considerably suffer. For example, there is the question of the housing of poor. Even where you permit the income to be accumulated for ten years—it it not very difficult to comply with the conditions required for accumulation for ten years, that can be done—would it be possible to build out of that accumulation another building for the poor people? There are many trusts. They have donated buildings. Out of rents accumulated you keep on constructing. That is a task which can be performed after fifteen years or more. But all these long-range objectives will definitely suffer inspite of the relaxation made by the Select Committee.

Take another example. Sometimes a donor donates land. He has got a vacant plot of land. He says: I donate this land; let the trustees raise the amount and build a structure for the poor. It will take years before you can raise the necessary amount. In the meantime, the income will start being taxed. Often it happens. I know of a case, in which I am trustee, where a polytechnic was to be constructed. The matter became the subject of litigation in a court and the result was for five years the case is pending in the Surat Court; the case has not been reached. The income of whatever donations were there, they had perforce to be accumulated. After the Surat court gives its judgment, it may go to the High Court and after the High Court gives its judgment it may perhaps go to the Supreme court, which means another ten years will lapse and till then the trust will have to keep paying income-tax on that. The result will be that the polytechnic will never see the light of day.

Take another case. Let us assume that A donates a sum of Rs. 10 lakhs and he tells the trustees; you find the land and also find money for construction of the building. His ten lakhs will serve as the maintenance fund. He says you may keep the revenue income of the Rs. 10 lakhs and construct the building. Ten lakhs of rupees will give you a yield of Rs. 40,000 a year. Out of that Rs. 10,000 will be exempted; the other Rs. 30,000 will be taxed. It is true you can save Rs. 30,000 also for a number of years. But after

ten years income-tax will have to be paid at a heavier rate, with the result that income-tax at a higher scale will be charged and practically half the amount will be swallowed up in the payment of the income-tax. In other words, the nearer you reach the stage of fulfilment of your long-range objective, the heavier income-tax you have to pay. I, therefore, submit that the ten year rule is really no solution.

Sir, I am not quite sure in my mind; I have not studied the whole thing in detail. Depreciations are set aside, sinking funds are set aside, amounts are set aside for maintenance, renewals, repairs, etc. but not spent. Will they fall in the category of unspent amounts and therefore be liable to taxation? Depreciation, of necessity, has to be accumulated over the service life of an asset, which in the case of a building may be eighty years. What happens to all that? How can you expect the trustees not to set aside depreciation? If the service life of a building is eighty years, you must set aside depreciation at 1.2 per cent or whatever it comes to over a period of eighty years. Will that be counted as income to be taxed? Very probably, yes. It is not spent. What happens to that after ten years? You start paying income-tax on that? I think that the whole thing requires to be more carefully looked into. I have moved an amendment saying that instead of 10,000 make it 20,000 and instead of ten years make it 12 years. I am not sure that is going to improve things very much. This amendment is without abandoning my fundamental objection to the principle in the hope that it will minimise the mischief, because any more drastic amendment has no chance of being accepted by this House.

The reason is: let the smaller trustees not suffer. The effect of it will be this. When clause 11 comes into operation, it will impose a very heavy burden and effectively prevent trustees from going in for long-term objectives. And what is more important, it might infuse in the trustees a spirit of extravagance. Why not spend, instead of letting the Government tax? Therefore, expenditure will go up. There will not be proper husbanding of the resources of the trusts.

What are the Government's reasons for doing this? Do they want more revenue? Then, surely this is not a source that they should tap. They should not tax charity and generosity. Or is it their apprehension that the funds with the trustees will remain locked up if the trustees are un-enterprising and they will not be put to use. If that is so, the proper thing is to take action under the Public Trusts Act—not under this. Or is it that if they do not alter this, then Government revenue is being defrauded. If they say that, it means that they presume every trust to be a fraud and therefore from the start they impose the tax. This is not correct. Government has to come with sounder justification for the amendment of the Act in this respect.

Sir, clause 12 refers to income-tax from voluntary contributions. If I receive voluntary contribution will that be income? They say it won't be income, because it is casual donation. But if one trust helps another trust, it becomes income. Sir, I really do not understand the logic of it. I stated that there are certain notable departures from logical reasoning and this is one of them. If donation by A, who is an individual need not be regarded as income why is donation by trust X which is composed of A, B, C, D, E, F, G individuals, regarded as such? Have the Government considered what will be the effect of this? Cooperation between trusts will become impossible. Often what happens is that one trust has got a land; another trust has got so much unspent money; then the third trust may donate maintenance. The three pool their resources together. There is always an effort to pool the resources of various trusts on a voluntary basis. That will be hindered. Therefore, I think that this will stop the coopera-

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tive principle being practised by trusts. Often smaller trusts are helped by bigger ones. Hereafter they will not be helped and trusts cannot get together for furthering bigger objectives of charity which are outside the scope of small or medium-sized trusts. Government should give stronger reasons for justifying this type of legislation.

Coming to clause 13, this clause deals with application of section 11 to certain cases. In certain cases it is not to be applied. It means that clause 11 is not to be applied in the case of certain trusts, which are provided for private religious purposes. One can understand that. Then trusts created after this Act will come under this, if they are communal, communal in the sense that if they are for the express bnefit of any particular religious community or caste. Originally as the Act stood,—as it stands today—in section 15(c) only 'religious communities' is the phrase which is used; to that 'caste' is added and 'race' is added. I can understand caste being there. But I cannot understand what is the idea of race. Does that mean that a person cannot have charitable trust for the Aryan race? Is he afflicted with communalism if he prescribes it for the Aryan race or the Dravidian race? What is the idea or purpose behind it? I am not in a position to grasp it. What is more, it does not give any concession to such trusts which we know, in common parlance, are communal trusts. What is the logic behind it? What does it matter if there is a private philanthropist providing for the education of a particular community? What does it matter so long as the Government is not in a position to provide education for everybody? How does that damage your national sentiment? Is it not a national point of view that everybody or a maximum number of people should be educated and anything that contributes to the national purpose, in however indirect a way, should be encouraged How can that be labelled communal? The one effect that it will have is that the springs of charity will dry up immediately. It is rather peculiar. Most of us here may not like the idea and say: why not the children of all communities have the advantage? But often it happens this way. In particular towns where small charities are established, usually particular communities reside. Do the Government think that these provisions cannot be evaded? They can be evaded; it is not as if they cannot be evaded. All that you are asking the Trustees to do is to say in a particular way and to act in a different way. All these things can be done. They say that it is against national integration. What is against national integration? If the Government cannot provide housing for the poor, why should the Government say that nobody of a particular community shall be benefited by the charity of a particular individual or community. To that extent the burden of the Government is lessened. I think that the whole clauses, notwithstanding the fact that religious communities are put down here must be thoroughly revised.

Coming back to this question of religious communities and religious trusts for religious communities. Let us take the instance of a trust for the maintenance of a temple. When I establish a trust for the maintenance of a temple it is bound to be a religious trust. I cannot invite all and sundry to come and take advantage of it. You are taxing religion. Why should not private people have this liberty so that those who profess that particular faith should have the freedom to worship without being taxed for benefiting a particular place of worship? I am unable to understand how you can make the religious charities cosmopolitan charities for the maintenance of temples; by their very nature they are not. There should have been provision excluding this type of charities.

We are taking this fad of emotional integration far too far. If anything is going to be regarded as discrimination against a community, it is where the economic benefit is given to one community and where it could have equally been extended to others but it is being deliberately denied to them. One can understand it. When a man wants to provide maintenance to a particular place of worship or to a particular community should that be regarded as communal? In that case the logical conclusion is that all existing mosques, churches and temples—whatever they are—are all communal; that is the conclusion. I think equity requires that it should be revised.

Clause 13 says that such trusts will not get the benefit. Then those trusts where the donor has reserved to himself certain interest—that is to say, he has not completely divested himself from the subject-matter of the trust —are not exempted. This is a very common experience in Bombay and perhaps in other places also. What actually happens is this. When a donor gives some amount or, say, a building for residence of the poor people, he says: there are forty flats in this building and out of them three flats are reserved for my poor relatives. Surely, I have got the right to say that much without being communal. But under this clause—no, I cannot do that. The income of the whole building is liable to tax because the donor has reserved some interest for himself or his relative as defined. It is a very ticklish problem and some exception should have been made. For instance, in Bombay the donors have given some money for the establishment of a medical college and they have said: my trustees will have the right to nominate one or two boys of my community or my relatives for admission to this particular college. There again, some interest is reserved for the donor, according to this clause, so that the entire income of that college will become taxable. All these things have not been taken into consideration. It is most unfair to say that when the donor gives money for the establishment of a college where 200 students can study and when he says that five or six persons should be nominated by my trustees, the whole thing becomes subject to income-tax.

I now come to another important question—the present clauses 32 and 34. It is I think a peculiar historical development that under our existing tax depreciation is permitted on ships or for buildings plants and machinery, and furniture, and nothing else. I really do not understand why this should be restricted—that is, depreciation allowance—only to this type of capital assets. I think there is some force in Mr. Masani's arguments that this should also be extended to mines, quarries, copyrights and many other capital assets which have limited service life. I really do not understand what is the logic behind it. If you say that the capital asset which gives you income, namely house or factory, depreciates on a scale to be prescribed, why not mines or quarries which are also capital assets giving you income should not be depreciated. I think it requires to be looked into. Provision should be made not only for this but on all the capital assets on the basis of service life which can be very well calculated.

Coming to the question of income not chargeable when arising from trusts which are irrevocable. The Bill provides that if the trust is irrevocable during the lifetime of the settlor, it is free from income-tax. It is so when some sort of a transfer has taken place and if such transfer is irrevocable during the transferee's lifetime. It says that if a trust is made before the 1st of April, 1961 and if it is irrevocable for six years, then only it will be exempt. Trusts made after that day, even if they are irrevocable for six years, cannot be exempt. What is the logic behind it? There should not have been any date line prescribed because, if a person makes a trust irrevocable for six years, it means he is very serious about that trust and if for some reason or other it is made revocable after

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six years, certainly he will be liable to pay tax. Where is the difficulty? A donor before making a trust permanently irrevocable desires to make it irrevocable for a particular period to see how it works and then he makes certain changes and makes it permanent. So, this thing ought not to have been there.

I would again invite the attention of the House to clause 88 (5) (3) where a donor is exempt only if donation is given to an institution not expressly for the benefit of any particular caste, religion or community and therefore, as I said, those arguments which I advanced in the case of clause 11 today apply with equal force here also. It has been provided that a donor cannot be exempted if there is any provision for transfer or application of fund for the benefit of the donor. I gave the typical instance where the donor has retained a negligible right. Some such exception to cover these cases should have been provided.

I will come to one more point before I conclude and that is the question to which Shri Masani and Shri Morarka drew pointed attention. It is about the liability of directors of a private limited company to pay income-tax. There can be arguments advanced both for and against in this case. Supposing there is a firm of seven people. That firm of partners is liable to pay income-tax and all the debts in the event of a dissolution of the firm. Each individual partner of the firm is liable to pay the entire debts. What is after all a company of seven people, if instead of calling themselves a firm, they convert themselves into a private limited company? Therefore, it can be argued that just because they change their cap and call themselves a private limited company, they should not be given greater freedom in escaping the payment of income-tax. That is one way of arguing. Of course, so far as new directors are concerned, they cannot be liable, because it is obvious that it cannot be said that if income-tax remains to be paid or remains unpaid, it is due to the negligence of the new directors.

Shri Damani (Jalore): The rate of tax for private companies is more than that of an individual. That point should also be taken into account by the hon. Member.

Shri Naushir Bharucha: There are arguments—both for and against.

Mr. Deputy-Speaker: The hon. Member should be brief now.

Shri Naushir Bharucha: I will conclude in two or three minutes. The argument was that this section operates retrospectively. Against whom will it operate retrospectively. It will be against those directors who have mismanaged the affair and who are responsible for not paying the due income-tax. Therefore, it cannot be said that retrospectiveness works such an injustice. At the same time, my hon. friend Shri M. R. Masani pointed out that if today, the directorship of a private limited company may be made responsible for income-tax, why should not the State Government say that it should be made responsible for sales-tax? Why should not some one else come and say that he should be made responsible for other dues to Government? Why should not Government say that they should be made liable of payment of various taxes, and finally, why should not someone else come and say that he should be made liable for all other dues? What is sacrosanct about Government debt and what about the debts due to poor people? Therefore, this is the thin end of the wedge. I am of the opinnon that public enterprises, or corporate enterprises, which are based upon the aspect of limited liability of directors and shareholders, would be jeopardised; and even private limited companies are vast concerns. This principle will prevent corporate enterprises from operating in a large area. I have tabled my amendment limiting

the mischief to three years. The idea is that there should not be a permanent sword hanging over the director. Just as the Government expects that the director must be honest, it must be equally diligent to recover the dues, and three years is more than enough.

In conclusion, I will say that as a whole this Bill is welcome. The draftsmen have done a good job of it. Though the Select Committee has made certain provisions less stiff, the Bill as it has emerged from the Select Committee, will still dry up the sources of charity and prevent housing for the bodies to be constructed. I appeal to the Government to exclude completely the educational trusts which are wholly and exclusively devoted for the promotion of education. I appeal to the Government to do at least this thing. Many defects have been removed, but I am sure experience may point out still further defects. On the whole, if I am asked to pass my judgment on the Bill, barring these points to which I have referred, I might say that the Bill is a welcome measure, and I hope that on the whole it may serve the purpose which the Government have in view.

