

LOK SABHA

**SELECT COMMITTEE
ON
DIRECT TAXES (AMENDMENT)
BILL, 1973**

EVIDENCE



**LOK SABHA SECRETARIAT
NEW DELHI**

April, 1974/Vaisakha, 1896 (Saka)

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CORRIGENDA

TO

THE RECORD OF EVIDENCE TENDERED BEFORE THE
SELECT COMMITTEE ON THE DIRECT TAXES (AMENDMENT)
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- Page 10, col. 1, line 15, for "enure" read "ensure".
- Page 11, col. 1, line 30, for "un-development"
read "un-developed"
- Page 13, col. 1, line 3 from bottom, insert at the end
"ber, if we were otherwise to shrink".
- Page 16, col. 2, line 10 from bottom, for "a decision"
read "machinery."
- Page 30, col. 2, line 3 from bottom for "eaing"
read "ezing"
- Page 39, col. 1, line 15, omit "he"
- Page 40, col. 1, line 1, for "deprication"
read "depreciation"
- Page 42, col. 2, line 2, for "dierent" read "different"
- Page 43, -
- (i) col. 1, line 22 from bottom, for "for"
read "fore".
 - (ii) col. 1, line 5 from bottom, for "comcencement"
read "commencement".
 - (iii) col. 2, line 4, for "precribed"
read "prescribed".
 - (iv) col. 2, line 18 from bottom, for "rationals"
read "rationale".
- Page 44, col. 1, line 7 from bottom for "related to be"
read "related to the".
- Page 47, col. 2, line 7 from bottom, for "decision"
read "decision".
- Page 50, col. 2, line 20 from bottom, for "I"
read "If".
- Page 51, col. 2, line 11, for "thenfi" read "then"
- Page 56, col. 1 -
- (i) line 27, for "intra" read "infra"
 - (ii) line 13 from bottom, for "concecssions"
read "concessions".
 - (iii) line 10 from bottom, for "instiutions"
read "institutions".

..(ii)

(ii)

Page 57, col. 1, line 18, for "concessons" read
"concessions".
Page 59, col. 2, line 1, for "objectiaes"
read "objectives".
Page 70, col. 1, line 19, for "rational"
read "rationale"
Page 71, col. 1, line 9 -
(i) for "craints" read "traints"
(ii) for "tries" read "tried".
Page 76, col. 2, last line, for "cancept"
read "concept"
Page 80, col. 1, line 10 from bottom, for "hie"
read "his"
Page 82, col. 1, line 19 from bottom, for "way"
read "very"
Page 84, col. 1, line 21 from bottom, for "avaluate"
read "evaluate"

SELECT COMMITTEE ON THE DIRECT TAXES (AMENDMENT) BILL, 1973.

COMPOSITION OF THE COMMITTEE

Shri N. K. P. Salve—*Chairman*.

MEMBERS

2. Shri Bhagwat Jha Azad
3. Shri Onkar Lal Berwa
4. Shri Raghunandan Lal Bhatia
5. Shri M. Bheeshamadev
6. Shri G. Bhuvarahan
7. Shri Narendra Singh Bisht
8. Shri Somnath Chatterjee
9. Shri Y. B. Chavan
10. Shri S. R. Damani
11. Shri B. K. Daschowdhury
12. Shri D. D. Desai
13. Shrimati Marjorie Godfrey
14. Shri Dinesh Chandra Goswami
15. Shri Samar Guha
16. Shri Shyam Sunder Mohapatra
17. Shri Kartik Oraon
18. Shri D. K. Panda
19. Shri H M. Patel
20. Shri Ramji Ram
21. Shri N. K. Sanghi
22. Shri Vasant Sathe
23. Shrimati Savitri Shyam
24. Shri Era Sezhiyan
25. Shri C. K. Jaffer Sharief
26. Shri Shiv Kumar Shastri
27. Shri Somchand Solanki
28. Shri Maddi Sudarsanam
29. Shri K. P. Unnikrishnan
30. Shri K. R. Ganesh

LEGISLATIVE COUNCIL

1. Shri K. K. Sundaram, *Secretary, Ministry of Law, Justice & Company Affairs (Legislative Department)*.
2. Shri R. V. S. Peri-Sastri, *Joint Secretary and Legislative Counsel, Ministry of Law, Justice and Company Affairs (Legislative Department)*.

(ii):

3. Shri V. S. Bhashyam, *Deputy Legislative Counsel, Ministry of Law, Justice & Company Affairs (Legislative Department).*

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF REVENUE & INSURANCE)

1. Shri M. R. Yardi, *Finance Secretary.*
3. Shri R. D. Shah, *Chairman, Central Board of Direct Taxes.*
3. Shri K. E. Johnson, *Member, Central Board of Direct Taxes.*
4. Shri R. R. Khosla, *Director.*
5. Shri O. P. Bhardwaj, *Deputy Secretary.*
6. Shri V. P. Minocha, *Under Secretary*

SECRETARIAT

1. Shri P. K. Patnaik—*Joint Secretary.*
2. Shri H. G. Paranjpe—*Deputy Secretary.*

Witnesses Examined

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1	Federation of Indian Chambers of Commerce and Industry New Delhi	17-1-1974	2
	<i>Spokesmen:</i>		
	(i) Shri Charat Ram—President		
	(ii) Shri A. K. Jain— <i>Chairman, Taxation Sub-Committee</i>		
	(iii) Shri Harishankar Singhania		
	(iv) Shri O. P. Vaish		
	(v) Shri G. L. Bansal— <i>Secretary General</i>		
2	Shri N. A. Palkhivala, Senior Advocate, Supreme Court of India, Bombay	19-1-1974	23
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	<i>Spokesmen:</i>		
	(i) Shri M. H. Mody		
	(ii) Shri K. C. Khanna		
	(iii) Shri R. N. Ratnam		
	(iv) Shri M. M. Malhotra		
4	(i) Shri B. D. Pande, Cabinet Secretary, Government of India New Delhi	19-1-1974	55
	(ii) Shri M. R. Yardi, Finance Secretary, Government of India New Delhi		
	(iii) Shri M. G. Kaul, Secretary, (Department of Economic Affairs), Ministry of Finance, Government of India, New Delhi		
	(iv) Shri H. N. Ray, Secretary, (Department of Expendi- ture), Ministry of Finance, Government of India. New Delhi.		
	(v) Shri R. V. Raman, Secretary, Ministry of Industrial Development, Government of India, New Delhi.		
	(vi) Shri B. B. Lal, Secretary, Ministry of Planning, Go- vernment of India, New Delhi.		

SELECT COMMITTEE ON THE DIRECT TAXES (AMENDMENT) BILL, 1973.

**RECORD OF EVIDENCE TENDERED BEFORE THE SELECT COMMITTEE ON THE DIRECT TAXES
(AMENDMENT) BILL, 1973.**

Thursday, the 17th January, 1974 from 10.20 to 12.30 hours.

PRESENT

Shri N. K. P. Salve—Chairman.

MEMBERS

2. Shri Bhagwat Jha Azad
3. Shri Onkar Lal Berwa
4. Shri Raghunandan Lal Bhatia
5. Shri M. Bheeshamadev
6. Shri G. Bhuvarahan
7. Shri Narendra Singh Bisht
8. Shri S. R. Damani
9. Shri B. K. Daschowdhury
10. Shri D. D. Desai
11. Shrimati Marjorie Godfrey
12. Shri Samar Guha
13. Shri Ramji Ram
14. Shri N. K. Sanghi
15. Shri Vasant Sathe
16. Shrimati Savitri Shyam
17. Shri Era Sezhiyan
18. Shri Shiv Kumar Shastri
19. Shri Somchand Solanki
20. Shri Maddi Sudarsanam
21. Shri K. P. Unnikrishnan
22. Shri K. R. Ganesh

LEGISLATIVE COUNSEL

1. Shri R. V. S. Peri-Sastri—*Joint Secretary & Legislative Counsel.*
2. Shri V. S. Bhashyam—*Deputy Legislative Counsel.*

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4. Shri O. P. Bhardwaj, *Deputy Secretary.*
5. Shri V. P. Minocha, *Under Secretary.*

Shri H. G. Paranjpe—Deputy Secretary.

WITNESSES EXAMINED

Federation of Indian Chambers of Commerce and Industry, New Delhi.

Spokesmen:

1. Shri Charat Ram—President.
2. Shri A. K. Jain—Chairman, Taxation Sub-Committee.
3. Shri Harishankar Singhania
4. Shri O. P. Vaish
5. Shri G. L. Bansal

(The witnesses were called in and they took their seats)

MR. CHAIRMAN: Mr. Charat Ram, I must draw your attention to the Direction of the Speaker of the Lok Sabha which direction governs the evidence tendered before this Committee. The direction is that evidence that you give is to be treated as public and is liable to be published unless you specifically desire that all or any part of the evidence tendered by you is to be treated as confidential. Even if you desire all or any part of your evidence to be treated as confidential, such evidence is liable to be made available to Members of Parliament. Please proceed.

SHRI CHARAT RAM: With your permission, Mr. Chairman, I would like to make a few opening observations. We are thankful to you for giving us this opportunity to meet you and express our viewpoint on some of the more important aspects pertaining to the Direct Taxes (Amendment) Bill of 1973.

We would like to commence by welcoming generally the Provisions of the proposed Bill inasmuch as they constitute an overall improvement over the subsisting situation for the development of production, development of research and development of backward areas. Our observations would, therefore, be not with an approach of being critical, in any sense, of the proposed Bill, but basically from the point of view of the effect that should be sought to be achieved in the maximisation of production

and investment in the country. Our comments would, therefore, be not from the traditional taxation angle but with a focus on production and investment.

The Fifth National plan has been tabled before Parliament. The view of the Federation has been that the planned rate of growth of 5½ per cent is inadequate to provide the people with any noticeable increase in their economic welfare. We have had the opportunity of having meetings with Government for discussing how the production and investment targets, set out in the corporate sector in the Fifth National Plan, could be achieved.

With this background we would like to take your time in deliberating on those clauses of the proposed Bill which are concerned with initial depreciation and development of backward areas.

The necessity of devising an effective mechanism which would provide enterprises with adequate, what may be called, industrial assets replacement finance in the face of continually escalating costs has been appreciated by the government for over two decades now by successive Finance Ministers. It is clear that a depreciation provision which provides for replacement of assets only to the extent of original costs after ten years or more is totally inadequate. This problem of providing to industries industrial

ried not only India but most of the other countries as well, and all of them have devised one or the other mechanism for meeting the situation. The problem of providing adequate industrial assets replacement finance has become acute in the last few years and bids to become worse in the coming years on account of the steep escalation of costs of plant and machinery. This problem faces the national enterprises across the board, whether these belong to the State sector or the cooperative sector or the private sector. Clearly, neither the free market price situation nor the formulae on which controlled prices are based are able to resolve the problem. And certainly Government cannot afford any creeping-sickness to overtake its business enterprises for lack of adequate replacement finance. This is the background in which we would like to discuss the adequacy or otherwise of the initial depreciation allowance provisions of the proposed Bill.

The initial depreciation provisions are presumably intended to provide some manner of relief consequent on the withdrawal of development rebate provision. Unfortunately the new provision is entirely inadequate; the total depreciation allowance is still within the bounds of original costs and not of replacement costs of assets. In the past years a number of fiscal incentives have been curtailed by the government such as tax credit certificate scheme, dilution of tax holiday benefits to new undertakings, omission of section 801 and withdrawal of development rebate. And these have successively made the position of providing industrial assets replacement finance more critical. It is our suggestion that the Fifth National plan targets of production and investment would be more reliably achievable if there was an institution of some scheme by whatever name called and in whatever shape of form which would provide adequate replacement finance, and in

costs of assets, the 125 per cent basis of development rebate system would now be inadequate, and it should be somewhere nearer 150 per cent or more.

The industrial assets replacement finance needs of industry are universal, and the tax structure of most countries in the world takes care of this problem, at least partially, by various ways such as revaluation of assets, additional depreciation, etc.

A connected aspect of the proposed initial depreciation allowance is that this facility would be available only to a few restricted industries. Clearly, the facility of assets replacement finance is necessary for a larger number of industries which are capital intensive and where the investment costs of industries have been rising by leaps and bounds. Even the so-called small scale industrial entrepreneurs are facing similar problems. It is our suggestion, therefore, that the coverage of industries for initial depreciation allowance should be considerably more extensive.

Another aspect on which we would like to have some discussion pertains to the newly established undertakings in backward areas. Here again we would like to put forward some suggestions which are likely to achieve the object of development of backward areas more effectively and reliably.

In closing, as I have said earlier, the proposed Direct Taxes (Amendment) Bill is generally welcome in so far as it goes. But it is suggested for government's consideration that, for the achievement of the desired levels and directions in production and investment, a bold and new thinking may be required now.

Now, Sir, we are at your disposal for proceeding to discuss the Bill in such manner as you would consider appropriate.

MR. CHAIRMAN: By and large, it is a very welcome attitude and

approach. The basis of economic logic is that the problem should not be looked at only from one angle; the government's viewpoint has also to be duly appreciated. And I see in your opening remarks an objective approach which is extremely welcome. Now we should like to hear your views on the Bill directly. You can treat your memorandum as read and you may now focus the attention of the Committee to the salient features of the Bill.

SHRI A. K. JAIN: Regarding clause 2 we welcome this change. But we want to point out that the position obtaining previously and the situation now leaves one year gap—1972-73.

MR. CHAIRMAN: You have pointed it out—assessment year 1972-73, literary awards etc.

SHRI A. K. JAIN: Some particular people who happen to fall in one year...

MR. CHAIRMAN: We will consider it. At any rate you have pointed out that thing to us.

SHRI A. K. JAIN: Regarding clause 3 which deals with the question...

SHRI N. K. SANGHI: If they have nothing else to say on the first paragraph we may ask some clarification on this matter. They have suggested that this exemption for a period of one year should also be included for the previous year. Do these awards constitute an income? Even then if we provide exemption from the previous year, it will not help. I think what we have provided is adequate.

MR. CHAIRMAN: I must point out of them: firstly, if you were to see Section 59 of the Finance Act, 1972, exemption in respect of casual receipts and incomes stands withdrawn only from the assessment year 1973-74. It cannot be taxed for 1972-73 at all. That is the position of law. That is imperative only from 1973-74 according to the Finance Act of 1972.

SHRI A. K. JAIN: If it is covered, I have nothing to say.

MR. CHAIRMAN: That is the position of law. What you are saying is already taken care of. Mr. Sanghi, the position is; assuming it is an income, there is an exemption section. It was exempt under Section 10(3)—casual receipts and non-recurring income. But fees are not exempt.

SHRI N. K. SANGHI: If it is casual receipt or non-recurring income, it is exempted. But suppose every year he gets it, then what is the position?

MR. CHAIRMAN: According to section 10(3) upto Rs. 1000 it is exempt.

SHRI A. K. JAIN: Awards in recognition of outstanding merit for sportsmen or literary persons, if it happens to be in the course of the profession, it does not apply.

SHRI N. K. SANGHI: New clause (17A) reads:

“any payment made, whether in cash or in kind, in pursuance of awards for literary, scientific and artistic work or attainment, or for proficiency in sports and games, instituted by the Central Government or approved by it in this behalf...”

These would be exempt according to this but in case some objections whether it is in the previous year or not or that it has come from vocational or professional work are taken, then naturally they are not exempt. Now it has been provided to be exempt as if they are casual or non-recurring incomes.

MR. CHAIRMAN: Anything which falls within this clause will be exempt.

SHRI N. K. SANGHI: I do not think in the previous year any income which was termed vocational will be exempt.

MR. CHAIRMAN: When this clause comes, something which is casual and non-recurring is exempt. That is the

correct view. I will explain it. In 1973-74, the law was to stand changed. If this Bill becomes law applicable from 1973-74, this exemption will still be operative. They made their submission on the assumption that the earlier exemption under section 10(3) would be withdrawn from 1972-73. That is not the position of law. It will be withdrawn only from 1973-74. When it is withdrawn, the new law comes in.

SHRI A. K. JAIN: With regard to clause 3, I would like to draw the attention of the Committee to the Bhoothalingam Committee's report which had dealt with this question specifically. It has suggested that depreciation should be allowed in such a way that over a period of years 20 per cent more than the original cost will be provided for. That was the view a few years ago and in the present situation with the rising cost of plant and machinery, it should be nearly 150 per cent which appears to be somewhat reasonable. They also suggested that it should be applied not only to plant and machinery but to all industrial assets. This matter is very important because the cost of plant and machinery has in fact gone up by something like three to four times while the cost of buildings and other things have not gone up in the same proportion, but the 20 per cent average increase for all the industrial assets will be a fair average and it will be meaningful rather than confining it to only plant and machinery because the depreciation allowance comes into effect after 31st May, 1974. There is some kind of an impression that it is a substitute of development rebate. In our view that is the correct approach to the matter and I am very happy to see that our Chairman also feels the same way. The initial depreciation as it stands within the 100 per cent merely defers the collection of tax from the first two or three years to the next 4th or 5th or the 6th year. It is not a financial incentive to a new industry. In that sense, we do strongly

feel that whatever terminology you may give...

MR. CHAIRMAN: It is only postponement of tax.

SHRI A. K. JAIN: Depreciation should be given more than 100 per cent by whatever name you may call it.

With regard to the criticism that the development rebate in the past has led to wasteful capital expenditure, we would, in our humble submission, feel—We may not see isolated cases here and there—that by and large the tax collection from industries in the last ten years has been continuously increasing and it has not led to any loss of taxation. It is only through stimulating greater investment that both direct and indirect taxes can increase. Depreciation up to 100 per cent is a very important factor.

While dealing with the replacement cost, even the Tariff Commission has taken development rebate into account while calculating the rehabilitation allowance when they worked out as to what is it that the industries need in the price for the purpose of giving the element of rehabilitation. In that they have deducted it. Now if it is withdrawn then the prices of industrial articles will correspondingly increase and that will lead to a price inflation and this fact should be taken into account specially in the present context when the need to control prices is paramount. There are industrially advanced countries where the need for investment is not as great as in India. Even those countries find it necessary to have the provision of additional depreciation. They call it investment allowance, or cash subsidy.

MR. CHAIRMAN: Nomenclature is not the main thing. Development rebate is not mainly concerned with the clauses of the Bill. If you make an assumption that whatever is made in this Bill is in substitution of development rebate, I would like to say, that

to continuing tax concession, for encouraging industries in selected sectors.