श्री रामसिंह भाई वर्मा (निमाड़) : उपाध्यक्ष महोदय, यह एक बड़ा महत्वपूर्ण बिल है और मैं मानता हूं कि सिलेक्ट कमेटी ने काफ़ी परिश्रम और बुद्धि इनकम टैक्स और सुपर-टैक्स सम्बन्धी कानून का एकीकरण करने में और अधिक सरल बनाने में लगाई है। इसलिये पहले मैं अपनी तरफ़ से सिलेक्ट कमेटी को उसकी मेहनत के लिये मुबारकबाद देना चाहता हूं।

इस कानून में इनकम टैक्स या सुपर-टैक्स कोई खास बढ़ा दिया गया है, ऐसी बात नहीं है। इस बिल में प्रोसीड्यर को आसान बनाने का प्रयत्न किया गया है और इनकम टैक्स तथा सुपर-टैक्स कहां लगेंगे, उनको वसूल करने का तरीका क्या होगा और इस सम्बन्ध में अधिकारियों के अधिकार क्या होंगे, यह बताया गया है। उपाध्यक्ष महोदय, मैं आप के द्वारा माननीय सदस्यों और खासकर फ़िनांस डिपार्टमेंट के सामने यह निवेदन करना चाहता हूं कि केवल एक किताब बदा देना और किताब में अमुक धारायें और प्रतिबन्ध डाल देना ही काफ़ी नहीं है। इस कानून पर अमल कराने का प्रश्न भी बहुत महत्वपूर्ण है। जो छूट दी गई है, उस का नाजायज़ फ़ायदा उठा कर अपनी व्यक्तिगत आय को बढ़ा लेना और गवर्नमेंट के टैक्स से बच जाना बहुत आसान हो गया है। जब कम्पनीज़ अमेंडमेंट बिल आया था और फ़िनांस डिपार्टमेंट और कामर्स एंड इंडस्ट्रीज़ मिनिस्ट्री की डिमांड्ज़ पर डिस्कशन के अवसर पर मैं इस विषय में काफ़ी कहता हूं। लेकिन सच बात तो यह है कि नगारों के सामने शहनाई की आवाज़ सुनाई नहीं देती है।

एक माननीय सदस्य : तूती की।

श्री रामसिंह भाई वर्मा : क्लाज़ १० में डेली एलाउंस की छूट दी गई है, जो कि किसी पार्लियामेंट के या विधान सभा के मेम्बर को मिले। अगर किसी कम्पनी का डायरेक्टर पार्लियामेंट या विधान सभा का सदस्य है और इस हैसियत से किसी कमेटी की मीटिंग में जाता है, तो उस को जो डेली एलाउंस मिलेगा, उस को छूट दी गई है। पार्लियामेंट के सदस्य को ४०० रुपया मासिक की सैलेरी मिलती है और उस के ऊपर इनकम टैक्स लगता है। सब पार्लियामेंट या विधान सभा के सदस्य नहीं, कुछ चुने हुए सदस्य जब सब मीटिंग्ज़ में हिस्सा लेते हैं और डेली एलाउंस प्राप्त करते हैं, तो उनकी इनकम सैलेरी से अधिक हो जाती है। मैं समझता हूं कि इस बारे में कोई मर्यादा निश्चित की जानी चाहिए। मैं निवेदन करना चाहता हूं कि यह एक विचारणीय सवाल है और गवर्नमेंट को इस बारे में सोचना चाहिए कि पार्लियामेंट या विधान सभा के सदस्यों को मीटिंग्ज़ में जाने का जो डेली एलाउंस मिलता है, अगर

[श्री रामसिंह भाई वर्मा]

वह रकम महीने में सैलेरी की पचास परसेंट होगी, तो इनकम टैक्स की छूट होगी, लेकिन अगर वह सैलेरी के बराबर या उस से अधिक हो जाती है, तो उस पर छूट क्यों हो ।

दूसरे एलाउन्सेज के बारे में कम्पनीज के डायरेक्टर्ज पर टैक्स लगाया गया है, लेकिन मैं आप के द्वारा माननीय उप मंत्री जी को बताना चाहता हूं कि मेरे ध्यान में ऐसे मामले आये है, जिन में इस व्यवस्था का नाजायज फ़ायदा उठाया गया है । हम अक्सर देखते हैं कि एक व्यक्ति दस बारह कम्पनियों का चेयरमैन है और दस बारह कम्पनियों का डायरेक्टर है । इस तरह से वह बीस बाइस कम्पनियों का डायरेक्टर और चेयरमैन हो जाता है । यह चेयरमैन के अधिकार की बात है कि किस किस तारीख पर, किस किस स्थान पर वह बोर्ड आफ़ डायरेक्टर्ज की मीटिंग अरेन्ज करे । ऐसे मौके पर एक ही टाइम पर चार छः कम्पनियों की मीटिंग्ज वह अरेन्ज करता है । अधिकांश कम्पनियां ऐसी है, जो उन लोगों को १०० रुपये डेली एलाउन्स के और १०० रुपये बोर्ड आफ़ डायरेक्टर्ज की मीटिंग में शरीक होने के देती हैं और इस के अलावा आने जाने, एयर और रेल, का फ़ेयर, उन को मिलता है । ऐसा होता है कि जो मीटिंग बोर्ड आफ डायरेक्टर्ज की होती है वह एक घंटे में या डेढ़ घंटे में खत्म हो जाती है और इस तरह से वे आसानी से एक एक दिन में तीन तीन और चार चार मीटिंगों में शरीक हो सकते हैं और होते हैं । वे जाते भी एयर से है और आते भी एयर से हैं । वे खर्च तो एक ही बार करते है आने जाने का लेकिन जितनी भी कम्पनियों की मीटिंग्ज को वे वहां एटेंड करते हैं, उन सभी कम्पनियों से आने जाने का एयर फेयर वसूल कर लेते हैं । इस तरह से आप देखें कि उनकी इनकम कितनी अधिक हो जाती है । एक व्यक्ति बीस बीस कम्पनियों का डायरेक्टर और चेयरमैन है और एक दिन में तीन तीन या चार चार या छः छः कम्पनियों की मीटिंगों को एरेंज करता है और सभी से आने जाने का एयर फेयर और डेली एलाउंस वगैरह ले लेता है और जब वह ऐसा कर लेता है तो आप अंदाज़ा लगा सकते हैं कि उसकी आदनी कितनी गुना हो जाती है । आप देखिए कि कोई आदमी अगर दिल्ली में रहता है और बम्बई में मीटिंगों को एटेंड करने के लिए जाता है और चार या छः मीटिंग्ज वहां एटेंड करता है--बोर्ड आफ डायरेक्टर्ज की और ये सभी मीटिंगें अलग अलग कम्पनियों के बोर्ड आफ डायरेक्टर्ज की होती हैं तो वह कितना एयर फेयर सभी कम्पनियों से वसूल करता है जबकि वह खर्च एयर फेयर के तौर पर एक ही बार करता है । मैं चाहता हूं कि डिपार्टमेंट मुझे बताये कि इस तरह की चीजों पर उसने कोई चैक लगाया है या नहीं या इस तरह की चीजें उसके ध्यान में आती है या नहीं आती है । यह एक बड़ा महत्वपूर्ण विषय है और मैं चाहता हूं कि इनकम टैक्स डिपार्टमेंट इस ओर ध्यान दे ।

श्री अ० मु० तारिक (जम्मू तथा काश्मीर) : आनरेबल मेम्बर साहब ने अभी जो बात बतलाई है वह मैं समझता हूं कि इखलाक के खिलाफ ही नहीं है बल्कि एक बहुत बड़ा कानूनी जुर्म भी है । उन्हें चाहिए कि वे ऐसे वाकात गवर्नमेंट के नोटिस में लाएं । एक जगह पर वह जाता है और वहां पर कई मीटिंग्ज एटेंड करता है और सभी से एयर फेयर वसूल कर लेता है, यह एक ऐसा मामला है जिसे कि गवर्नमेंट के नोटिस में उन्हें लाना चाहिए ।

[شری اے - ایم - طارق - آزیبل ممبر صاحب نے ابھی جو بات بتلائی ہے وہ میں سمجھتا ہوں کہ اخلاق کے خلاف ہی نہیں ہے بلکہ ایک بہت بڑا قانونی جرم بھی ہے - انہیں چاہیئے کہ ایسے واقعات گورنمنٹ کے نوٹس

میں لائیں - ایک جگہ پر وہ جاتا ہے اور وہاں پر کئی میٹنگز اٹینڈ کرتا ہے اور سبھی سے ایر فیر وصول کر لیتا ہے تو یہ ایک ایسا معاملہ ہے جسے کہ گورنمنٹ کے نوٹس میں انہیں لانا چاہئے -]

श्री रामसिंह भाई वर्मा : इससे भी ज्यादा भयंकर मामले हैं और बार बार डिपार्टमेंट के सामने आये हैं

उपाध्यक्ष महोदय : आज से बाद आप तारिक साहब के पास भेज दीजिये न ।

श्री रामसिंह भाई वर्मा : अब मैं इनकम टैक्स पर आता हूं । यह कहा गया है कि अमुक आमदनी से ज्यादा जिस की आमदनी होती है, उस पर इनकम टैक्स और सुपर टैक्स लगता है । इस में जो चोरियां होती हैं, उनकी तरफ अब मैं आपका ध्यान दिलाना चाहता हूं । इसके लिए कोई अलग डिपार्टमेंट नहीं बनने वाला है । लेकिन इन चोरियों को रोका जाना चाहिए । इन चोरियों को पकड़ना मेरा धंधा नहीं है, लेकिन अगर डिपार्टमेंट मेरी मदद चाहता है तो मैं चौबीसों घंटे उसकी मदद करने के लिए तैयार हूं । नक्कार खाने में तूती की आवाज कोई सुनने वाला नहीं है । लेकिन इस ओर आपका विशेष ध्यान जाना चाहिए ।

अब प्रिवी पर्स पर जो छूट दी गई है, उसके बारे में मैं कुछ कहना चाहता हूं । यह भी एक महत्वपूर्ण सवाल है । जिन के पास इतनी दौलत है, इतना धन है और जो गरीबों की कमाई का जमा किया हुआ है और जिन से ले कर आज जो धनवान बन गये हैं उन को इनकम टैक्स और सुपर-टैक्स में छूट दी जाये यह मेरे जैसे गरीब आदमी की समझ में नहीं आता है । प्रिवी पर्स पर इनकम टैक्स और सुपर-टैक्स से छूट नहीं मिलनी चाहिए बल्कि मैं कहना चाहता हूं जितना ज्यादा से ज्यादा टैक्स आप उस पर लगा सकें, लगायें ।

डा० मा० श्री० अणे (नागपुर) : मैं माननीय सदस्य से एक क्लेरिफिकेशन चाहता हूं । इनकी स्टेट्स को हम ने ले लिया और उनको लेते वक्त हम ने एक एग्रीमेंट किया था । अब क्या माननीय सदस्य यह चाहते हैं कि इस एग्रीमेंट को तोड़ करके हमें यह चीज करनी चाहिए ।

श्री रामसिंह भाई वर्मा : एग्रीमेंट को तोड़ने का सवाल नहीं है । आपने आज तक कितने ही एग्रीमेंट किये हैं और उनमें से कितने ही बदले हैं । इस एग्रीमेंट को भी बदला जा सकता है । विदेशों से हम धन उधार लेते हैं और उस पर ब्याज भी दे रहे हैं और यह सब हम डिवेलेपमेंट के नाम पर कर रहे हैं, तो देश के डिवेलपमेंट के लिए देश में जिन के पास धन है, काफी दौलत है और जिस पर टैक्स नहीं लगता है और जिन्होंने इस दौलत को गरीबों की कमाई से इकट्ठा किया है, उनसे इस दौलत पर टैक्स क्यों न वसूल किये जायें ।

अब मैं क्लाज ४० (सी) के बारे में कुछ कहना चाहता हूं । बहुत सी कम्पनियों के अन्दर डायरेक्टर, मैनेजिंग डायरेक्टर और उनके रिश्तेदार हैं और वे खर्च करते हैं और उन खर्चों को एक्सपेंडीचर में डाल देते हैं । इस क्लाज में यह कहा गया है कि जो ऐसे खर्च होते हैं उन्हें अगर इनकम टैक्स आफिसर अत्यधिक समझें तो उन खर्चों को उनकी व्यक्तिगत आय में गिन सकते हैं और उन पर इनकम टैक्स और सुपर-टैक्स वसूल कर सकते हैं । इस चीज का वे लोग नाजायज फायदा उठा रहे हैं और इस क्लाज का भी वे नाजायज फायदा उठायेंगे । एक मैनेजिंग डायरेक्टर है या डायरेक्टर है, उसने अगर अपना परमानेंट एड्रेस राजस्थान लिखा रखा है लेकिन अगर उसका कारखाना बम्बई में है और वह बम्बई में कम्पनी के बंगले में

[श्री रामसिंह वर्मा]

रहता है, अपने बालबच्चों को उसमें रखता है, कम्पनी की मोटर यूज़ करता है, कम्पनी का ही वह खरीदा हुआ बंगला है, उसमें बाग़ के अन्दर माली है और सब कुछ है, रसोई है और उसको गैस्ट हाउस का नाम दे दिया गया है तो भी जब यह कहा जाता है कि यह कम्पनी के काम के लिए है तो यह कहां तक मुनासिब बात है और किस तरह से इसको जायज़ एक्सपेंडीचर समझा जा सकता है । मैं समझ सकता हूं अगर कोई आदमी दिल्ली से बम्बई या बम्बई से दिल्ली जाता है कम्पनी के काम के सिलसिले में या किसी खास काम से और फिर उस बंगले में रहता है तो इसको जायज़ एक्सपेंडीचर मान लिया जाए । लेकिन आपको यह भी देखना चाहिये कि कैसा वह काम था और उसको कितने टाइम में पूरा किया जा सकता था । मैंने देखा है ऐसे लोग भी हैं जो हिन्दुस्तान से विदेशों को जाते हैं, सारा खर्च करते हैं और कह देते हैं कि कम्पनी की मशीनरी देखने के लिए गए थे, उद्योग को वहां देखने गए थे, प्राडक्टिविटी वहां की जो है, उसको देखने के लिए गए थे और इस सारे खर्चे को कम्पनी के खर्चे में डाल देते है । इस तरह के जो इनकम टैक्स से बचने के मामले हैं, उनको मैं विभाग के सामने लाना चाहता हूं और चाहता हूं कि वह इन को देखे । इस तरह के जितने भी खर्चे होते हैं वे सारे एक्सपेंडीचर में डाल दिये जाते हैं और अपनी व्यक्तिगत आय में से नहीं किये जाते हैं । आप उनको ५०,००० कमीशन दें या प्राफिट होने पर १० परसेंट दें, यह सवाल आज यहां पर नहीं है, उनके सामने तो सवाल यह रहता है कि मैनेजमेंट हमारे हाथ में कैसे रहे और नाजायज़ तरीके से हम कितना पैदा कर सकते हैं । इस वास्ते यह बड़ा महत्वपूर्ण सवाल है और इस तरफ आपका ध्यान जाना चाहिये । इस धारा में जो अधिकार इनकम-टैक्स आफिसर को दिये गए है कि अगर वह इस तरह के एक्सपेंडीचर को अत्यधिक समझें तो उसको एक्सपेंडीचर में से निकाल दे, ठीक नहीं है और इस सारी की सारी क्लाज़ को इसमें से अलग कर दिया जाए ।

Shri Morarka (Jhunjhunu): So far as clause 40(c) is concerned, it would serve the purpose which the hon. Member is enunciating actually. I do not know why he wants its deletion.

Mr. Deputy-Speaker: He wants the purpose to be served without a clause.

श्री रामसिंह भाई वर्मा : अब मैं क्लाज़ ४० के बारे में कुछ कहना चाहता हूं । इसमें ग्रेचुटी तथा बोनस को टैक्स फ्री किया गया है । इसका मैं हृदय से स्वागत करता हूं । दरअसल में यह एक्सपेंडीचर में आना चाहिये । यूनियन्ज कम्पनियों के साथ कोई एग्रीमेंट करती हैं कि इतने बरस तक श्रमिक काम करेंगे तो उसके बाद जब श्रमिक काम छोड़ कर जायेंगे तो उनको इस दर से ग्रेचुइटी दी जाएगी । दूसरे अगर कोई कम्पनी कुछ बरसों के अन्दर प्रोग्रेस करती है, प्राफिट करती है, उसे इतना बोनस देना चाहिये, यह भी एक बहुत अच्छी चीज़ है । इस सब का हृदय से स्वागत करते हुए भी मैं कहना चाहता हूं कि मेरी समझ में नहीं आया है कि ग्रेचुइटी देने की बात को पन्द्रह साल तक ही क्यों सीमित कर दिया गया है । अगर किसी ने कम्पनी के साथ यह एग्रीमेंट कर रखा है कि बीस साल की सर्विस के बाद या पच्चीस

साल की सर्विस के बाद वह नौकरी छोड़ कर जाता है तो उसे बीस साल की या पच्चीस साल की ग्रेचुअटी मिलेगी तो फिर आप यह प्रतिबन्ध क्यों लगा देते हैं कि पन्द्रह साल से ज्यादा की सर्विस भी अगर हो जाए तो भी पन्द्रह साल में जो ग्रेचुअटी बनती है, वही उसको मिलेगी। बम्बई की इण्डिस्ट्रियल कोर्ट ने एक जजमेंट दिया ग्रेचुअटी के बारे में और कह दिया कि पन्द्रह साल की सर्विस पर ही दी जाए तो इसी को अगर आप मानते हैं तो यह ठीक नहीं है। वहां पर जब दोनों पार्टीज के बीच विवाद उठ खड़ा हुआ और केस उसके सामने गया, उसको रेफर हुआ तो उसने सुलह सफाई कराने के लिए एक को कह दिया इधर जाओ और दूसरे को कह दिया उधर जाओ और पन्द्रह साल उस केस में कर दिया। इस को भी कानूनी रूप देना चाहिए। ग्रेचुअटी के बारे में मैं कहना चाहता हूं कि यह ठीक है कि आम तौर से सबके लिये उसके एक ही रूल्स हैं। सब को इसी आधार पर दी जाती है कि उस पर कोई टैक्स न लगे। लेकिन उसके साथ ही एक छूट दी गई है टैक्स में कि एक्सपेंडीचर में लीगल चार्जेज भी शामिल है। इस सेक्शन के सिलसिले में कम्पनी की बैलेन्स शीट्स को भी फाइनेन्स डिपार्टमेंट को देखने की जरूरत है। कई कम्पनियों की बैलेन्स शीट्स को देखने की जरूरत है कि उन के लीगल चार्जेज की रकम क्या है। मैं मानता हूं कि लीगल चार्जेज पर टैक्स नहीं होना चाहिये, लेकिन उस की मर्यादा क्या है? छोटी छोटी कम्पनियां साल के अन्दर लाखों रुपये का नुकसान करती हैं और ६०,०००, ७० ००० और ८०,००० रु० लीगल चार्जेज का देती हैं। आखिर कौनसी आफत उन पर आ गई है। मैं निवेदन करना चाहता हूं कि कुछ मैनेजिंग डाइरेक्टर्स, डाइरेक्टर्स किन्हीं वकीलों के भाई भतीजे होते हैं या कोई कोई वकील उनके भाई भतीजे होते हैं, जिन की तरफ से यह धन्धा बना लिया गया है। वे कभी भी कम्पनी का केस ले कर कोर्ट नहीं जाते हैं। मैं ऐसे ऐसे वकीलों के दाखिले बतला सकता हूं जिन की यह हालत है लेकिन किसी को २००, किसी को २५०, किसी को ३००, किसी को ४०० और ५०० रु० मासिक मिल रहे हैं, और यह भी आज से नहीं, दस दस सालों से बंधे हुए हैं। यह कम्पनियों पर अतिरिक्त बोझा.....

पं० उमा० प्र० ज्योतिषी (सागर): मजदूरों को पैसा नहीं देना पड़ेगा।

श्री रामसिंह भाई वर्मा: मजदूरों की बात छोड़िये, हम उन को समझा लेंगे। मजदूरों के पैसे के बारे में यह हालत नहीं है, वे अब अपने अधिकारों को समझने लगे हैं। लेकिन जिन के पास पहनने के लिये लंगोटी नहीं है, उनसे वह पैसा वसूल किया जाता है जिसमें से कि ३००, ४०० रु० मासिक कम्पनियों से लीगल चार्जेज के रूप में मिल रहा है। इसलिये मेरा निवेदन है कि इसमें सरमीम होनी चाहिये कि लीगल चार्जेज किस हद तक होंगे? अथारिटीज को यह अधिकार दिया जाना चाहिए कि वे एग्जामिन करें कि कौनसा केस किस तरह का है और अगर सही मानों में लीगल चार्जेज देने पड़ते हैं तो भी इनकम टैक्स से कैसे छूट मिल सकती है। इनकम टैक्स तो कम से कम देना चाहिये। छूट इसलिये दी गई है कि मजदूरों को पैसा न देना पड़े। अगर डिप्रिसिएशन निकाला है, डिप्रिसिएशन रिबेट निकाला हुआ है, और अगर किसी तरह से उसे न निकाला जा सके तो कम से कम इनकम टैक्स से छूट निकालने की कोशिश की जाती है। मैं जानता हूं कि अमुक अमुक कम्पनियों ने ऐसे वकील रक्खे हुए हैं जो कम्पनियों का काम नहीं करते हैं, लेकिन सिर्फ लड़ाई झगड़ा कराने का काम करते हैं। यह खर्च कम्पनियों से क्यों लिया जाता है? लड़ाई झगड़ा इस तरह से करवाने

[श्री राम सिंह भाई वर्मा]

हैं कि मान लीजिये उन्होंने एक चैम्बर्स आफ कामर्स बना लिया, और कोई भी कानून लेजिस्लेटिव असेम्बली में आता है जिसमें कि मजदूरों को कोई चीज दी जाती है तो ये इस तरह की पब्लिक ओपीनियन बनाने की कोशिश करते कि अगर यह बिल कानून का रूप धारण कर लेगा तो सत्यानाश हो जायेगा, सारे कारखाने बन्द हो जायेंगे । इतना ही नहीं वे यह भी कोशिश करते हैं कि उस बिल के लिये राष्ट्रपति की स्वीकृति न मिले या होम मिनिस्ट्री उस पर ध्यान न दे । यही उनका धंधा होता है । क्या अदरवाइज यह उस कम्पनी का काम है ? बिल्कुल नहीं । अब मैं आप से निवेदन करूं कि बीड़ी मजदूरों का सवाल आता है । मध्य प्रदेश में एक कानून बनाया गया कि बीड़ी मजदूरों की मिनिमम वेज यह होनी चाहिये । जब उन्होंने यह देखा कि यह कानून बनेगा, और पैसा पीछे से देना होगा तो उन्होंने अधिकारियों और राष्ट्रपति से मुलाकात की । जिस से यह कानून न बन पायें और उन को पहले का पैसा मजदूरों को न देना पड़े । मैं निवेदन करना चाहता हूं कि आखिर बीड़ी मजदूरों से टैक्स टाइल मिल वालों का क्या लेना देना ? इस तरह से कारखानों का सारा पैसा खर्च हो रहा है । इसलिये लीगल चार्जेज के सम्बन्ध में बहुत ध्यान देने की जरूरत है । मेरे पास बैलेन्स शीट्स हैं । मैं इसमें लिखा बतला सकता हूं कि छोटे कारखाने में लीगल चार्जेज आते हैं ७०,००० रु० । आखिर यह किस बात के हैं ? ये प्राफिट भी नहीं करते हैं इतना ।

पं० उमा० प्र० ज्योतिषी : चुनाव का खर्च भी कम्पनी के खाते में शामिल होता है ।

श्री रामसिंह भाई वर्मा : मैं यहां चुनाव को डिस्कस नहीं कर रहा हूं । मैं तो इस साल की बात कर रहा हूं । यह कोई ५० या ६० सागर का मामला थोड़े ही है ।

इसके बाद मैं आता हूं लिक्विडेशन के मामले पर । कम्पनी पर जो टैक्स बाकी है उसकी जवाबदेही कानून के अनुसार डाइरेक्टर्स पर डाली गई है । मैं समझता हूं कि इस कानून के द्वारा अगर कोई सबसे बड़ा काम किया गया है तो यह किया गया है । इसमें अगर कोई नई चीज जोड़ी गई है तो वह यह है । पहले तो ऐसा होता था कि अगर कोई भी कम्पनी लिक्विडेशन में जाती थी तो खुद डाइरेक्टर्स यह चाहते थे, मैनेजिंग डाइरेक्टर्स चाहते थे कि लिक्विडेशन जल्दी हो जाय और इसके लिये ये नये नये तरीके सोचा करते हैं क्योंकि उनको लीगल चार्जेज की छूट मिलती है । अब सरकारी टैक्स लिक्विडेशन के बाद मांगा जायगा । ठीक है । कम्पनी ऐक्ट के अनुसार पहले जो भी चार्जेज होंगे उनको बैंक पहले अदा करेगा । अब डाइरेक्टरों के सामने यह विचार होगा कि अगर उन्होंने कारखाना बन्द किया और लिक्विडेशन हुआ तो पहले टैक्स चुकाया जाये, अगर उन्होंने ऐसा नहीं किया तो यह उनकी व्यक्तिगत जायदाद से वसूल किया जायेगा ।

लेकिन इसके साथ ही मैं यह निवेदन करना चाहता हूं कि गवर्नमेंट ने तो अपने टैक्स की रकम वसूल कर ली, पर उसमें काम करने वाले जो श्रमिक हैं उनको इस कानून से क्या लाभ होगा ? मैनेजमेंट पर उनको आज विश्वास नहीं रहा है । आज मजदूरों को विश्वास नहीं है कि जो काम करते हैं वे लोग, उसका पैसा भी समय पर मिलेगा या नहीं । ऐसी कितनी ही कम्पनियां है जिनमें लोग तीन तीन सालों से काम कर रहे हैं लेकिन पैसा थोड़ा पा रहे हैं । उन पर पेमेण्ट आफ वेजज ऐक्ट लागू नहीं होता है । ये बहुत से काम