SHRI A. K. JAIN: What we would respectfully submit is that this is to be viewed in the context of the changes in the corporate sector, in corporate taxation for the last few years. They have withdrawn various tax incentives and tax concessions.

MR. CHAIRMAN: That again will be outside our purview. Mr. Charat Ram referred to it generally that in corporate sector these concessions are withdrawn. But now we will have to confine ourselves to the objects of the Bill, to tax concessions and in respect of encouraging industries in selected sectors. We can go into the merits of the concessions and we can also go into the point as to what those selected sectors are. You have made three suggestions. Your assumption is that this is a sort of substitution of development rebate. This is not so. Kindly get rid of this idea. You have made three suggestions. First you said, any initial depreciation should be over and above the depreciation otherwise allowed. You said it would be over and above the depreciation the assessee would be entitled. That is the first suggestion. The second one is this. The assessee could be given option to write off 100 per cent in the year of his choice. This is second. Thirdly you are saying that it should be available for any industry. Third one, any industry, is a little too wide, because, possibly, it would go outside the scope of the Bill itself. There are some selected industries. We can add, we can delete. Mr. Charat Ram referred to industries. There are two methods by which State can subsidise. One is purchase of plant and machinery and replacement finance via fiscal regulations. That is to say, some sort of subsidy as a result of tax concessions. Another method is you provide for some incentive for the plant to be purchased in future. Another method is to give the assessee the

profits which may accrue thereafter. What we do is this. When you purchase plant we are accelerating depreciation. That is a method of providing for replacement finance. State subsidises via tax concessions. That being the case what according you should be the method of giving initial depreciation over and above the normal depreciation? In other words are you suggesting that 20 per cent should be allowed straightaway as deduction? And then what happens at the end when there is a balancing charge when you dispose of the plant and machinery?

SHRI CHARAT RAM: This is an overall national problem to which an answer may not be readily available. I will tell of some specific case. A plant is put up at a cost of Rs. 5 crores. It has to be replaced if not in 10 years, in 15 years. The cost of replacement of the plant has gone upto 15 crores of rupees. There is such escalation of costs over 15 years period or so. How is this amount of money to be provided to industries if it is not intended that it should become sick?

SHRI VASANT SATHE: We see the point. Any industry may invest Rs. 5 crores. In the next 10 years or 15 years, what happens is this. If it is to be replaced, the cost becomes Rs. 15 crores. How is it to be provided for in any futuristic planning? I want to know whether this depreciation, whichever is reasonably provided later on, should be available year to year to the industry as a fund or should this fund be funded with Government for which interest may be paid so that that is available as a national asset? What happens today is this. And I want you to enlighten me on this. My impression is that this amount is retained with the concern for whatever capital use they may make use of. Even after 15 years, whatever you provide for that may be within your hands to be used for replacement.

SHRI CHARAT RAM: If I may attempt to clarify the position, the only appropriation from profits which may be or which ought to be used is this. We have to see whether any disproportionate dividend has come out of the profits which are made.

SHRI VASANT SATHE: I am not on this issue.

SHRI CHARAT RAM: I am trying to make my point whether the funds are being made available within the company.

SHRI VASANT SATHE: This is an indirect way in which funds become available even though the depreciation amounts are with the company they are not immediately utilised for the purpose of replacement. I am saying why should this fund be not made available to the nation? It will be in your hands and ultimately it will have to be made available at the time of replacement of machinery in the industry.

MR. CHAIRMAN: Mr. Sathe's query is this. If you are asking for a relief to provide for a replacement finance, then kindly create a fund and identify such fund for investment. It should be used for investment and it should be made available to Government. But, when you want to buy machinery, then you should be able to draw upon that fund. That is what he wants to say.

SHRI VASANT SATHE: Let it not be only notional.

SHRI CHARAT RAM: It was not notional. Development rebate is an earmarked fund which could not be used for frittering away or disbursement.

MR. CHAIRMAN: It could be merged in your business.

SHRI CHARAT RAM: That is right.

MR. CHAIRMAN: What he says is that it should not be used in business but that should be made available to

Government or it may be employed for a specific security.

SHRI CHARAT RAM: How this fund may be provided for or allocated or used is a subsequent question. The first question is to appreciate the position. There are innumerable industries, some of whom, may be, because of absence of best management, become sick. Unfortunately, in our country, many many industries are becoming sick for various reasons.

MR. CHAIRMAN: That is true.

SHRI VASANT SATHE: It would make a material difference. You know that most of the cases of sick mills are because their earned profits were not utilised or were misused. Apart from depreciation and other funds, the materials were allowed to go sick so that it may be Government's business to take over them. During the last war and at other periods thereafter, this has been the story of the textile mills. So, I am not saying that it is so for a particular industry. Otherwise it will make a material difference. My suggestion is this. If this amount becomes specifically available and if your Federation or industrialists agree with our thinking that if a higher percentage is to be kept initially, that will make a difference. This is what you are trying to canvass if I understand you correctly.

SHRI CHARAT RAM: I do not want to get into the position of a discussion because there are many many facets of it when industries have become sick. I would not rule that out. In some cases it is due to mismanagement. There are many many other cases which I do not think we want to go into. For instance, in the matter of coal, there was a price control after nationalisation. And then there was a first price increase of Rs. 4/-. After some time, there was another increase in price of coal. We do not want to go into that at all. I still leave this open for a discussion. What is for your consideration is whether it is desirable from the national point of view that there should be a

provision for escalation of costs for replacement. How this should be funded or used is, I think, a matter for Government to consider.

MR. CHAIRMAN: Here, I want you to clarify on one thing. Why do you suggest this? We have seen other memoranda also on the same line and so I want you to enlighten us on that point. The mood of the existing law-makers seems to have been that if the incentive out of the subsidy or tax concession is to be given, that should be after the plant is installed. But that should not be against the current profits. What happens is this. The classic or concept of depreciation is to write off 'wear' and 'tear'.

SHRI A. K. JAIN: The amount of a depreciation that we are allowing as development rebate is allowed to be paid as dividend. Shri Sathe's point will be covered if the amount of provision that you make is increased at least substantially.

MR. CHAIRMAN: His point is very clear. A corresponding amount should be invested to the corresponding security. That should be made available to Government.

SHRI A. K. JAIN: The return will be of the order of 5 to 6 per cent.

MR. CHAIRMAN: It is just earmarking some money by yourself which is not available to you at subsidised rate for your business but that is available to you only for purposes of purchase of machinery. This was his query.

SHRI A. K. JAIN: If the idea is to make the fund available not at the time of the present profits but at the time of the replacement of machinery, then the amount required would be three to four times the present cost that you pay today for replacement.

If it is allowed to be retained by us, we can use it much more profitably for our requirement. You are meeting a part of rehabilitation needs and not the whole of it.

MR. CHAIRMAN: What about the other point? Why does it commend to you and not to the framers of the law that if we have to subsidise it for the purchase of compulsory machinery, it is there and why not you utilise from out of profits earned after the plant is installed rather than before? Am I clear?

SHRI A. K. JAIN: You are not clear.

MR. CHAIRMAN: My question is this. One method of providing for the finance is that from to-day itself, a certain concession is allowed to you. And you go on accumulating; out of that, you purchase. Another method is this. When you purchase, at that time, a certain concession is made. And as a result of it, future profits are concessionally taxed. Both the methods are well-known methods.

SHRI CHARAT RAM: Mr. Jain said that if it is given currently as proposed, then greater money will now be made available by the Government for replacement. Now only 25 per cent of it is given. Your suggestion may be of considerable interest provided this 25 per cent is increased to a substantial extent.

SHRI S. R. DAMANI: After listening to the witness, I want to know one thing from him. Whatever be the depreciation or the development rebate we may allow a substantial amount is being borrowed from governmental or other institutions. Now, the payment is to be made. Is it a fact that on account of profits earned we provide against it an initial depreciation. According to this Bill initial depreciation or development rebate that we allow is mostly used to make repayment to the financial institutions from which the industry has borrowed the money. In this way, the repayment is made and also further money can be drawn and further expansion can be undertaken by the industry.

This is the system adopted by the industry. What do you say to this?

SHRI HARISHANKAR SINGHANIA. I think you are right there. That is the form in which it can take shape. And ultimately with this money that is available, one could liquidate the loans. If you analyse any of the balance sheets, you can very easily see this. I would like to add to what has been said a little while ago on this question. If you will permit me, I will take you on to one other point. When we talk about the initial depreciation, we have clarified one thing that we should not think about it only for the purpose of replacement of the development rebate. But, yet, I feel that by whatever name you call it, it has gone into the developmental activities. If it is in the nature of developmental incentive I would urge you to keep in mind the fact that in the Fifth Five Year Plan we are thinking of an investment of Rs. 53,000 crores which is more than the total investment made in the previous Plans. This itself may not be enough. Our need for development finance is very much. Quite a sizeable portion of this has to come from the retail profits of the private sector. We want to ensure entrepreneurship is brought into in the wider context. That means dependence on loans is reduced which in other words mean more and more money is made available from the retail profits. All this would mean companies' finance should be such that it can make reasonable profit and can grow. Therefore, I would suggest that it is in this background that we have to look into the question of initial depreciation. If it is in the nature of incentive we have to examine whether it would be an effective incentive. If it is not an effective incentive then it loses its validity. I submit for your consideration at this stage of development of our country we cannot say we have reached a stage where we do not need any developmental incentive. Quite apart from the question of higher replacement costs that are there which are multiplying geometrically if there was any need at

any time it was now to provide something more than mere depreciation. I would urge developmental rebate was hardly meeting the costs of higher replacement costs, as such, why not consider it as a developmental incentive also.