करा लेते हैं और पैसा नहीं देते हैं। लेकिन आज जो कानून बनाया गया है उस के अनुसार जहां पर ५० मजदूर काम करते हैं या इससे अधिक काम करते हैं उन पर पमेण्ट आफ वेजेज ऐक्ट लागू होगा। अगर कारखाने लिक्विडेशन पर जायेंगे तो सरकार अपना टैक्स डाइरेक्टर्स से वसूल कर लेगी। लेकिन मैं मानता हूं कि सबसे पहले चार्जेज जो मजदूर कारखाने में काम करते हैं उनके सम्बन्ध में होना चाहिये। जो आदमी कारखाने में काम कर रहे है जहां पर कि ढाई या तीन सौ मजदूर काम करते हैं, यहां पर महीना खत्म होने के बाद दस दिन के अन्दर सारा वेतन चुका देना चाहिये। कुछ कम्पनियां ऐसी हैं जो कि इल्लीगल हैं लेकिन कारखाना लिक्विडेशन में चला जाता है। तब इस की जिम्मेदारी गवर्नमेंट क्यों नहीं लेती कि गवर्नमेंट के टैक्स के साथ साथ मजदूरों की ग्रेचुइटी, बोनस और रिट्रेंचमेंट बोनस की रकम जो बाकी है, वह जिन लोगों ने ईमानदारी से उस कारखाने में काम किया है उनको चुकाई जाय ? इस बिल के अन्दर यह गुंजाइश भी है कि अगर कारखाना लिक्विडेशन में जाय तो टैक्स की वसूली के साथ साथ मजदूरों का वेतन, उनकी मेहनत की जो भी रकम बकाया पड़ी हो, वह भी डाइरेक्टर्स से वसूल की जाय।

इससे अधिक मैं कुछ नहीं कहना चाहता हूं। मैं इस बिल का स्वागत करता हूं।

श्री रामकृष्ण गुप्त : उपाध्यक्ष महोदय, सिलेक्ट कमेटी ने जो रिपोर्ट पेश की है इस बिल के बारे में, उस के लिये मैं चन्द सुझाव हाउस के सामने रखना चाहता हूं क्योंकि मैं समझता हूं कि उन बातों पर विचार करना बहुत जरूरी है।

यह ठीक है कि एक कम्प्रीहेंसिव इनकम-टैक्स बिल बनाने की जरूरत थी और वह आज तैयार हो कर हाउस के सामने पेश किया गया है। मैं चाहता हूं कि इस बिल के पास होने से पहले चन्द जरूरी बातें रखूं ताकि उन पर भी विचार हो जाए।

सबसे पहले मैं हाउस का ध्यान इस बिल के क्लाज २ सब-क्लाज ४४ की तरफ दिलाना चाहता हूं जिसके अन्दर टैक्स रिकवरी आफिसर को डिफाइन किया गया है। जिन भाइयों ने डाइरेक्ट टैक्सेशन एन्क्वायरी कमेटी की रिपोर्ट पढ़ी है उनको मालूम होगा और इनकम टैक्स एन्क्वायरी कमीशन की तरफ से जो रिपोर्टें पेश होती हैं उनमें यह जिक्र किया गया है कि जो यह एरियर की बहुत ज्यादा रकम बढ़ती जा रही है उसका मुख्य कारण यह है कि टैक्स रिकवरी करने वाले आफिसर ज्यादातर स्टेट के होते है। उनकी तमाम जिम्मेदारी कलक्टर, या डिप्टी कमिश्नर या तहसीलदार पर डाली जाती है। ये आफिसर स्टेट रेवेन्यू की वसूली की तरफ बहुत ज्यादा ध्यान देते हैं और इनकम टैक्स की रिकवरी के लिए उतनी कोशिश नहीं करते। ज्वाइंट कमेटी को चाहिए था कि इस बात पर विचार करती। इस बिल में जो टैक्स रिकवरी आफिसर की डेफीनीशन की गयी है उसमें यह तमाम ताकत कलक्टर और स्टेट आफिसर्स को दी गयी है मैं चाहता हूं कि इस तारीफ को बदला जाए और टैक्स रिकवरी के लिए इनकम टैक्स का महकमा और आफिसरों की तरह इन को भी डाइरेक्ट मुकर्रर करे ताकि टैक्स की रिकवरी में देरी न हो और एरियर्स की जो रकम है वह कम हो।

दूसरी बात जो मैं हाउस के सामने रखना चाहता हूं वह चैरिटेबिल ट्रस्ट्स की इनकम के बारे में है। इस बिल के क्लासेज ११,१२ और १३ इस मामले को डील करते हैं। इसके बारे में एक छोटा सा सुझाव हाउस के सामने रखना चाहता हूं। जो ट्रस्ट इस बिल के लागू होने से पहले के बने हुए हैं उनको कुछ एग्जेम्प्शन

[श्री राम कृष्ण गुप्त]

दिए गए हैं । उन पर नए रेस्ट्रिक्शन्स नहीं लगाए गये हैं । मैं समझता हूं कि यह गलत है । जो ट्रस्ट पहले के बने हुए हैं उनमें भी कई ऐसे हैं जिनका इन्तिजाम अच्छा नहीं है और जिनकी रकम मिसयूज की जाती है । इसलिए मेरी तजवीज है कि जो नई पाबन्दियां हैं वे उन पर भी लागू की जाएं ।

इसके बाद मेरी तीसरी तजवीज डिसक्लोजर आफ इनफार्मेशन के बारे में है । यह मामला भी कई दफा हाउस के सामने आया है । इस बिल के अन्दर सेक्शन १३७ इस बात से डील करता है । मझे बड़े दुख के साथ कहना पड़ता है कि जो पुराने ऐक्ट के अन्दर डिसक्लोजर पर पाबन्दी थी उसको इसमें भी रखा गया है । यह ठीक है कि क्लाज १३८ के द्वारा इसके बारे में इनफारमेशन हासिल की जा सकती है । मैं समझता हूं कि इसका सबसे बेहतरीन तरीका यह था कि इस क्लाज को बिल्कुल डिलीट किया जाता । जो आम कानून बनाए जाते है उनके अन्दर जब इनफारमेशन मालूम करने के लिए या डिसक्लोज करने के लिए कोई पाबन्दी नही है तो इनकम टैक्स बिल में ऐसी पाबन्दी क्यों रखी जाए ।

जैसा कि आपको याद है, हमारा जो पुराना कानून था वह उस जमाने के मुताबिक बना हुआ था । जो उस वक्त का रेजीम था वह इस बात को नहीं चाहता था कि जिनसे टैक्सेज वसूल किए जाते हैं, जिनकी तरफ एरियर्स हैं, उनके नाम पब्लिक के सामने आएं । इसलिए मैं कहना चाहता हूं कि अगर आप इनकम टैक्स के एरियर्स को रोकना चाहते हैं, अगर आप टैक्स इवेजन को रोकना चाहते हैं, तो इसका सबसे बेहतरीन तरीका यही है कि इस बिल के अन्दर तो यह क्लाज १३७ है उसको बिल्कुल डिलीट कर दिया जाए, और इस किस्म की कोई पाबन्दी आफिसर्स पर या गवर्नमेंट पर नहीं होनी चाहिए कि इसके बारे में जो इनफारमेशन मालूम करना चाहें उसे मालूम न कर सकें ।

यह ठीक है कि क्लाज १३८ के जरिए जो कोई चाहे मालूम कर सकता है, लेकिन मैं आपसे पूछना चाहता हूं कि इस बात की किसको जरूरत पड़ी है, कौन इन तमाम डिटेल्स के अन्दर जाने की कोशिश करेगा । इसका तो सबसे बेहतरीन तरीका यह था कि यह जो सेक्शन था पुराने ऐक्ट में ५७ इसको इस नए बिल के जरिए डिलीट कर दिया जाता ।

इसके बाद मैं हाउस का ध्यान क्लाज १४२ की तरफ दिलाना चाहता हूं । क्लाज १४२ के अन्दर यह कहा गया है कि असेसमेंट के मुताल्लिक इनकमटैक्स आफिसर एन्क्वायरी कर सकता है, लेकिन इसके बारे में उसको जितनी पावर्स देनी चाहिए थीं वे नहीं दी गयी । जो सालाना इनकम टैक्स इनवैस्टीगेशन कमीशन रिपोर्ट करता है उसमें भी बार-बार इस बात का जिक्र किया गया है कि इनकमटैक्स आफिसर्स की पावर्स बहुत लिमिटेड हैं । वह बैंकों के हिसाब-किताब को मालूम नहीं कर सकते । मैं चाहता था कि इस नए बिल के जरिए उन तमाम आफिसर्स को यह तमाम ताकत दी जाती । क्योंकि कमीशन की रिपोर्ट में यह साफ तौर पर कहा गया है कि हिन्दुस्तान के अन्दर जो टैक्सों की चोरी होती है उसका सबसे बड़ा कारण यह है कि बड़े-बड़े बैंक उन्हीं लोगों के हाथ में हैं जो कि टैक्स को इवेड करते हैं । वे फिक्टीशस नामों से उन बैंकों में अपनी रकम जमा करते हैं । लेकिन आपके आफिसर्स को कोई पावर्स नहीं है कि उन बैंकों का हिसाब-किताब चैक कर सकें । इसलिए मैं चाहता हूं कि इस क्लाज को अमेंड किया जाए और यह तमाम ताकत उनको दी जाएं ताकि वह इनकमटैक्स मालूम करने के लिए, बड़े-बड़े लोगों की सही इनकम का अन्दाजा लगाने के लिए, बैंकों से जो भी

इनफारमेशन लेना चाहें, उनके एकाउंट को जिस तरीके से भी चैक करना चाहें कर सकें। अगर ऐसा नहीं किया जाएगा तो जिस मकसद से यह बिल पेश किया गया है वह पूरा नहीं होगा। मैं समझता हूं कि इस बिल को लाने का जहां हमारा मकसद पुराने ऐक्ट को सिम्पिल करना है, वहां इस बिल को लाने का सबसे बड़ा मकसद यह भी है कि टैक्स इवेजन को रोका जाए और एरियर्स की वसूली की जाए।

आपको शायद याद होगा कि एरियर्स की रकम कितनी बढ़ती जा रही है। इसलिए मैं कहना चाहता हूं कि अगर आप सही तौर पर इनकम मालूम करना चाहते हैं तो उसके लिए आपको बैंक के मामले में भी ध्यान देना पड़ेगा, और आफिसर्स को यह अख्तियारात देने पड़ेंगे कि वह इसके मुताल्लिक पूरी जांच कर सकें, तहकीकात कर सकें और सही इनकम का अन्दाजा लगा सकें।

इसके बाद मैं यह भी हाउस के सामने रखना चाहता हूं, जैसा मैं ने पहले कहा, कि हमारा सबसे बड़ा मकसद यह है कि एरियर्स कम हों, उनकी वसूली हो, और जो ज्यादा पुराने हैं उनको ज्यादा से ज्यादा वसूल किया जाए।

इसके मुताल्लिक जो पेनाल्टी मुकर्रर की गयी है वह मैं समझता हूं कि बहुत कम है, और फिर दूसरी बात सबसे ज्यादा दुःख की यह है कि उसको बहुत कम यूज किया गया है। इस सिलसिले में मैं हाउस के सामने फैक्ट्स और फिगर्स भी रखना चाहता हूं। सन् १९५८-५९ में २७१ करोड़ ६० लाख रुपया एरियर्स की रकम थी और जिस रकम के ऊपर पेनाल्टी लगायी गयी उसकी तादाद सिर्फ १ करोड़ ८१ लाख है। इससे आप अन्दाजा लगा सकते हैं कि पेनाल्टी के क्लाज को कितना कम यूज किया गया है, इस तरीके से जो टैक्सेज का एरियर है या जो टैक्सों का इवेजन है उसको रोका नहीं जा सकता।

इसके साथ-साथ मैं हाउस का ध्यान क्लाज २७०, २७१, २७२ और २७३ की तरफ भी दिलाना चाहता हूं। इन क्लाजेज को देखने से पता चलेगा कि अगर कोई आदमी इनकम टैक्स को इवेड करे तो आप उससे ज्यादा से ज्यादा डेढ़ गुना वसूल कर सकते हैं। मैं समझता हूं कि यह बहुत कम है। अमरीका के अन्दर जो कि आज एक कैपीटलिस्ट मुल्क कहा जाता है, दस और बारह से लेकर बीस गुना बतौर पेनाल्टी के वसूल किया जाता है जो इनकम टैक्स की एरियर हो उसका। आपने जो सिर्फ डेढ़ गुने की पाबन्दी लगायी है वह मैं समझता हूं बहुत कम है। ऐसा करने से इनकम टैक्स का इवेजन रुक नहीं सकता। इसलिए मैं चाहता हूं कि इस क्लाज २७३ को भी अमेंड किया जाए, और कम से कम दस गुनी पेनाल्टी जरूर रखी जाए।

इसके साथ-साथ जो सजाएं दी जाएं वे कड़ी सजाएं दी जाएं ताकि टैक्सेज की चोरी कम हो।

ये चन्द तजवीजें मैंने हाउस के सामने इसलिए रखी हैं कि जो एरियर्स की रकम है वह वसूल की जाए और उसके साथ-साथ आइन्दा टैक्स इवेजन कम हो। आप समझते हैं कि टैक्स आज के जमाने का एक बहुत अहम मसला बन गया है। थर्ड फाइव-ईयर प्लान में भी इस बात का जिक्र किया गया है कि नये टैक्स लगाये जायेंगे। मैं समझता हूं कि अगर हम एरियर्स को वसूल करने में कामयाब हो जायें—एरियर्स के अलावा बहुत से ऐसे केसिज हैं, जो ट्रेस नहीं हो सकते, अगर हम उन का पता लगाने में कामयाब हो जायें, तो शायद हमें नये टैक्स लगाने की बहुत कम जरूरत पड़े। इस लिये इस तरफ सब से ज्यादा ध्यान देने की जरूरत है।

15 hrs.