SHRI S. R. DAMANI: Government is facing a lot of foreign exchange difficulty. Many plants can be manufactured in the country. Would you agree if we allow more depreciation on the plant and machinery manufactured in India and less on the imported plant and machinery. It will also help indigenisation.

SHRI HARISHANKAR SINGHANIA: It will certainly help and give inducement.

SHRI CHARAT RAM: This is not a position which should be discussed in the present context of the Direct Taxes (Amendment) Bill. That may be in the context of general industrialisation of the country. As to how to provide industries the replacement finance, I think, some mechanism ought to be devised. The present Bill gives 100 per cent of the original cost.

SHRI SAMAR GUHA: Suppose the depreciation value is conceded do you mean the freedom will be conceded to utilise it for any purpose for industry or for any specific purpose so available only in relation to the plant and machinery?

SHRI HARISHANKAR SINGHANIA: This question of the need for funding it, to ensure that funds are available when they are needed, you must look at the thing as a continuing thing. It is not that Company starts to-day only; it is a system which operates on a continuous basis. I put plant and machinery to-day and after five years I do so. It operates. In the previous five years I have been getting depreciation. I am making repayment of loans. In terms of cash loan the money is with the Government, in the sense that we are repaying the loans to the financial institutions or to the Banks. If we are not to give this money from here and they will have

raised borrowings from any of the institutions to the extent it is necessary, either we have to increase our borrowings from the financial institutions or banks to meet this. In terms of cash loan, I have not understood how it will make any difference. If you look into the situation on the basis of continuing company and cash flow system, you will not find that situation will improve any way. Suppose you have to take it away and fund it. But we need further funds. These funds are to be utilised. How to ensure that these funds are utilised for the proper purpose and are not frittered away in undesirable things? In undesirable, we use dividends also.

MR. CHAIRMAN: Not necessarily.

SHRI HARISHANKAR SINGHANIA: I am glad that you say it is not necessary. Dividend is a part charge on the capital taken from the investor and servicing of the capital. But as you mean dividend has to be excluded, the existing provisions were already there where developmental rebate could not be utilised for the purpose of dividend. Therefore, we are suggesting that this money is available basically for the purpose of industry.

MR. CHAIRMAN: His problem is not with reference to availability of liquid source when it is put in your funds. His object was little different. While you are given this concession, you hand over this money to the Government in one form or the other.

SHRI VASANT SATHE: What I was having in mind was—this fund as a replacement fund and the Chairman has rightly put it and not as a continuous day-to-day business finance that is available to you from the financial institutions or from the share holders money. Now if it is to be used for repayment of your normal finance or capital that you get from the Bank, then this depreciation for replacement of this particular machinery or plant will not be available. That is why I said it has not to be

notional. Otherwise you may invest this amount of depreciation. I am taking the most genuine case. You may invest in another plant. It may be essential from country's point of view also industrial growth. But our object in this Bill is in certain sectors i.e. in certain backward areas it may flow. So, that object being limited, it is not necessary that a person who uses this depreciation fund for other plant investment would necessarily invest in the sectors that we have enumerated and in the areas where we want him to invest. So, therefore, let us not confuse the issues, with general finance, saying that this is utilised for repayment of loan. For that you have to pay the loans from your profits, you pay interest also on those loans.

We are losing tax. Government is going to lose that much tax by allowing you this concession. That is why I asked you the basic question.

MR. CHAIRMAN: It is the view point which Mr. Sathe has explained.

SHRI A. K. JAIN: Depreciation at replacement cost is the true cost for running a business. Replacement cost is rising from year to year. The wear and tear of the plant and machinery is not depreciation of the original cost but depreciation of the replacement cost from year to year.

MR. CHAIRMAN: That is not the concept of an Accountant. For determining your current profits, depreciation has to be provided as an additional factor of replacement.

SHRI A. K. JAIN: What is the true cost of an article? Is it wear and tear on the original cost or wear and tear on the replacement cost. If I installed a plant 20 years ago, it is depreciating at income. If I provide in my Account Book the picture, it is negligible. My true cost is much higher amount than that amount and the Company should get its true cost.

In a strict computation if one has to make computation year to year, it becomes a complicated method and

this matter has been discussed in several countries by many competent professional people and Chartered Accountants also. For simplification it has been said instead of giving 3 per cent, 4 per cent each year and working out the replacement cost this year and that year, make it a simpler method and do it on straight basis of 20 per cent, 30 per cent.

MR. CHAIRMAN: Replacement factor is added. They have given three suggestions in their Memorandum. They say that the initial depreciation which is now sought to be given will ultimately be reckoned for purposes of over-all depreciation of plant and machinery. They suggest that this initial depreciation should be over and above the normal depreciation. That is the point which we are discussing.

SHRIMATI SAVITRI SHYAM: I do not understand much about taxation. But as a layman I say that during these 15 years much has been taken by the industries from the Government, in the form of development rebate or incentive rebate. Machinery was not modernised and the development in the un-development area was not made. Now the specific proposal is to develop the backward area and you have to give us specific proposal not in the name of incentive or cry for incentive, that you have to develop this backward area or concession should be given to the industries by the Government and what specific industries should be installed in the backward area. They have pleaded in their memorandum that almost every industry should be put in the Ninth Schedule. But I would like them to bear in mind the objective of the Bill and give specific proposals or suggestions about how to develop the selected areas.

MR. CHAIRMAN: The second part of their memorandum deals with that aspect. At the moment, we are discussing the question of depreciation. When we take up the question of backward areas, they will answer the Hon. Member's question.

SHRI HARISHANKAR SINGHA-NIA: There is one point that I would like to add on depreciation. Shri Sathe had asked how we could prevent the initial depreciation allowed here from being utilised for areas or industries other than the selected ones. If you look into the list of selected industries, you will find already that it consists of industries in which public financial institutions, the company law etc. will be involved before they can be diversified. So, it is not an easy affair for an industry to spend that money on any other area. This is what I would like to put on record.

MR. CHAIRMAN: According to Mr. Jain, it would not make any difference as long as this greater quantum of money is available to replace plant and machinery, of course, in the priority sector.

SHRI N. K. SANGHI: This is a very highly technical Bill and taxation itself is a very technical subject, and I would like to educate myself on the memorandum which the Federation has submitted. I believe the Federation, being the representatives of industry in the country has resigned itself to the abolition of the development rebate. But in their memorandum, they have drawn our attention to three suggestions. In their second suggestion, they have said that the assessee or the industry may be allowed to adjust normal depreciation of hundred per cent in the year of their choice. How is this going to help the selected sector of industry for which this initial depreciation is being given?

SHRI CHARAT RAM: I do not know whether what we are discussing is really going to be within the so-called objectives of the proposed Bill which are for investment in selected industries and in backward areas.

MR. CHAIRMAN: It could be that if initial depreciation is to be allowed as outright deduction over and above

the normal depreciation, we can make a stipulation that it should be invested in such a way.

SHRI CHARAT RAM: The second point which the hon. Member has made is this. If the first point is not acceptable to the Government, namely of additional depreciation outright, two issues arise. One is that of attracting investment in the defined new industry and the defined new backward areas. However, what we are really emphasising is prevention of sickness in the industries which have been set up.

MR. CHAIRMAN: At the moment, we are not on the issue of backward areas but on the question of depreciation.

SHRI CHARAT RAM: The additional depreciation or development rebate or whatever else you may call it has to provide replacement finance so that the industries which have been set up do not become sick.

MR. CHAIRMAN: Why do you say that they should not become sick? Why should you not say that this is to encourage industries? That is the objective. The next question which I am going to ask is going to be a very crucial question, and I would like to know the views of the Federation on it. But would you like to answer Shri Sanghi's question? How would your second suggestion be an adequate incentive?

SHRI A. K. JAIN: It is not an alternative. We suggested that first of all, the depreciation must be in addition to 100 per cent. The free depreciation idea is not one of tax concession or tax incentive in that sense because that is only postponement of tax collection.

SHRI CHARAT RAM: I would like to answer this question in a little bit of a personal way and not directly as a representative of the Federation. If I have to pick and choose investment in a new industry, whether it be cement or caustic soda or fertiliser,

I would not do it on the basis of whether I am being allowed additional depreciation or free depreciation at my choice within the 100 per cent limit, but I would go and invest in the first instance where there is prospect and good profitability. The second question that has arisen is this. After the plant has been set up, how do I keep on replacing my assets as they wear out? In my personal opinion, my investment decision would not be deflected by the provisions now sought to be put into the Bill, if that is the objective.

MR. CHAIRMAN: We want these concessions only for serving as catalytic agents to divert your investments into these industries.

SHRI CHARAT RAM: It would not deflect me at all personally in my investment judgment. I would only consider whether there is prospect and good profitability. This is my personal opinion.

SHRI N. K. SANGHI: From what the witnesses have said, I think that no industrialist would like to invest his money.

MR. CHAIRMAN: That is not what he has said. He has said that that was his personal view and not that of the Federation. He said that he would go purely by the profitability criterion.

SHRI CHARAT RAM: At a point of time.

MR. CHAIRMAN: And subsequently come and consider what the tax benefits are.

SHRI N. K. SANGHI: Subject to profitability, they would certainly take the adjustment of 100 per cent depreciation in the year in which they get the profits, so that the investment is taken back, instead of spreading it over a couple of years.

MR. CHAIRMAN: According to Mr. Charat Ram, that is an ancillary consideration.

SHRI N. K. SANGHI: In the memorandum we have been told that there

are better fiscal advantages to selected industries. I would like them to give us some idea of the advantages. I would like to know whether such things prevail in other advanced countries like the U.K. or America or any other, by way of initial depreciation or development rebate and so on. If they can tell us something about this. It would help us in understanding how we are fairing in this regard.

MR. CHAIRMAN: There are different types in U.K., Brazil, New Zealand, Australia, etc.

SHRI HARISHANKAR SINGHANIA: Here is a booklet called 'International Comparison', which is about three years old, and dates back to 1969, but we can try to update it and supply 40 copies of the same to you, and this gives a good comparison.

MR. CHAIRMAN: Please send us the copies.

SHRI MADDI SUDARSANAM: Do you consider the eligibility of any other industry for initial depreciation, in addition to the proposed ones?

SHRI A. K. JAIN: We shall deal with this after we finish this point.

SHRI MADDI SUDARSANAM: Ours is a capital-scarce country. Don't you think that too much generalisation of the proposed initial depreciation would lead to greater use of capital in the methods of production or in the choice of industry?

MR. CHAIRMAN: With reference to the provisions of the Bill, there is a very crucial question that I would like to put to you, because I am very much worried about what Shri Charat Ram had said at personal level, because it is of the utmost importance to me and to the Committee.

If this concession is to have some meaning, specially to a selected sector of industry, what is the reaction of the Chamber in which this concession is available but broaden the quantum of

concession? This is an alternative to the existing provision. Let us assume the concession is confined only to the new industrial undertakings in the Ninth Schedule. So you reduce the entire area very much. Only new industrial undertakings in the Ninth Schedule will be entitled to this. While enlarging their concession, it is provided that initial depreciation to be allowed as an outright deduction would include the entire capital expenditure incurred. Would this be a better alternative?

SHRI A. K. JAIN: Will new industrial undertaking include expansion?

MR. CHAIRMAN: Under the existing definition of 'new industrial undertaking' existing industries do not get any benefit. We encourage new industries and say the initial depreciation will be 20 per cent of the entire capital expenditure. Would you apply your mind to it?

SHRI CHARAT RAM: We have not followed it totally-whether the concept is still of only 100 per cent of original cost or 120 per cent.

MR. CHAIRMAN: Not 120 per cent. At the moment, 20 per cent is only on plant and machinery. What I am saying is: 20 per cent of the entire capital expenditure on the project would be treated as initial depreciation but confined only to new industries that will come.

SHRI HARISHANKAR SINGHANIA: On a clarification. Does a new industry include expansion of an existing industry?

MR. CHAIRMAN: If it is included in the existing industrial undertaking. I say we go to a new industrial undertaking to whom the tax holiday is available.

SHRI HARISHANKAR SINGHANIA: Suppose fertiliser is included. What happens if there is expansion of a fertiliser plant?

MR. CHAIRMAN: Expansion is not a new industry. Substantial expansion

sion is covered. Therefore, the principle is that we narrow the area of operation but enlarge the quantum of concession.

SHRI CHARAT RAM: The first reaction is, as we had said earlier that we welcome all that has been proposed in the Bill inasmuch as it is an improvement on the subsisting situation. Expansion of the business in the limited 9th schedule industries from the plant and machinery only to all assets is not likely to provide the capital requirement for replacement. I think we should still be looking for additional finance requirement when replacement needs are there. In your kind suggestion this is not being provided. It is still 100 per cent.

MR. CHAIRMAN: Is it better provided in your suggestion?

SHRI CHARAT RAM: In our suggestion, it is 120 per cent.

MR. CHAIRMAN: Normal depreciation will be there. 20 per cent will be outright write-off.

SHRI HARISHANKAR SINGHANIA: 100 per cent write-off in addition to normal depreciation?

MR. CHAIRMAN: Depreciation will be allowed to be written off in the normal course, 20 per cent of the capital expenditure to be written off as initial depreciation.

SHRI A. K. JAIN: In addition to 100 per cent?

MR. CHAIRMAN: Yes. Why are you bringing in the 100 per cent factor?

SHRI HARISHANKAR SINGHANIA: This would be very much welcome.

MR. CHAIRMAN: You narrow the area of operation very much, confining it only to new industries.

SHRI HARISHANKAR SINGHANIA: It is a much better suggestion.

MR. CHAIRMAN: In the Chamber's view, only to new industries, if 20 per cent of the capital expenditure is

allowed as write-off, that would be better.

SHRI HARISHANKAR SINGHANIA: There is no doubt about it.

SHRI K. R. GANESH: This is a thinking the Chairman has put before you. Of course, it will be for the Committee to go into that. But Government does not stand committed to it.

MR. CHAIRMAN: There is no commitment.

SHRI K. R. GANESH: Probably out of it, certain things may come out.

MR. CHAIRMAN: At this stage, we are only deliberating and trying to find out. I wanted to know the Chamber's view.

SHRI K. R. GANESH: I had to say this because it goes completely outside the scope of the Bill.

SHRI SAMAR GUHA: It is a dialogue, not a decision.

MR. CHAIRMAN: What constitutes initial depreciation is something we can define.

SHRIMATI SAVITRI SHYAM: It is a suggestion; we are not making any commitment.

MR. CHAIRMAN: We go to the second point. You have said 100 per cent in the years of their choice. You accelerate depreciation to be allowed in any year. So far as the third point is concerned, it is outside the scope of the Bill. It has got to be for selected industries. All we can do, if you can make out a case, is that we can enlarge the selected sector.

SHRI A. K. JAIN: The original schedule has been curtailed. We see no reason for it.

MR. CHAIRMAN: The existing Ninth Schedule has 33 industries. Which are the industries which are deleted?

SHRI HARISHANKAR SINGHANIA: Kindly see page 3 of our memorandum.

SHRI A. K. JAIN: The mining industry, pesticides, petro-chemicals, tea, printing machinery, processed seeds, processed concentrates for cattle feed, internal combustion engines.

MR. CHAIRMAN: Is the Chamber aware of the criteria on which priority industries have been determined?

SHRI A. K. JAIN: No.

MR. CHAIRMAN: We have called the Secretaries. They are the most important people on this Bill. We will put it to them why were these deleted and what are the criteria. What we want you to tell us in that case is, how, according to you, these industries are as important as those?

SHRI A. K. JAIN: Let us take coal. It is entirely in the national sector. But we are not making a distinction between public and private sectors. In view of the energy crisis, the development of coal is of paramount importance to the country. In fact, the entire strategy of our national economy is now based on a change-over from fuel oil to coal which is our main energy source.

SHRI HARISHANKAR SINGHANIA: Bauxite is the raw material for aluminium. It is a non-ferrous metal. We do not have copper, zinc. But aluminium is one of the basic materials we must develop. Therefore, bauxite mining.

SHRI A. K. JAIN: Similarly iron ore, manganese, limestone. The last is very important to the cement industry. If you exclude limestone, investment in limestone mining will be excluded.

MR. CHAIRMAN: We will put it to the people who prepared the Schedule, as for the rationale for excluding these.

SHRI A. K. JAIN: Pesticides—this is one of the most important agricultural inputs. Then petro-chemicals.

SHRI HARISHANKAR SINGHANIA: Tea is one of our basic export earners.

SHRI A. K. JAIN: Tea machinery. It forms only 25-30 per cent of the investment in tea gardens. This is entirely a new item.

MR. CHAIRMAN: We will ask the Secretaries or whoever is responsible for the preparation of the Schedule as to what is the way out. According to you, the Ninth Schedule should have 33 plus 8 industries.

SHRI HARISHANKAR SINGHANIA: 22 plus 8 industries.

SHRI A. K. JAIN: There are deletions from the original list. On p. 4 we have given additional suggestions. These are also by way of clarification. For example, steel castings and forgings. This should include grey iron and other alloy castings. Some of the grey iron products are one of the most important new items of export from our country.

Similarly, thermal and hydro power generating equipment should include manufacture of transformers, cables and transmission towers. There are some companies manufacturing transformers. They are not manufacturing thermal and hydro power equipment.

MR. CHAIRMAN: Manufacturing cables and transmission towers. Industry and agriculture should surely include manufacture of boilers motors, internal combustion engines, etc.

SHRI A. K. JAIN: The component parts are very important.

MR. CHAIRMAN: This is by way of abundant caution; is it so?

SHRI A. K. JAIN: Yes.

MR. CHAIRMAN: If you make it inclusive, then the definition is likely to be very much restrictive.

SHRI CHARAT RAM: This may be broadly seen; our suggestions are there for your consideration.

MR. CHAIRMAN: We will consider it. This is an important aspect. We will ask why these eight industries have been left out.