आखिर में मैं हाउस का ध्यान क्लाज २९७ की तरफ दिलाना चाहता हूं, जो कि रिपील्ड एंड सेविंग्ज को डील करती है।

[श्री राम कृष्ण गुप्त]

उस में ऐसी कोई सब-क्लाज़ नहीं है, जिस के ज़रिये पुराने एरियर्ज़ पर इन्ट्रेस्ट लगाया जा सके । मैं समझता हूं कियह भी बहुत ज़रूरी है । अगर गवर्नमेंट उन एरियर्ज़ की रकम को वसूल करना चाहती है, जो कि अब ३०० करोड़ रुपये के करीब हो गई है, तो उस को इस बिल में ऐसी क्लाज़ दाखिल करनी पड़ेगी, ताकि पिछले एरियर्ज़ की रकम पर भी इन्ट्रेस्ट लग सके । वह रकम इस तरह से आसानी से वसूल हो सकती है ।

जो चन्द तजवीज़ें मैंने रखी हैं, मझे पूरा विश्वास है कि उन पर विचार किया जाएगा और गवर्नमेंट की तरफ से उन बातों को स्वीकार किया जायेगा, ताकि टैक्सिज़ की चोरी कम हो और एरियर्ज़ की रकम आसानी से और जल्दी से वसूल की जा सके ।

Shri Amjad Ali (Dhubri): Mr. Deputy-Speaker, this Bill is being discussed after the Select Committee has submitted its report and the Select Committee report is under discussion. It is a welcome measure. One redeeming feature of this Bill is that it has cut across party lines. It has not been objected to by any party on any occasion on party lines. Whenever a point came up for discussion, it was agreed to by all the parties after being discussed. That is the redeeming part of the whole thing.

It has also to be noticed that a lot of flexibility in all stages was agreed upon. The Finance Minister had, at more stages than one, announced that we are going to alter the provisions of the law till the last moment. That of course has created some amount of confusion as it has got its own ugly features also. I shall give only one example of it to illustrate it. The Bill, when it was presented, started with an Explanation to Clause 11.

Explanation—

"In this section "property" does not include business."

As a matter of fact, when the Select Committee reported the same Explanation emerged as under:

Explanation—

"For the purposes of this section, "property" includes business undertaking."

After the Select Committee has reported and the Bill was coming before the House, the Government has come with another Explanation. That is in the form of sub-clause (4) to clause 11. Here it says:

"For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the Income-tax Officer shall have power to determine the income of such undertaking in accordance with the provision of this Act relating to assessment;

"and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes and accordingly chargeable to tax within the meaning of sub-section (3)".

I have a fear that by the insertion of this just at the fag end, which has come as an afterthought, will give a very large handle to the Income-tax Officers to open and objective to accounts which otherwise they would not have. This particular sub-clause (4) will give the Income-tax Officer unnecessary powers to go into the question of expenses of the charitable trusts. For the matter of that, expenses are the concern of the charitable trusts themselves. Till now, it has not been done. Till now, the mode of expenditure was not questioned. Now, under this sub-clause,

it will be open to the Income-tax officers to go into the accounts of the business undertaking of the charitable trust and this will create complications. That is my fear. Even at this stage, I appeal to the Minister to see reason that the Explanation which has been given on page 22 to sub-clause (3) can be retained, that is,

Explanation—

"For the purposes of this section, "property" includes business undertaking."

I want that this amendment which has been proposed by the Government to be dropped and be not pushed.

It was suggested in the Law Commission's report that the law should be made simpler or given a more simplified form by a Simple tax-Structure. As a matter of fact, the Law Commission, in its report on page 2, para 9 says:

"We would like to say at the outset that there can be no real simplification of the Income-tax law without a simplification of the tax structure. As this was beyond the purview of our work, our task of simplification has been greatly hampered."

They say:

"We have examined the Income-tax Acts of other countries to study the scheme of arrangement of the sections and the manner in which analogous provisions have been drafted in those Acts. We have derived considerable help from them. We wish the Indian Legislature would simplify the tax-Structure of this country on the lines adopted by some other progressive countries."

The Law Commission has also gone into this question in detail and into the statutes obtaining in other countries like Canada, Australia, etc. They had in their minds, when they were framing these proposals all the recent tax statutes enacted in India such as the Estate Duty Act, the Wealth Tax Act, the Expenditure Tax Act and the Gift Tax Act. They had examined the statutes and they had the provisions of these statutes in framing their proposals. I find, the reference to the Law Commission on this point was rather limited and restricted. So, they could not go into this question. As a matter of fact, several persons who came to give evidence before the Select Committee also had opined that a simplification of the tax structure could have been done and it could be done both to the advantage of the Income-tax department and the assessees. The assssee should know where he stands. Here, I have got in my hand a notice given by a company, and a very eminent company in India, namely the Tata Iron and Steel Co. Ltd.; it is a notice issued to the preference shareholders of the company. At page 10 of the Annexure to the Notice, they have stated:

"If the correct interpretation of sub-clause (3) of section 3 of the 1960 Act is that the Company should add 11 per cent to the stipulated rate of dividend and deduct the Company's tax from the dividend payable on its preference shares, the proposed modifications entail a measure of sacrifice on the part of the ordinary shareholders as the additional amount expended in payment of dividends on the three classes of preference shares, if the deduction of the Company income-tax is not made, will amount to approximately Rs. 9·5 lakhs per year. This amount will come out of the general profits of the Company and therefore out of the profits belonging to the equity shareholders. However, the change in the system of taxation brought about by the measures referred to in paragraph 2 above resulted in certain compensating benefits to

[Shri Amjad Ali]

the equity shareholders of the Company . . . ."

Here, they say that in spite of the fact that they have got efficient lawyers and solicitors, they have not been able to gather the actual meaning of the tax which they have got to pay on this account. How uncertain the position is.

Next, I come to two other important clauses. I think these have been referred to already by my hon. friend Shri Naushir Bharucha and also alluded to by my hon. friend Shri M. R. Masani. The first important clause to which I want to refer is clause 88 (5)(iii), which reads thus:

> "the institution or fund is not expressed to be for the benefit of any particular *race*, religious community or *caste*;".

Then, again, if you turn backwards to page 23, under clause 13(b)(i) you will find the following wording:

> "if the trust or institution is created or established for the benefit of any particular, race, religious community or caste; or".

This provision has been newly inserted. I am afraid that there is one danger here. Probably, this has been inserted in the name of emotional integration, as they call it.

Under section 15-B of the present Income-tax Act, one of the various conditions laid down for claiming exemption for donations to charitable institutions is that the fund should not be expressed to be for the benefit of a 'particular religious community'. But, under clause 88(5) of the Income-tax Bill now before us, the words are sought to be replaced by 'particular race, religious community or caste'. The addition of the words 'race' and 'caste' is bound to create great difficulties and confusion to the Income-tax Department as well as to the assessee claiming the exemption.

As for the interpretation of these words, I have looked into the Oxford Dictionary, and I find that the word 'race' is an ambiguous word, without any definite or clear meaning. According to the *Concise Oxford Dictionary*, it means:

> "Tribe or nation regarded as of common stock.".

According to *Encyclopaedia Britannica*, the whole humanity itself is a race and this whole body may be further subdivided on the basis of limitless factors, *e.g.*, cranial form, colour groups, stature and nose form, hair form, place of origin, religion, profession etc. etc. In India, we have various groups like Aryans, Dravidians, Mongolians etc. etc., and in their present state it is not possible to say as to what group formed a particular race. The word 'caste' also places us in another difficulty. According to the *Concise Oxford Dictionary*, it means:

> "Indian hereditary class, with members socially equal, united in religion and usually following the same trade.".

In *Encylopaedia Britannica*, it is explained that in the literature of social sciences, no word was so misused and misinterpreted as the word 'caste'. The truth of the matter is that no sociological entities have been discovered in Hindu India which were sufficiently alike in all their characteristics or sufficiently uniform or homogeneous in composition to justify being classed together under the label 'Caste' used as a noun.

So, rather than replace the wordings 'any particular religious community' by the words 'race' and 'caste' etc. they may be better left as they are.

There are other conditions namely that regular accounts of the receipts

and expenditure of the funds should be maintained and the fund should be constituted as the public charitable trust as well as registered under the Societies Registration Act. These are also quite effective limitations.

Many social welfare activities are being undertaken by private charitable institutions. They may be known under any particular label, that does not matter. So long as they give the benefit to the public or to a section of the public, it does not matter under what label they come. It has been stated very well by my hon. friend Shri M. R. Masani that charity begins at home. So, if a trust or even an institution thinks that a particular community should get the benefit out of the trust or the institution, they should not be debarred from doing it, and if a gentleman gives a donation in the name of a particular caste, he should not be discouraged. Let it come under any label, but the idea of discouraging such charity by the addition of the words 'particular race, caste' etc. should not be there, to avoid confusion and difficulties to the Department as well as to the assessee. So, these words may be deleted.

The Minister of Finance while explaining clause 6 of the Bill has also tried to explain another thing. He has stated that the Committee did feel that while there was no case for continuing the double advantage with regard to tax liability which this category of persons have been enjoying so far, they should be treated more as non-residents rather than as residents, and he has stated that in order to eliminate the possibility of persons visiting India for a very brief period being regarded as resident, the tests relating to residents have been liberalised.

In this connection, a good deal of discussion has taken place. I would refer the Ministry to the attempt which has been made by the Tyagi Committee in their report at page 61 in paragraph 397. I think that will benefit us. I think that it was mentioned at the evidence stage also that if they could be defined as "business connections", that would facilitate taxing the persons whom we would like to tax on their visit to India.

My last point is about clause 252, relating to the constitution of the appellate tribunal. Sub-clause (1) of this clause reads:

> "The Central Government shall constitute an Appellate Tribunal consisting of as many judicial and accountant members as it thinks fit to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act.". Under sub-clause (3), Government want to recruit also from amongst persons who are otherwise qualified, on account of their having been in the profession for ten years. I want to extend this to the Department also, because in the department also there may be persons who may be equally qualified and experienced to be taken in and suitable for recruitment.

So on the whole, I welcome this Bill. It is a healthy law. Nothing better could be expected of an adjectival law on which so much attention has been given. Our public men from all sides, and even people from Africa, came to give us advice on this Bill. I welcome this Bill.

Shri Heda (Nizamabad): The Select Committee has done a very good job, studied the matter thoroughly and improved the Bill so that it has become more presentable. The picture that has now emerged is clearer than it was at an earlier stage.

However, I would like to offer my comments on three or four clauses. Clause 2 is very important. I would refer to two items under that clause. In clause 2(22), an inclusive definition of the word 'divided' has been given. This is a definite improve-

[Shri Heda]

ment. Therefore, the matter would be dealt with in a more judicious and better way then hitherto. However, this subject is such a difficult one that it is not so easy to make any definition a perfect one. From this angle, there is a lacuna even in this definition which is no doubt a very good improvement upon the earlier definition.

In sub-clause (e) of this subclause, any payment of any sum by way of advance or loan to a shareholder or any payment on behalf of, or for the individual benefit of any such holder is deemed to be included in the word 'dividend'. The language of this sub-clause is not very happy. Cases have arisen where the department has assessed a shareholder, who is a partner of a firm, and where the firm acts as financier to such company. Where, at any time during the course of the previous year in a current mutual account between the company and the firm a credit appears in favour of the company, even though the account may subsequently turn into a debit against the company, that is, the amount is wiped out by payment of such credit as the company has in the same account taken loan subsequently, the Income Tax Officer has treated the credit as distribution of dividend to the shareholder who is a partner in the firm. I think in this case this definition works very excessively and harshly. This cannot be the intention of this sub-clause. Unless an amount by way of advance or loan remains outstanding at the end of the year and particularly on the date the company distributes dividend, such temporary advances of loans could not be deemed to be the distribution of a dividend to a shareholder. One has to make this type of financial arrangements when one is in charge of the affairs of a company.

Further, if the advance or loan is to a firm, an association of persons of a Hindu Undivided Family, and on the registers of the firm, the partner or the member in his individual capacity is the shareholder, then in such a case, an advance or loan made to the firm, the association of persons or the Hindu Undivided Family cannot be termed as advance to the partner or the member. Further, the language is unhappy in other respects also. In the case of payment to a shareholder, unless it is an advance or loan, it cannot be treated as a distribution of dividend to him while where the payment is on behalf of or for the individual benefit of any such shareholder, the word is 'any payment' and not 'any payment by way of advance or loan'. The words 'on behalf of' or 'for the individual benefit' connote payment not to the shareholder himself but to some other person but it must be on behalf of such shareholder or it must be for his individual benefit. It could not be the intention of the framers of this clause that a payment direct to the shareholder is restricted in its scope while a payment to a third person on his behalf has a wider scope. Therefore, this clause needs a slight modification and I do hope Government will reconsider this and come forward themselves with a suitable amendment.