SHRI A. K. JAIN: The question of component parts is very important, because the small scale and ancillary industries are making component parts which go into the industries which are eligible.

MR. CHAIRMAN: Are they excluded?

SHRI A. K. JAIN: These are included in the items of industrial, and agricultural machinery. Whether the manufacture of component parts is also in the manufacture of industrial machinery or not is a debatable point, but as our Chairman said, the question of incentive should be free from doubt, and legal disputes which may go on for 10 years or so should be avoided.

MR. CHAIRMAN: If you are to rope in the manufacture of component parts, then the Ninth Schedule will become scheduleless. Everything will become one way or the other a component of this, and it will become impossible. We will see to these 22 and eight items.

SHRI A. K. JAIN: Clause 4. A condition is attached for the allowance of the initial depreciation that an assessee should furnish a certificate from the prescribed authority before the time-limit for furnishing the return of income. There is a time-limit. A certificate to the effect that the plant and machinery have been installed for the purpose of the business appears to be redundant. The development rebate scheme has been functioning for so many years without such conditions, and there is no allegation that they are being misused.

MR. CHAIRMAN: There are allegations that without the plant, the development rebate has been claimed. We will consider this. If there is some administrative difficulty, we

must sort it out with the administration.

SHRI N. K. SANGHI: Whether this certificate will be given before assessment is not clear.

MR. CHAIRMAN: The time-limit could be relaxed. But there is a serious administrative problem.

SHRI HARISHANKAR SINGHANIA: What is the administrative problem?

MR. CHAIRMAN: Our income-tax officers are not technical experts, and whenever an assessee appears he explains that such and such thing falls within this category and he gets certain rates. Later on, on scrutiny, there is an objection to the effect that it does not fall within this limit. So, there is a controversy and a certificate from a competent authority is called for and all this creates an administrative difficulty.

SHRI O. P. VAISH: As far as this aspect is concerned, there is no doubt that there is difficulty with the administration in that they are not able to decide whether an industry falls within the Schedule or not.

MR. CHAIRMAN: They are able to decide, but having decided it, somebody comes and says "You have taken a wrong decision."

SHRI O. P. VAISH: This is an area where an advance ruling could be given. I want to set up a machinery, and after I have set up the machinery the decision would not help me either way, because the incentive is meant to influence my decision to set up the a decision.

MR. CHAIRMAN: You may write to the prescribed authority and get a decision.

SHRI O. P. VAISH: There should be a provision for an advance decision. Otherwise it will be of no use.

SHRI R. D. SHAH: As the Chairman has explained, it is purely an administrative difficulty, because the

Income-tax officer is not a technical man. He takes all the care that is possible. Sometimes, the assessments are delayed and sometimes long after, objections are raised that this was not a priority industry, which means reopening the assessment, which leads to so many problems. So, if there is an authority which is prescribed for the purpose, the certificate from that authority will be beyond criticism by anybody. That will take away a good part of the doubt and the various problems that emanate from it.

In regard to the argument that it will delay assessments, I would like to say that we do not want any delay to be caused in getting the certificate from the prescribed authority as this would delay the assessments. If the delay is on the part of the business undertaking in asking for a certificate, the party is to be blamed and not the Department, because if such delays are condoned it would delay the assessment proceedings. As you said very rightly, the prescribed authority can say that this industry could be certified.

MR. CHAIRMAN: We will consider it.

SHRI O. P. VAISH: It may be provided for in the Bill.

SHRI R. D. SHAH: It is only an administrative aspect.

MR. CHAIRMAN: We will give the administration the directions on this point. If that is not final, you may go in appeal against that.

SHRI A. K. JAIN: Clause 5. We welcome this provision. I will only draw your attention to the proviso at page 5 of the Bill which says:

"Provided that the scientific research is undertaken under a programme approved in this behalf by the prescribed authority having regard to the social, economic and industrial needs of India."

The CSIR is there, and the CSIR approves the scientific bodies to whom payment is made. So, this proviso be

comes redundant. If an industry submits the programme first to the prescribed authority which will examine the matter it may take a year or two, and by the time the decision is given the industry may lose. You have made it as a first condition that it is allowed only when the payment is made to an approved body. It is not that a deduction is being allowed to the company itself. When the body is approved by the CSIR, this further proviso is redundant.

SHRI HARISHANKAR SINGHANIA: When there is already a condition that the prescribed authority is the C.S.I.R., this redundant provision need not be there. Otherwise, for each project of research, one must go to the Government and take their approval which would only mean administrative delays and it may retard the activities in regard to research.

SHRI CHARAT RAM: It is again overloading the Government with various problems.

MR. CHAIRMAN: We will have to find out the view of the Government. We will weigh what you say. You say that once these institutions are approved by the CSIR, they should take care of it. But there seem to be some more difficulties because of which this proviso has been put in.

SHRI K. R. GANESH: What kind of research as they do after it is approved? If the C.S.I.R. approves of a research, for that purpose there is a concession. But who is going to find out what actual work has been done?

SHRI CHARAT RAM: Ultimately you will need to proceed on some form of trust, unless you feel otherwise. No industrial enterprise will take to frivolous methods.

SHRI A. K. JAIN: The assessee pays it.

SHRI O. P. VAISH: It is being used for scientific research related to the business carried on by him. And then the proviso is put that the business ought further to conform to a programme approved in this behalf by the prescribed authority having regard to the social, economic and industrial needs.

MR. CHAIRMAN: We shall see. This is hedged in by several precautionary conditions, if I may put it like that. We shall try to find out from the Secretary when we talk to him. We take note of what you say.

SHRI S. R. DAMANI: You can send your suggestions in a note.

SHRI N. K. SANGHI: May I know whether he wants complete deletion of the proviso or he will be happy if we delete "having regard to the social and economic interest."

SHRI HARISHANKAR SINGHANIA: The whole proviso is unnecessary. If I have to give any grant to any university for a particular research, I will have to wait for about six months before we can start work. By that time the University might lose interest.

MR. CHAIRMAN: I shall tell you what happens. We shall consider what you have said. We do not want unnecessary fetters to be brought in but at the same time we cannot barter away cardinal safeguards.

The point is this. Assuming, for instance, that business is interested in making cosmetics, for example how best it can improve the odour of a shaving lotion or improve the colour of a lipstick, that is something in which the Government is not possibly interested.

SHRI HARISHANKAR SINGHANIA: If we want to channelise research or give incentives to selected research, why not a list be published from time to time so that everyone knows about it? One may add or subtract from the list.

SHRI S. R. DAMANI: Government may recognise certain institutions for research work and contributions to those institutions will automatically be exempted.

SHRI A. K. JAIN: We request you to have a look at it.

MR. CHAIRMAN: We shall consider it. Next point.

SHRI HARISHANKAR SINGHANIA: This is with reference to clause 9. This is a welcome feature. I would repeat what we have already observed. We want the incentive to be effective incentive so that industries go to backward areas. If we analyse the broad difficulties, why investment cannot go to the backward areas, you will find that the infrastructure is one of the most important difficulties: transport, electricity, water, housing, educational and medical facilities and so on. Many a time industries have to spend their own money for getting electricity or other facilities. In the form in which it is provided here, you get the benefit after sometime, after depreciation, etc. It is not an effective incentive, immediately. Therefore, this suggestion has been made with regard to certain percentage of the capital employed.

MR. CHAIRMAN: How much?

SHRI A. K. JAIN: Under the present law it is 6 per cent excluding borrowings for new industries. We did not want it to be mixed up with that. That is why we have made this suggestion.

MR. CHAIRMAN: Will you ever really take industries to backward areas?

SHRI CHARAT RAM: You have raised a very valid point, whether the objective of taking industries to backward areas will be achieved. The other day we had meetings with the Planning Commission. If the infrastructure is not there, communication, roads, power, etc. it is highly

doubtful. Even in backward areas we have got to identify the towns where infrastructure exists. These incentives are welcome but I doubt very much whether industries could be carried to backward areas when there is lack of infrastructure.

SHRI HARISHANKAR SINGHANIA: It is true that unless infrastructure is basically there, you cannot go there but it is also true that you have some infrastructure at some places but by adding to that infrastructure, you can take industries there. Take for instance housing conditions, which is a big burden. If you go to a remote place, where are you to house the technicians or labour? Nobody wants to go. If you give incentives directly related to such infrastructure investment it will be an incentive for people to go; they get some immediate incentive. It will serve the dual purpose of increasing housing and also give employment to people in those areas. My suggestion is that a certain percentage of the capital,.....

MR CHAIRMAN: What percentage?

SHRI A. K. JAIN: The present provision of 15 per cent of the total investment being given as subsidy is available only upto an investment of one crore; that does not apply to larger industries. That ceiling could be removed and the 15 per cent could be made available even for higher investments. For instance, there is a Rs. 10 crore investment and 15 per cent of that comes to Rs. 1.5 crores. 15 per cent should be available subject to the proviso that the amount is actually spent on infrastructure.

MR. CHAIRMAN: Suppose the total expenditure incurred for infrastructure is Rs. 2 crores in respect of a project of Rs. 10 crores investment, what ought to be done?

SHRI A. K. JAIN: Rs. 1.5 crore should be available to the industry as subsidy; the balance Rs. 50,000 the Company has to bear.

MR. CHAIRMAN: You suggest that subsidy take care of the infrastructure.

You can take it up at the appropriate level.

SHRI A. K. JAIN: The present provision of the Bill is based on 20 per cent reduction of profits for 10 years. But in the first three or four years, the company will not make taxable profits. So, the benefit is only illusory. So, it should start from the day the company starts making taxable profits. In the alternative, instead of linking it to the profits, you may link it to the capital employed and allow it to be carried forward to subsequent years.

MR. CHAIRMAN: We can consider that.

SHRI A. K. JAIN: The capital employed should also include borrowings.

SHRI S. R. DAMANI: That means, the total assets of the company.

SHRI CHARAT RAM: Yes, gross fixed assets of the company.

MR. CHAIRMAN: We will consider it

SHRI A. K. JAIN: The depreciation provision may become selective in the case of other areas. But in the case of backward areas, it should be available entirely.

MR. CHAIRMAN: We will consider it.

SHRI N. K. SANGHI: Do you think the changes you have suggested would really bring about industrialisation in backward areas?

SHRI A. K. JAIN: It would definitely facilitate the industrialisation of backward areas.

SHRIMATI MARJORIE GODFREY: We should help them in getting raw materials. Many of them are having a lot of trouble about that.

MR. CHAIRMAN: They say, "Give us these tax concessions and we will manage all that".

SHRI A. K. JAIN: Today the expenditure on infructuous projects is allowed neither as revenue expenditure nor as capital expenditure. This causes great difficulty because out of 4 or 5 projects only one materialises and the expenditure on other projects becomes infructuous.

MR. CHAIRMAN: I don't think we would be able to do anything in this Bill for that.

SHRI A. K. JAIN: Sometimes for roads and bridges Government says, "You invest one-third of the money. We will invest two-thirds of the money". That one-third of the money which the company pays is not allowed either as revenue or capital expenditure. These roads and bridges do not belong to the company.

MR. CHAIRMAN: Mr. Palkhivala also made that point. We will consider it.

SHRI O. P. VAISH: The roads are not merely for the company's employees. The whole community avails of that benefit. Then, we have to take technicians and higher level managers to such areas. Suppose we take a man from Delhi. He incurs additional expenditure on the education of children because he has to send them to the hostel. Any increase in his salary is subject to tax at 60 or 70 per cent.

CHAIRMAN: This is a larger issue. I want you to crystallise your suggestions on this point in a supplementary memorandum and send it to us in the course of a week.

SHRI S. R. DAMANI: For setting up industries in backward areas, you have said in page 5:

"It may, however, be appreciated that the setting up of business in the remote backward areas is a difficult task. Naturally in such areas facilities like transport, electricity, housing, medical, education

and other amenities are not available."

That means, you are taking the responsibility of arranging these facilities. If Government agrees to your suggestion, will it be possible to start industries in backward areas?

SHRI CHARAT RAM: It will facilitate.

SHRI S. R. DAMANI: Government are very anxious that you should go to the backward areas. Will it be possible if we agree to all these suggestions?

SHRI CHARAT RAM: Yes.

SHRI BHAGWAT JHA AZAD: Sir, I would request you to ask them to submit an exhaustive list as to what are the concessions they need on the fulfilment of which I can have an assurance that these people will go to backward areas like Bhagwalpur. They need education, tax concession, good housing and some other things mentioned in this Bill. I want them to give us an exhaustive list.

MR. CHAIRMAN: Through this fiscal legislation we are entering into the realm of something which has defied solution all these years, namely, eradication of regional imbalances and disparities. We are unable to get the industrialists to go to the backward areas. According to the Chamber what are the incentives which are adequate to make the industries go to backward areas? What are the other infra-structure facilities which should be made available in the backward areas to lure and draw industrialists there. You should include concrete suggestions in your memorandum, which we should get in the course of this week.

SHRI CHARAT RAM: We realise our responsibility as the apex chamber

to give concrete suggestions for the achievement of the national goal of economic development of the backward regions, not only by fiscal measures but in other ways also. We will submit shortly our memorandum which will mention the facilities that should be developed so that industries can be established in the backward areas.

MR. CHAIRMAN: It should be submitted in the course of the week because we do not have much time. Thank you very much.

SHRI CHARAT RAM: Thank you very much for giving us this opportunity.

(The Committee then adjourned).

RECORD OF EVIDENCE TENDERED BEFORE THE SELECT COMMITTEE ON THE DIRECT TAXES
(AMENDMENT) BILL, 1973.

*Saturday, the 19th January, 1974 from 10.30 to 13.40 hours and again from
15.00 to 18.10 hours.*

PRESENT

Shri N. K. P. Salve—*Chairman*

MEMBERS

2. Shri Bhagwat Jha Azad
3. Shri Onkar Lal Berwa
4. Shri Raghunandan Lal Bhatia
5. Shri M. Bheeshamdev
6. Shri G. Bhuvarahan
7. Shri Narendra Singh Bisht
8. Shri Somnath Chatterjee
9. Shri S. R. Damani
10. Shri D. D. Desai
11. Shri Samar Guha
12. Shri Kartik Oraon
13. Shri Ramji Ram
14. Shri N. K. Sanghi
15. Shri Vasant Sathe
16. Shrimati Savitri Shyam
17. Shri Era Sezhiyan
18. Shri Shiv Kumar Shastri
19. Shri Somchand Solanki
20. Shri Maddi Sudarsanam
21. Shri K. P. Unnikrishnan
22. Shri K. R. Ganesh

LEGISLATIVE COUNSEL

1. Shri R. V. S. Peri-Sastri—*Joint Secretary and Legislative Counsel.*
2. Shri V. S. Bhashyam—*Deputy Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF REVENUE &
INSURANCE)

1. Shri R. D. Shah, *Chairman, Central Board of Direct Taxes.*
2. Shri K. E. Johnson, *Member, Central Board of Direct Taxes.*
3. Shri R. R. Khosla, *Director.*
4. Shri O. P. Bhardwaj, *Deputy Secretary.*
5. Shri V. P. Minocha, *Under Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

WITNESSES EXAMINED

I. Shri N. A. Palkhivala, Senior Advocate, Supreme Court of India, Bombay.

II. *Associated Chambers of Commerce & Industry of India, New Delhi.*

Spokesmen:

1. Shri M. H. Mody
2. Shri K. C. Khanna
3. Shri R. N. Ratnam
4. Shri M. M. Malhotra

III. (1) Shri B. D. Pandey, Cabinet Secretary, Government of India.

(2) Shri M. R. Yardi, Finance Secretary, Government of India.

(3) Shri H. N. Ray, Secretary (Department of Expenditure), Ministry of Finance, Government of India.

(4) Shri R. V. Raman, Secretary, Ministry of Industrial Development, Government of India.

(5) Shri B. B. Lal, Secretary, Ministry of Planning, Government of India.

I. Shri N. A. Palkhivala, Senior Advocate, Supreme Court of India, Bombay.

(The witness was called in and he took his seat).

MR. CHAIRMAN: Mr. Palkhivala, for the purposes of record it is necessary for me to once again read out to you the direction which governs your evidence before this Committee, of which you are aware, I am sure. The evidence you give would be treated as public and it is liable to be published unless it is specifically desired that all or any part of the evidence is to be treated as confidential. Even though you desire so, such evidence is liable to be made available to Members of Parliament. Please proceed.

SHRI N. A. PALKHIVALA: Mr. Chairman and other Hon. Members of Parliament. This is a short Bill and I would like to emphasise some of the more important features of the Bill rather than go through every detail. You have Clause 2 of the Bill which seeks to amend section 10(6) (vii-a) of the Income-tax Act. The idea underlying this proposed

amendment is a salutary one and I support it. My only suggestion is this. The words which appear at the end of the proposed proviso namely: 'In the case of an individual who is employed in India for designing erecting or commissioning of machinery or plant or supervising activities connected with such designing erecting or commissioning' should be deleted. The reason is this. Your proposed amendment is to enable Govt. to dispense with the condition which already exists in the Act, namely that a foreign technician should not be given exemption if he has been in India as a resident during any one of the four preceding years. Now what we have found in practice is this: In the public and private sector—the position is the same in public sector,—you have a number of highly qualified foreign technicians who are familiar with Indian conditions and whose presence and assistance here would be more valuable than the pre-

sence and assistance of a newcomer; and yet they are denied exemption simply because they had come to India and had been here for such a length of time as to make them resident during one of the preceding 4 years. What is proposed by this amendment is to enable Government to dispense with this condition, namely, the condition that the technician should not have been here as a resident during any one of the four preceding years; and by omitting the words which I have just now read out, you would enable the Govt. in the public interest to waive the condition of non-residence during the preceding four years in the case of any technician. So there can be no objection to the proposed deletion I suggest because the power rests only with the Govt. and no assessee can claim the benefit of the changed law unless the Government thinks that in the public interest this particular condition should be dispensed with. That is why there is nothing to be lost but much to be gained by enlarging the power of the Government in the manner I have suggested to dispense with the condition in any case in the public interest.

SHRI ERA SEZHIYAN: Why you want to give the discretion to the Government? In this case you suggest that discretion should be given to the Government. Why don't you spell it out clearly in the statute itself?