Then I come to clause 2(15). The Select Committee has suggested that the words 'not involving the carrying on of any activity for profit' should be added. If we look at the language of clauses 11 and 12 of the Bill, it will appear that in the Explanation to clause 11, the word 'property' is stated as not to include business while in clause 12 any income derived from business carried on by or on behalf of a trust for charitable or religious purposes will be exempt from tax, subject to the conditions subsequently stated. The Select Committee, in the Explanation to clause 11 has made the word 'property' to include a business undertaking so that a trust of a running business or religious or charitable purposes is permissible so as to exclude its income from being

taxable. Now, clause 12 which exempted the income from business carried on by the trust and by the institutions for charitable or religious purposes does not exist. In its place, only sub-clause (3) of clause 12 appears together with an additional sub-clause (2).

Therefore, the effect of this amendment in sub-clause (15) of clause 2 is that any business involving the carrying on of any activity for profit cannot be made the subject matter of a trust for charitable purposes if the object of the charitable purpose includes the relief of poor etc. Does it mean that after a property is made the subject matter of a trust for such purposes and is not business, can the trust later on start carrying on business or earning profits to be utilised for such purposes? There is no point in restricting the word 'property' to property other than business where one of the objects of the trust is the relief of poor etc. A person may have only business and he wants to make a trust for the relief of the poor etc. In such a case, he will be debarred from making the trust. In my opinion, such a restriction should not be levied.

Then I come to clause 54 in which the purchasing of a 'new property' for the purposes of his own residence is only contemplated. The words 'new property' are ambiguous. Why not a purchase of any property for purposes of his own residence? A person may find an old house situated in a locality not suitable to his requirements to be sold and purchase another property which has been constructed by some other person either only recently or some years back. Then why should he not get the benefit of this clause as he would get if he purchases a new property?

The words 'new property' are also ambiguous in another sense. A person may construct a house and use it only for a few months or even for a day. Can it be said to be a new property? It cannot be. Then it would mean that he would be precluded from purchasing it. Further, the purchase of such property should be at par with the construction of a new house so that if the owner either purchases another property or constructs a new house, he will be entitled to the benefit contemplated in clause 54. Many times it so happens that one is not very intelligent in the construction of the house. Instead of purchasing a vacant plot and then constructing a house himself, he would like to purchase a constructed house on a suitable plot. In that case, he does not get the benefit of this clause. Therefore, the words 'new property' may be suitably amended.

Lastly I come to clause 271. No person shall be qualified to represent an assessee in case in his own assessment a penalty has been imposed for concealing the particulars of his income or deliberately furnishing inaccurate particulars of his income. Does this suggestion apply to legal practitioners and advocates appearing on behalf of an assessee? This is a very moot point. From this angle, the class of legal practitioners are agitated. In the case of advocates whose conduct is governed by the Bar Councils Act, will a matter relating to his own assessment debar him from carrying on his profession? It may be that in a particular case the Income-Tax Officer wrongly holds that the advocate is guilty of concealing the particulars of his income deliberately furnishing inaccurate particulars of such income and a penalty is imposed. Immediately such an order is passed, the advocate will be debarred from practising or representing an assessee. If otherwise qualified to appear in other cases, why debar him from appearing in cases of the assessee? Further, this order imposing penalty may be taken to be a finding of misconduct on the part of the advocate and a question may then arise whether he would be debarred from carrying on his profession altogether. This suggestion of the Select Committee needs reconsideration and in my

[Shri Heda]

opinion the clause needs suitable change. The legal profession should be protected and they should be allowed to represent the assessees even though there might be complaints against their assessment of incomes.

With these few suggestions I again commend this Bill and would like to congratulate the Select Committee for the hard labour that they have put in and bringing the Bill in a presentable form.

Dr. Sushila Nayar (Jhansi): Mr. Deputy-Speaker, Sir, I thank you for this opportunity to participate in the general debate on the Income-tax Bill. Sir, I wish to congratulate the Finance Minister for the very excellent amendments that have been proposed in this Bill. One of the most important amendments, from my point of view, is the control that has been for the first time put on charitable trusts. Up till now, there were several charitable trusts which never spent their money on charitable purposes. They went on accumulating their capital from year to year. From now on they will have to spend 75 per cent of their income in that very year on charitable purposes. It is a very healthy provision.

Shri Naushir Bharucha: Whether required or not?

Dr. Sushila Nayar: Twenty-five per cent they can accumulate. They will have to spend the 75 per cent on charitable purposes. If they form a charitable trust, the presumption is that there is some need for charity in that particular field and a charitable trust has been formed for that purpose. If they do not need to spend the money, on charity for which that trust is formed, the presumption may be that they have formed the trust merely to escape the income-tax, and that is not a very correct thing to do. Therefore, if they have formed a trust, they should spend their money on charity. If, however, they want to accumulate it for a specific purpose, as for instance, to build a hospital or a college building, or some such thing, of public utility, they can accumulate all their income for ten years. That gives quite a lot of latitude.

The second thing which is very good is that if anybody carries on business with the money of the charitable trust and the income is going for charitable purposes there will be no taxation on that income. This also is very healthy. It is very healthy in a country which has long-standing traditions of charity. You will remember how in undivided India, in Lahore, there were hundreds and hundreds of colleges and high schools run entirely out of charity. There was even a medical college that was run by a charitable trust and there were many hospitals. Under the British we could not expect the Government to run many of the social services that were needed and charitably inclined individuals came forward and donated large sums of money for charitable institutions, particularly in the field of education and to the field of medicine.

Now, Sir, there is a tendency to look to the Government for help in most of these fields. I do not find any fault with those who expect the national Government to meet the legitimate needs for social services in India. However, the resources of Government being limited, as we know they are limited, it is necessary for everybody to come forward and contribute his or her mite for early implementation of some of the schemes of social services so that we can realise the objectives of a Welfare State.

Now, a Welfare State, strictly speaking may be welfare State in which facilities for social services are provided by the State, but I think there are many fields which are not covered by the State in our country and the public can very well cover those fields to the best of their ability. To do so, therefore, it is necessary that they should be given incentives in the form of tax exemption so that

they will contribute larger and larger sums of their incomes for charitable purposes. So far as incomes from business earnings out of trust money, are concerned, they have been exempted from tax. That is very good. But the limit of 7½ per cent on one's own income for expenditure for charitable purposes still remains as it was. Seven and a half per cent or 1½ lakhs whichever is less—only that amount may be used by an individual for charitable purposes and be taken out of his tax calculation.

Sir, I feel rather sorry that the hon. the Finance Minister did not see fit to relax this limit. It is quite possible that most people will not give more than 7½ per cent. They may not even give 7½ per cent for charitable purposes. But if there are individuals who are inclined to give more of their income for charitable purposes, why should we deny them the pleasure of doing that? It may be argued that they will do so in order to get out of a higher income-tax slab into a lower income-tax slab. I say even if that is so, I see no harm in that. After all, there is a pleasure in giving voluntarily. But there is in every country a reluctance to have to pay income-tax. I agree that taxes are necessary and taxes have to be collected; taxes shall be there and should be there. But we should give people a voluntary method of spending their money for good purposes. Charitable purposes have been very well-defined in this new clause: charity in order to be income-tax free will have to be non-sectional, non-regional and non-communal. With these provisos and after prohibiting even a distant relative of the man-money for charity or making a charitable trust, from becoming a beneficiary, I think there should be no attempt to curtail the amount of one's income that a man or woman may give for charitable purposes. Let us encourage them to give voluntarily. Everybody knows how much tax evasion is there. Instead of leaving open wrong methods of tax evasion, if a man or woman gives a substantial part of the income for charitable purposes in order to pay less income-tax, I think this latter course is far healthier and far better than the former. We do not accept tax evasion and we do not like to have tax evasion—I agree. But everybody knows, including the hon. Finance Minister and the hon. Deputy Minister, that there is a very considerable amount of tax evasion and with all our efforts we have not been able to plug the loopholes. Let us be honest and let us open healthy avenues by which this desire for tax evasion can be stopped and in its place a healthy outlet can be found so that people will give more and more money voluntarily for charitable purposes and even if it does result in a little bit of decrease in income-tax, it may be counterbalanced by the provision of the social services that can come up through these voluntary charities. There is a lot to be said for doing the right things in a voluntary manner, of one's own free will, than under compulsion.

Another thing that I wish to compliment the hon. Finance Minister on is the proviso by which although the income of the husband and wife in ordinary business where they earn together or are partners will be considered for taxation purposes as one, for professional groups like doctors and lawyers and others, it will not be considered as one but will be separate for each. It is high time that a woman was not considered as a mere appendage of man.

Mr. Deputy-Speaker: Let man be considered as an appendage of woman.

Dr. Sushila Nayar: Let neither be considered the appendage of the other. They are both individuals, they have their own personalities.

Mr. Deputy-Speaker: Men are prepared to atone for the past sins and are prepared to suffer now.

Dr. Sushila Nayar: The people who suffered are not very anxious to make others suffer. Therefore, we want equal status and we are very glad that this proviso in the income-tax Bill has given equal status at least to the professional women and the income of the husband and wife will be considered separately for taxation purposes. With these words, I commend this Bill and I once again congratulate the hon. Finance Minister for the very excellent improvements that have been brought forward in this Bill.

Shri Damani: Mr. Deputy-Speaker Sir, The Bill as it has emerged from the Select Committee exhibits definite improvements on the original Bill. The Select Committee received many representations and memoranda and they also took oral evidence of many important persons from every walk of life and they have studied them before making their recommendations. Whatever recommendations are made are very reasonable and suitable. In the Bill the language has been simplified and the clauses are arranged in a logical manner. Besides this Committee has plugged the loopholes and reduced the harshness in the Bill. On the whole, the Committee has been successful in its mission and I want to offer my congratulations to the Committee.

15·46 hrs.

[DR. SUSHILA NAYAR *in the Chair*]

Many hon. Members who have spoken before me have explained about the charitable institutions and made suggestions in that regard. Therefore, I will confine myself to one or two points only. The benefit given to a small trust with an annual income of Rs. 10,000 will not be sufficient. I think this amount can at least be increased to Rs. 15,000 so that the smaller trusts can give more benefit in the long run and they can build more institutions which will be more helpful. Another thing I would like to submit is that if any person wants to create a trust with a provision that a part of the income is going to be spent for public purposes and a part for a particular community, it says here that the entire trust will not get exemption. I submit that exemptions should be given to the extent of the amount that is going to be spent for public purposes and public utility and tax on a concessional rate can be charged on the amount which the trust spends on a particular community. In this way, Government's policy will be safeguarded and the public will get the benefit. After all, a particular community is also the public of this country. Some leniency should be given and I request that my suggestion may be considered sympathetically. Regarding the development rebates, clauses 33 and 34 deal with them. Though some improvements have been made, it still falls short of expectation. The clause as amended does not provide for development rebate to be made available where an individual or a Hindu Joint Family is succeeded by a partnership or a limited company. This would discourage persons coming to industry after doing a lot of pioneering and experimentation in a particular line. Again, development rebate will only be allowed on conversion from a firm if all the shareholders were partners in that firm immediately before succession. On amalgamation it would be allowed only if ninety per cent of shareholders continue to be shareholders on amalgamation. This would effect genuine and *bona fide* transactions which generally take place. This would also discourage development and I wish that suitable safeguards should be provided for such genuine transactions

I come to the 23A companies. Clause 104 deals with companies in which public is not substantially interested

and they should distribute the prescribed statutory percentage of their profits as dividend. Many companies, instead of paying the dividend, apply their income to pay tax liabilities, trade liabilities or bank's borrowings which are genuine payments in the company's interest and should therefore be allowed. In this connection, I want to submit that there are many new companies and their promoters are new. When the capital is not subscribed, compulsorily they have to take more than 51 per cent of the shares. They offered the share to the public but they are not accepted and so they are compulsorily brought under the clause 104. As they have to distribute a large percentage of profits they cannot invest further money for expansion or for new industries. Therefore, some safeguard should be provided for in this direction. If the funds are invested for expansion of an industry, for paying trade liabilities or bank's borrowings, the compulsion of a distribution of a certain percentage of dividends should be relaxed. Cases of new companies which float capital but which is not being subscribed are there, and they are compelled to take up the share. Therefore, it is essential that some exemption or liberalisation should be given in this regard.

Clause 79 provides for carry-forward of losses which would only be allowed if 51 per cent of the share capital remains in the hands of the shareholders. Shareholders and companies are two separate and distinct entities, and transfer of shares has no connection with tax liabilities of the company. Further, onus on the companies in this matter would be unjustified. It should be properly amended as otherwise it would affect genuine companies, and honest companies would be penalised for no fault of theirs. This would create many complications and lead to harassments of the companies by professional shareholders. There is need for a suitable modification so as not to affect genuine changes in this matter.

About speculation and hedging losses, I would like to point out that clause 73 deals with speculation losses. I feel that there should be a difference clearly made between speculation losses and hedging losses, though presently the Central Board of Revenue has issued instructions that hedging losses should be excluded from the speculation losses. I would like to emphasise that hedging should be allowed in one line and one sphere. There is no difficulty as far as the commodity market is concerned. The difficulty only arises in the case of dealings in shares. Hedging is an assurance against possible losses and it is done against the stock of investment. Hedging should be allowed in one line. All the scrips and shares are not on the approved list of the stock exchange in forward marketing. There are only a few scrips which are recognised in forward trade. Any investor cannot hold shares for a certain line if they are not in the list. Investors cannot make any hedging against their sale, even if they think that they will lose, if they do not hedge against their holdings. Therefore, this advantage of hedging will accrue to a few persons only and not to every investor. So, my submission is that hedging against steel can be allowed against any share which is the forward list of steel. Any investment in textile and steel can be hedged against any scrip which is in the forward list. If this is accepted, this difficulty will be removed

I then come to director's responsibility on liquidation. Many hon. Members have expressed doubts regarding the directors' responsibility on liquidation of private companies. It is a unique feature that has been incorporated. Though the original Bill has been modified, yet, the directors' responsibility for payment of taxes is inconsistent with the limited liability of the company. It would discourage honest persons to come on the Board. The board of directors

[Shri Damani]

is a clear instrument of inviting various benefits from the banks and others. It would tell, therefore, very heavily on genuine business organisations. The onus which has been placed by the Select Committee to prove that non-recovery has resulted not because of their gross neglect or breach of duty would be too much. The onus should fall on the department.

Regarding the reopening of assessment, I still feel that the reopening of assessment under clause 149 should be restricted to eight years and not 16 years, even where the escaped income exceeds Rs. 50,000. It is difficult to keep the old records for more than eight years. The posts and telegraphs offices also do not keep the records for more than three years. In big cities like Bombay, Delhi and Calcutta, to keep the records for 16 years is a difficult task. All such investigations started on account of the second world war. Now, 16 years have passed, and if we continue this clause, with 16 years as the limit, it will be too much and the period should be reduced to eight years.

In conclusion, I would like to stress that there is a great need for expediting the assessments; more particularly the assessments up to Rs. 10,000 should be completed within one year and for other incomes in exceeding Rs. 10,000 the assessment should be completed within three years. The periodical check-up, and assessment work done by the ITOs should be hastened in this regard.

No simplification of income-tax is possible and complete unless that tax structure is made more simple. The eyes naturally would be on the next budget and it is sincerely hoped that efforts would be made to this suggestion and remarks of the Law Commission, namely, that the tax structure should be so simple that it could be followed, understood and calculated by a person of ordinary intelligence.

Shri Frank Anthony (Nominated—Anglo-Indians): Mr. Chairman, I am sorry that the Finance Minister is not here; it is not a reflection on his very able deputy. I was hoping directly to persuade him in respect of certain provisions in this Bill. Quite frankly I feel that some of the provisions inserted for the first time in the Select Committee—when their real significance becomes known to the country at large—are such that there is likely to be not only a serious controversy but even a storm of protest. I am particularly referring to clauses 11 to 13 and clause 88. Quite by accident one morning when I picked up this Bill a few days ago, I was extremely perturbed. I wrote to the Prime Minister pointing out that in my very respectful view these provisions put in for the first time at the stage of the Select Committee would have a disastrous effect on charitable trusts maintained by minority groups in this country. I also saw the Finance Minister. I believe the Ministry is likely to make some amendments. But I wish to know whether they will be far-reaching enough. As far as I can make out, certain of the new provisions will have a completely deadly effect on future charitable trusts.

Take clause 13. My hon. friend Shri Morarka will say—I have discussed it with him too—"I think you are making unnecessarily heavy weather of these new provisions." I do not think so. Perhaps my interests are somewhat narrow interests, but other people who are interested in charitable trusts—not only educational as I am interested in educational trusts—such as religious trusts and trusts for medical and poor relief, may feel that section 13 is a gratuitous injury to the help by certain sections of the people, even if they happen to be community-based or otherwise. As the law obtains today, the term "charitable" comprehends a trust even though it may be directly benefitting a group or community based on language or caste or

sub-caste. Any such trust which is genuinely directed to this purpose, even though the object may be a limited one, comes within the purview of the term "charitable" and is exempted from income-tax.

16 hrs.

But under the contemplated amendments in clause 13, all future trusts, however genuine and however high-souled, if they are directed for the benefit of a particular community, whether based on religion, caste or sub-caste, will be subject to the incidence of crippling taxation. My own view is that genuine charitable trusts, if they are for the benefit of a particular community—Sikhs, Muslims, Anglo-Indians, Hindus, etc.—will suffer, however high-souled they may be, as I said. We have to remember —I shall deal with this a little later— in our concern quite rightly for this secular motive in the State, sometimes we tend to over-reach ourselves.

We have to realise that not only in India, but in other countries also, people may seek salvation in many ways. I may apply the unction to myself of being particularly interested in education. My friend, Mr. Barrow, may be religiously inclined. He may be inclined to found and further religious trusts. These are not unworthy motives. But what are we doing? Because of furthering this secular motive, we are seeking to destroy all future trusts, if they are directed to helping a particular community, whether it is educational, religious, or for medical purpose or poor relief.

The public do not know the implications of this. I do not think many of the Members of this House know it.

Ch. Ranbir Singh (Rohtak): They know it fully well.

Shri Frank Anthony: My friend probably is one of the most alert Members of this House.

Shri Narasimhan (Krishnagiri): Quite a few know.

Shri Frank Anthony: So also my friend there. But when I was speaking to the Deputy Speaker three days back—he is a knowledgeable person—and so also Shri Mukerjee—I may not agree with his politics, but I certainly think very highly of his capacity otherwise—I asked them, "Have you looked at this Bill?" They said "No". I asked, "Have you studied its implications?". They said, "Naturally not; we have not the time to study it. It is a rather massive—we would not call it monumental—and complex measure". I am certain that the public knows nothing about the implications. I do not know what the members of the majority community think. The majority community members have no rights in this matter. I shall show later on that these provisions are repugnant to certain fundamental rights granted to the minorities, but I am quite certain that large minorities in the country like Muslims, Sikhs and Christians will feel extremely injured because in effect, you are saying to them, "You will not be able to found any trusts in future, however much you may be inclined to found a trust".

I know there are certain bodies that are able to distribute large amounts in charities. There is a particular body I am aware of in Calcutta, which is able, for instance, to distribute Rs. 20 lakhs a year. I am interested in it. Most of it is collared by the West Bengal Government, but some of it they are able to salvage from the clutches of the West Bengal Government, they spend for the education of a particular community. The whole object of what they run is to direct 90 per cent of their takings for charitable objects. If they are prepared to disburse Rs. 10

[Shri Frank Anthony]

lakhs for education, the Deputy Minister will come along and say, "You will pay full income-tax". What would be the income-tax on Rs. 10 lakhs which would ordinarily go to an educational trust? I cannot say offhand, but I imagine it should be in the region of Rs. 6 lakhs or Rs. 8 lakhs. You immediately destroy the capacity to assist a worthwhile object by a piece of legislation of this character.

Ch. Ranbir Singh: The State will give financial assistance.

Shri Frank Anthony: He talks about State financial assistance. I say this with a great deal of regret: This is typical of the kind of confused thinking that so many of us fell prey to in this country. The State may have the will; it may have the spirit, but it has not the capacity to begin to implement the grandiose directive principles of the Constitution. You talk of free and compulsory education. Are you able to do it? Not in another hundred years will you be able to achieve this directive principle of free and compulsory education. But when people on their volition place burdens deliberately on themselves and give money to education trusts, you come in and say, "The State cannot do it, but you should not do it". How can you say this, if we are a Welfare State not only in profession, but in practice? It will take at least hundred years for you to do this, but in the meantime, you are drying up all the wells of private and individual charities.

Shri C. K. Bhattacharya: We shall get it in much less than 100 years.

Shri Frank Anthony: Let us hope so.

I do not know the effect of clause 11. Some people say that the provision in regard to accumulation is adequate. Persons concerned with trusts tell me that this provision with regard to accumulation will be completely inadequate, so far as large trusts are concerned. It will enable them to accumulate up to 25 per cent only and it will largely hamstring their real purposes. My friend, Shri Morarka, will say that is not the only limit. If you write to the income-tax officer and tell him that you want to accumulate beyond 25 per cent, you may accumulate beyond 25 per cent for a period of 10 years.

I think the Government is going, at least by way of abundant precaution, to put in a clause at my instance seeking to add the words "at a time" after "ten years". My impression was that accumulation would cease at the end of 10 years. But Government say that it is not their intention and you may accumulate for a period of 10 years at a time, so that you may continue to accumulate indefinitely. You can accumulate for ten years at a time and you must distribute a certain amount; then you can accumulate for another 10 years. So, at least the hardship that I contemplated there would seem to be qualified by this proposed amendment.

So far as clause 88 is concerned, it deals with tax on donations to charity. I think this is going to cause a great deal of resentment in the country. Shri Morarka and the Minister will say that in any case, donations directed along religious lines for a particular religious community have always been subjected to income-tax, even though they are donations for charitable purposes and all that we are now adding is "caste, community or sub-caste". I feel that here the Government has not given sufficient thought to the matter.

I say that so far as linguistic and religious minorities are concerned, you cannot do this, and I say it advisedly. I have had occasion to argue two matters in the Supreme Court based on article 30 of the Constntution. What have we done? We have given these fundamental rights to the minorities rightly or wrongly. What is the effect of article 30 of the Constitution? Sub-clause (1) of this article 30 says that any community based on language or

religion shall have the right to establish and administer an educational institution of its choice.

Now, advisedly, the framers of the Constitution gave that and raised it to the status of a fundamental right; that is, the Muslims, the Sikhs, the Christians or any other have the fundamental right to establish a communal educational institution. I do not say that is a good thing. I do not know whether that is being done. I do not know whether there are any wholly communal institutions in the country restricted to members of one particular community or caste or religion. I do not think so. It may be a bad thing, but in their wisdom the framers of the Constitution have, as I said, raised this to the status of a fundamental right, that every linguistic and religious group shall have the fundamental right to establish an institution of its choice. The Muslims can have a Muslim school, the Sikhs can have a Sikh school, the Christians can have a Christian school. That is a fundamental right.

Again it might be wrong—you have gone further. Under the second part of that article you have said that in giving aid no government shall discriminate against these communal institutions. You may scrap article 30, because you have placed an inhibition, a constitutional inhibition, on any government saying to a Muslim school, saying to a Sikh school, saying to a Christian school, we shalll give aid to others but we shall not give aid to you. That is the inhibition in article 30. Under sub-clause (2) of that article there is an obligation on Government to aid communal institutions. It may be a bad thing, it may not be a good thing; but there is a fundamental right.

Now, you may say that the Hindus also come under this inhibition? But you have not chosen to give the majority community any fundamental right. I do not know what the reason was. When we were framing the Constitution perhaps we were particularly high-souled and we were thinking in terms of the minorities. Today, perhaps, we are not thinking so much in terms of the minorities, perhaps we think they are a bit of a nuisance, they are a sort of inconvenience. Some people think, if you can assert the minorities away, then they do not exist; that is, as one of my very respected friends said, there are no minorities in this country; it is only because the minorities say they are minorities you have minorities. So, some people, as I said, may like to will them away, some may like to assert them away, and I hope there would be very few who would like to steam-roller them out of existence.

But here is a constitutional provision, a constitutional fundamental right given to the minorities. You cannot place the majority community on the same level as the minorities. You cannot say that the Hindus shall not do this. The Hindus have not been given the fundamental right. You have given fundamental right in respect of education to the minorities. You have provided that the minorities can run their own institutions. As I said, it may be a bad thing. I have a great deal to do with educational institutions. We do not run institutions for a particular community. We do not do it, but we have the right, and we have a further right that if we do run a communal institution we can say that the Government shall give us aid.

Now you say, no, you may run an institution, you may open it to everybody, but if the proceeds from that institution are disbursed in scholarships for a particular group, for a particular minority people who give big donations to that institution which is run on the basis of a fundamental right, then they shalll pay income-tax. I just do not understand it. I say, if this matter is tested, if somebody is prepared to go to the Supreme Court, my own humble view is that it would be struck down, because they say that you cannot, on the one hand, make this grandiose provisions to the minorities and, on the other hand, in fact take them away.

[Shri Frank Anthony]

Madam, I would ask the Government to give some thought to this matter, and not to say that under the old provision income-tax on donations to religious communities were already there. If that provision was there, it is bad. That provision may have been there before 1950, but after 1950, after the coming into operation of article 30, you cannot say to a minority that it shall not run a communal institution and if Government cannot say that a particular minority community shall not run its own institution, *afortiori* they cannot say that they shall not give aid to that institution. How can you say that to a minority community, that they shall not give aid? I do not understand it. It does not make sense.

Then there is another. I was one of those people who were strongly opposed to donations being made for political purposes. I think it is going to be one of the most corrupting influences in our public life, and it is a bad thing, it is a pernicious thing. Yet,—I am open to correction—Shri Morarka is more conversant with income-tax law than I am; if ever he is in trouble in respect of the criminal law I would be in a better position to help him—so far as I can imagine, for the moment, a donation by a company made to a political party will be free from income tax. That is my own view, and that is the view of many people whom I have consulted and who appeared to me as income-tax experts. If a company makes even a donation of Rs. 2 crores—there are companies which are in the nature of industrial empires—to a political party, it will say that all these donations are for the purpose of its business and thus secure exemption from income-tax for donations made to political parties. That is my own view. Is it not reactionary? Is it not completely indefensible? If that is the law, and the income-tax experts say that is the law, that political donations from vast industrial empires to political parties should be exempt from income-tax, how can you subject to all the crippling incidence of our high rate of income-tax the donations made by minority sections in aid of education—I am not pleading for religious institutions. Some people who may be religiously inclined may say, why not have exemption for religious institutions also....

Shri Narasimhan: You are pleading for religious charity.

Shri Frank Anthony: I am pleading for education, and I say that so long as the State cannot undertake its duty of giving education free to the children of this country, it is a sin that you should penalise people, whatever group they may belong to, for helping their own children if need be. They may not have the resources. We are a microscopic minority. We skimp and we scrape. If we do not skimp and scrape, we have to destroy our own trusts. Why? We are a minority. We were given certain educational guarantees because of the special conditions, because of the special difficulties in which our schools are largely functioning. Those special grants given to us under article 337 have ceased to operate from 1960. But after I had seen the Prime Minister—because he knows that you cannot change a certain matrix, whether it is economic or educational, which has emerged over a period of 200 years, you must allow a certain period of evolution—he has asked the State Governments *ad hoc* to give these grants to the less fortunate children of my community. But I am living on charity from year to year. One government may give it, another government may not give it. What am I doing? Am I doing something so criminal? Because the State has not got the capacity, because some States may not have the will, because they do not want to help a particular community, mine is the only community they will not help.

Dr. M. S. Aney: That charge is denied by me. It is not correct to say that. Yours is the only community which will not be given this considera-

tion. The State will not do that kind of thing.

Shri Frank Anthony: Because there are no schools run by State Governments through the medium of English, which is my language. Every other person will have institutions subsidised and run by Government through the medium of his language. It is only my community that has no schools which are subsidised or run by Government. We have been given a fundamental right. Twice I have won cases in the Supreme Court affirming that right. We are the only people who will get no aid. Is it a crime that we seek to give our children aid when we are not getting aid, when out of 700 per cent increase in educational grants between 1937 and 1957 educational grants have gone up from Rs. 15 crores to Rs. 115 crores—700 per cent increase, and not one Naya Paisa of that increase has accrued to the benefit of an Anglo-Indian child, because there is no English-medium school to which indigent grants are given. And when I am building up educational trusts, I have been given, as I said, the grandiose fundamental right under article 30. Now you say "We are not giving you your constitutional guarantee after 1960 in regard to the English-medium schools" and, at the same time, you are destroying every kind of effort at self-help for my community. I do not understand it. It is only my community that knows where these difficulties occur. There is so much of tendency to pontificate, because people belonging to the majority community do not know the condition of living as a minority.

Shri C. K. Bhattacharya: If the hon. Member will permit me and if I may interrupt, the interpretation that article 30 allows the setting up of special institutions for the Anglo-Indian minorities is not correct.

Mr. Chairman: Order, order. The hon. Member will resume his seat. If one hon. Member is speaking and if another rises, if the hon. Member who is speaking sits down, then he is yielding the floor. If, on the other hand, he continues to speak, the other hon. Member cannot speak, because two hon. Members cannot be in possession of the floor at the same time. So, if Shri Anthony does not want to yield, he can go on.

Shri C. K. Bhattacharya: My point is that Shri Anthony is interpreting article 30 to suit his own purpose, and that is not a correct interpretation. Article 30 says that special institutions can be set up by religious minorities for themselves. I put it to Shri Anthony: is he a religious minority? Are the Anglo-Indians a religious minority? Only the Christians might constitute a religious minority. In that case, Shri Anthony must not claim a particular advantage for English-speaking schools, because there are so many Christians studying so many Indian languages. Is Shri Anthony agreeable to allow the Indian Christians in his own institution? Is he prepared to allow the Bengali-speaking Christians in his institution? I say that he is not correctly interpreting article 30. He interprets it to suit his case.

Mr. Chairman: My suggestion is that the hon. Member may give his name and speak after Shri Anthony has spoken. That would be a better way of expressing his ideas. Now Shri Anthony may continue.

Shri Frank Anthony: I do not know, probably it is a digression. Article 30 applies, not only one-fold but two-fold to my community. Both in the Bombay School case in 1954 and in the Kerala reference, the Supreme Court has affirmed that here is a community which has a double guarantee; it is not a community based on language, it is a community based on religion.

The point I am trying to make is this, that I would ask for some kind of clarification with regard to educational trusts. There may be an equally strong case with regard to other trustes—let people who feel strongly about religion and trusts of other character plead their case—but I am earnestly pleading with the Government: why not exempt not only the

[Shri Frank Anthony]

existing trusts, why not exempt the future educational trusts as well? Exempt them. At present under clause 13 existing trusts are exempted. I say: exempt the future educational trusts too from the purview of income-tax. And I would also ask that clause 88 be amended so that the donations to educational trusts, even the existing educational trusts, will not be subject to income-tax. I would ask the hon. Deputy Minister to use her influence with her senior colleague and get some exemption, both on clause 13 and clause 88, so that the educational trusts, future trusts as well as existing trusts, so far as donations to these are concerned, will be exempt from income-tax.

I will conclude by saying that I do not want in any way to dampen the enthusiasm of the Treasury Benches in this rather perverse perspective in which they have underlined at the moment the secular democracy. I do not know what we mean by secular. Perhaps, the dictionary meaning is a little different and we have adapted it more or less. I think we mean that we are striving to achieve a society where people will not think in terms of community and religion and so forth. Somebody has said that the literal interpretation of secular is irreligious. I do not think we are seeking to develop a society which abandons religion and religious principles. But may I, with great respect, submit this to the Treasury Benches? Let us not legislate in terms of some misconceived notion of secular democracy.

Many years ago—I am reminiscing—I wrote an essay which was acclaimed and I was given a Viceroy's gold medal, and I remember the first line in that essay, and I think what I said there is almost a maxim, is that citizenship is the right ordering of our several loyalties. Now today we observe that we do not realise that Indian citizenship is the right ordering of our several loyalties. We have loyalties to our families. We have loyalties to the community in which we immediately live. We have loyalties to our religion. I do not know whether these small loyalties which can be ordered and the right ordering of which will represent the citizenship, whether that is going to be a crime in India. Do not people in other countries, secular democracies, countries which have achieved a stage of development in this democratic process which we will take probably hundred years to reach, do they not think in terms of their families? Do they not think in terms of their religion? Do they not think in terms of their caste, probably differently spelt? Where you have got human society, you will have this range of loyalties. What are we trying to do? Are we trying to ignore them or are we trying to destory them? Is it a bad thing for some person to think that he will achieve spiritual salvation by donating to his church, or his religion, or his temple, or mosque or Gurudwara? I do not know. I can understand this, and I will support it, and support it to the uttermost. You do not penalise people who exploit religion; pou do not penalise people who exploit the community in order to create estrangement, bitterness and hostility, but when some poor chap, whatever the motives, thinks that he is going to achieve and some future existence and wants to make a trust for charity, you say "no, it is repugnant to our ooncept of democracy". I do not know probably it may be repugnant to our concept of human nature, because human nature, in the ultimate analysis, as I see, is response to the numerous loyalties, and I want the Treasury Benches to understand it. When I spoke to the Minister, he said "No, we will never have a secular democracy unless we destory all these different sort of loyalties". If you destroy the loyalties, then you will destroy the Indian as an integrated, sound and balanced person.

I do sincerely hope what I have said will be conveyed, probably not

quite in the language I have said it. to the Minister, and I would particularly ask the Deputy Minister that she may persude him to make some amendments in the Bill which will give some kind of relief, particularly to educational trusts.

16.29 hrs.

[SHRI HEDA *in the Chair*]

चौ० रणबीर सिंह : सभानेत्री जी, मैं सिलेक्ट कमेटी की रिपोर्ट का स्वागत करता हूं, और मैं समझता हूं कि मेरे पूर्व वक्ता एन्थनी साहब ने जितनी बातें कहीं और जो आपत्ति की उसी के कारण मैं इसका स्वागत करता हूं।

मैं समझता हूं कि जहां इस कानून को सादा बनाने की कोशिश की गई है वहां जिन पर टैक्स लगाया जाता है उनको किसी कदर एतबारी आदमी मानने की तरफ भी एक कदम आगे बढ़ाया गया है। और इसमें जो 11 से 13 तक क्लाजेज हैं वे सबसे अच्छे हैं।

हमने जब इस देश का संविधान बनाया था उस वक्त हमारी कोशिश थी कि इस देश के अन्दर जो मतमतान्तर या कास्टीज्म या धर्म के नाम पर झगड़े होते हैं वे खत्म हों और हिन्दुस्तान का वासी अपने आप को भारतीय समझना सीखे। मेरे पूर्व वक्ता ने बहुत सी बातें कही है। उन्होंने कहा कि कुछ विशेष प्रकार की संस्थाओं को काम करने से रोकने का प्रयत्न किया जा रहा है। मैं समझता हूं कि उनको रोकने का इरादा नहीं है, किसी भी संस्था को तोड़ने का इरादा नहीं है। इस बिल में सिर्फ टैक्स का सवाल है। वह कह सकते थे कि टैक्स न लगाया जाये, लेकिन इसमें रोकने की कौन सी बात आई, यह बात मेरी समझ में नहीं आई। अगर अंग्रेजी मीडियम की बात है, तो वह भी हमारी भाषाओं में से एक भाषा है, लेकिन अंग्रेजी मीडियम का स्कूल सिर्फ एक जाति के लिये क्यों हो, सब के लिये क्यों न हो, इस बात का उनके पास क्या जवाब है? वह जरा हिन्दुस्तान के पिछले इतिहास को देखें कि जातपात और धर्म के झगड़ों में कई लाख भाइयों को कुर्बानी देनी पड़ी। क्या एन्थनी साहब यह चाहते हैं कि यह देश फिर वैसी मुश्किलात में से गुजरे? हो सकता है कि उनकी बातों से मेरे दिल में इसलिये क्षोभ हुआ और मुझे ख्याल आया कि मैं भी अपने ख्यालात इस बारे में हाउस के सामने रखूं कि मैं पंजाब से आता हूं। हमने देखा कि मद्रास के मन्दिरों में यह कायदा है कि उनको चलाने के लिये और उनका हिसाब-किताब रखने के लिये एक आई० ए० एस० आफिसर है।

अभी कल परसों जिक्र हुआ कि श्री अशोक मेहता ने कहा कि उनको मास्टर तारासिंह यह वायदा देने के लिये तैयार हैं कि वह अकाली पार्टी को तोड़ देंगे। मैं उनसे कहना चाहता हूं कि यह बात

एक माननीय सदस्य इस का इनकम टैक्स से क्या ताल्लुक है?

चौ० रणबीर सिंह : यह रिलिजस एंड चैरिटेबल ट्रस्ट्स के तहत आता है।

Shri S. M. Banerjee: On a point of order, Sir,....

Ch. Ranbir Singh: I am dealing with religious and charitable trusts, I know the Income-tax law. It applies to Punjab. Why do you worry?

Mr. Chairman: He is rising on a point of order.

Shri S. M. Banerjee: My point of order is very simple. We are discussing the Income-tax Bill. Religious trusts also come in. But, he is discussing Punjab politics.

Ch. Ranbir Singh: No; I am not discussing Punjab politics. Punjab is a part of India. Punjabis pay income-tax.... (*Interruptions*).

Shri S. M. Banerjee: Master Tara Singh is also a citizen of the country. Why should he be attacked? (*Interruptions*).

Mr. Chairman: There is no point of order in this. The hon. Member may continue.

16.33 hrs.

[MR. SPEAKER *in the Chair*]

चौ० रणबीर सिंह : शायद मेरे दोस्त यह समझते हैं कि पंजाब के जो वासी हैं, उनके ऊपर इनकम टैक्स का कानून लागू नहीं होता । अगर उनका यह कहना है, तो शायद मुझे कुछ कहने की आवश्यकता न हो, लेकिन मैं जानता हूं कि इनकम टैक्स का कानून एक एक पंजाबी के ऊपर लागू है, चाहे वह हिन्दू है या सिख है या किसी दूसरे मजहब का मानने वाला है ।

16.33½ hrs.

MOTION *RE*: THIRD FIVE YEAR PLAN—*contd.*

Mr. Speaker: Order, order. We will now resume discussion of the hon. Prime Minister's motion regarding the Third Five Year Plan.

I shall now put the amendment of Shri Ranga to the vote of the House. The question is:

That for the original motion, the following be substituted, namely:—

"This House, having considered the Third Five Year Plan, laid on the Table of the House on the 7th August, 1961, disapproves of it because—

(a) it is unrealistic and improvident;

(b) the threat of additional taxation, the continued resort to deficit finance and the uncovered gap between resources and outlay will lead to higher prices and the aggravation of the prevailing inflation and a continuing erosion of the already low real income of the mass of the people resulting in a disincentive to save and invest and a high-cost economy which will make it impossible for Indian exports to compete in the world's markets;

(c) while the desirablity of encouraging equity capital coming from abroad at its own risk is neglected, there is too much dependence on foreign loans leading to the country's future being mortgaged;

(d) the undue emphasis on heavy industry resulting from a dangerous obsession with achieving autarchy within ten years and the comparative neglect of agriculture and consumers' goods industries will inflict privation and misery on the mass of the people and diminish the possibilities of providing maximum employment;

(e) the doctrinaire bias in favour of the State sector of the economy and the drawing away to it of the people's savings tilts the scales against the development of the people's competitive enterprise and the economy of self-employed people in favour of a plethora of controls and quotas and curbs and of State monopolies and private monopolies distributed among those favoured, thus placing the national economy in a straight jacket and retarding the growth of the national product and income;

(f) the insistence on fostering collective farming under the name of joint co-operative