SHRI N. A. PALKHIVALA: There are a large number of cases. In some of the cases it may be in the interest of India not to permit too long a stay of foreign technicians; otherwise Indian technicians will never learn the skills. You have got to balance one good against another or perhaps one evil against another. There is this condition about non-residence in earlier years. Now, in some cases Govt. may feel that it is better that foreign technicians should not stay here too long in one job after another because otherwise Indians will never learn the skills. That is why I don't

think it is against public interest to permit Govt. to exercise the power.

MR. CHAIRMAN: You suggest that Government's power to waive must not be circumscribed or limited only for those types of engineers or technicians who are referred to in the clause, who are employed in India for designing, erection, commissioning of machinery or plant, but it should be available to any technician. We will consider it.

SHRI N. A. PALKHIVALA: Any technician may be given exemption although he might have been resident here in any of the preceding four years if the Government is satisfied that in the public interests such exemption should be given to him.

SHRI SOMNATH CHATTERJEE: What type of other technicians you have in mind? What is the effect that it will have with the changes that we are proposing to have and for the advancement of technology, would that help the technicians in this country? Is there any material change in it?

SHRI N. A. PALKHIVALA: Yes, surely. Two basic changes are proposed in the Bill. One is the period of construction and the other is the period of operation. The words that you have already used in the Bill are to restrict the Government to permit exemption only for the period of construction, whereas I am suggesting that the scope of the bill should be enlarged so as to cover the period of operation.

SHRI SOMNATH CHATTERJEE: So far as the operation is concerned, we are depending so much on foreign technicians and not on development of our Indian technology. Why can't we encourage them for the purpose of operation?

SHRI N. A. PALKHIVALA: This point, if I may say so with great res-

pect, would not be a valid point for this reason. Even to-day it is open to any Indian business—public or private sector—to employ a foreign technician and get the exemption. To-day you can get a foreign technician; and, after some time, let him go back and you get another technician and let the second technician go away after some time and then get the third technician. If a technician 'A' is here for some years, why are you preventing others from coming over here? You permit 'A' technician to go away and bring 'B' technician and after some time 'B' technician goes away and you bring 'C' technician. A, B and C all get exemption. Why should you not permit 'A' technician who had been here in India already to be brought over here again for a new job and get exemption? That is the only question. Therefore, it is not as if by permitting this you are going to prevent Indians from learning the skills by kind of power which you propose to give by this Bill.

MR. CHAIRMAN: If it is not desirable to have a technician in the larger interests, the Government can decide about it. When we want to have a technician, that should not be further circumscribed. What is your next point?

SHRI N. A. PALKHIVALA: The next point is very important. That is the point which arises from Clause 3 which seeks to amend Section 32 of the Indian Income-Tax Act.

As all Hon. Members are aware, what is suggested is that after development rebate is abolished in respect of plant and machinery to be installed after 31st May, 1974 there should be a substitute kind of incentives, namely, initial depreciation. The initial depreciation would be like this. You claim your ordinary depreciation in the ordinary course. But, over and above that, in the first year of installation or use of the Plant you get the initial depreciation. That is in addition to ordinary depreciation. This initial depreciation is 20%. Now,

the difference between development rebate and the initial depreciation is this. Firstly, the development rebate gives a deduction to the assessee over and above his 100 per cent depreciation over the life of the plant. As it is, the plant may cost him Rs. 5 lakhs. You are giving him 20% development rebate. What happens in practice is that he gets Rs. 5 lakhs as depreciation over the life of the plant, and he gets an extra Rs. 1 lakh as a deduction in the first year of installation or use of the plant. By contrast, initial depreciation is taken into account in calculating the total depreciation that an assessee would get over the life of the plant. Therefore, if the plant costs him Rs. 5 lakhs, by way of initial depreciation and ordinary depreciation all taken together, he will not get more than Rs. 5 lakhs as a deduction. This is the first difference between development rebate and initial depreciation. The second difference is that whereas development rebate is permissible to-day in respect of all industries and the rates are 25% for the industries which are mentioned in the Fifth Schedule and 15% for the industries which are outside the Fifth Schedule, initial depreciation is to be restricted only to the 22 industries which are listed in the Ninth Schedule which is proposed to be added to the Act by this Bill. In other words, in comparison with development rebate, initial depreciation is a very restricted relief available only for 22 industries. These are the two differences between initial depreciation and development rebate. If initial depreciation is to be given in the form as provided in the Bill, it is just waste of time to make this change in the law. We can do without this change. This change has no meaning at all. Frankly speaking, if we do it, we would only be the laughing stock of the world. In other developing countries nobody cares a paise for initial depreciation. Initial depreciation is just a waste of the assessee's time, waste of so much paper; and in fact I would urge strongly you better do without it. You are not going to achieve anything by this change. After all, what is

happening in the progressive countries of the world? They permit 100% depreciation to be written off as the assessee pleases. For example, in U.K., the Income-tax was started in the year 1798. It has been borrowed by several countries including ourselves. In U.K. you can claim total depreciation in the first year if you like. Take the countries like Malaysia, Singapore and other countries which are developing so fast. Take the countries of Africa. Take the other various countries like France, Germany. You will find that they have no quarrel with any assessee so far as depreciation is concerned. Many of the countries are prepared to allow their assesseees to claim their depreciation allowance in any year they like. You allow the assessee to claim in the first, second year or third year. There is no extra benefit, since you get 100% of the cost by way of depreciation and no more. In our country, this type of allowance leads to all sorts of litigations. First of all, this provision will lead to many disputes. There are disputes of this character pending for 20 years. And there are disputes which are pending for more than 20 years. The matter is either at the stage of the high court or the supreme court for over a period of years.

By allowing in the first year the initial depreciation, the assessee is able to postpone his payment of tax, whereas development gives him the reduction in tax. That is the difference between development rebate and initial depreciation. When you allow him development rebate he gets a reduction in tax. When you give him initial depreciation, he gets no reduction at all but he enjoys postponement of his tax liability by some years.

The position is the same whether it is the private sector or the public sector. The private sector, instead of concentrating on developing the country, goes on diverting its attention to the question of tax. Our attention is very very substantially diverted to the question of tax changes which are made from time

to time. If a sizeable change in the tax burden is there, that is going to make a difference to the Economy of the country. If the change is ridiculously marginal, then nobody is going to be affected. Don't make that change. If we do that, we will go on wasting time. No sensible man is really interested in this type of change. This change will virtually mean nothing for the economic development of this country. From my experience as an adviser to private sector enterprises, I can say that in quite a few of them, there are problems. If initial depreciation is going to be restricted only to the cases listed in ninth schedule then further difficulties will arise. While taking some of the industries out of the Fifth Schedule and putting them in the Ninth Schedule, concurrently in some cases the words have been changed and the terminology itself is changed. In Fifth Schedule, you have provided 33 priority industries, but you have got only 22 in the Ninth Schedule. By political pressures the industries which deserves to be put in the Ninth Schedule will be put only in the Fifth Schedule. By this sort of thing you allow pressures being built up and the man with all the pressures that he commands succeeds, but the man without a lobby does not succeed at all. The result would be that instead of a rational approach being adopted, pressures are just being built up as to what industry should be included in this Schedule and what should not be included in that Schedule. I do not think that initial depreciation will at all give any tax relief because, at the end of fifth year or so the assessee will be paying the same tax over the whole period. By merely postponing the payment of tax you do not generate resources for him.

It is true, of course, that in the first year, he will have more resources because his tax liability will be less: but his tax liability will increase in the second year, and over a period of years no resources will be generated.

That is why Sir, all progressive countries have rejected initial depreciation as an antiquated fiscal stimulus. In England they permit investment allowance (corresponding to development rebate) for the simple reason that costs are rising all over the world. Just take for example the fertiliser plant. What you could instal seven years ago, if you want to instal the same plant today it will cost you 100 per cent more. This difference has come about only in a period of seven years.

What is your object in doing this exercise? The object is that this country may grow and develop. How you are going to make the country develop. The way to do is to give them development rebate. It was an excellent idea. And, Sir, if ever development rebate was needed, it is needed today. It is a colossal mistake to abolish development rebate. If the decision is irrevocable, then what is the way out of the difficulty? My point is you should do something which will take care of the situation which exists today. My primary suggestion is that you should do something worthwhile which will have real impact on the economy. Why was there tremendous development in the economy during TTK's time? He gave four or five sizeable incentives which had real impact on the economy.

You should give to the taxpayer—it applies both to public sector and private sector—an adjusted depreciation allowance. The adjusted depreciation allowance means you give depreciation not merely on the basis of actual cost of the plant but what it would cost the man to instal a part or whole of the plant today. By this tax relief he will be able to generate resources and can replace the plant or instal a new plant.

Since we are faced with all these problems we have got to generate enough resources in the public and private sector so that development may take place. If you give adjusted

depreciation allowance it would be on the following basis. You take the actual cost of the plant. Let the Government publish an index figure every year to indicate what is the rise in the cost of such a plant. For example, if the plant cost Rs. 5 lakhs in 1970 by the time you come to 1971 the cost has increased by 10 per cent. So, give depreciation for the second year, that is 1971, at a rate which takes into account this increase cost. At the same time you ensure that the tax relief is not squandered away. The excess of the adjusted depreciation over the normal depreciation should be taken to a reserve. The businessman should be compelled to keep it in reserve and then finance new expansion schemes out of this reserve. If you do that the moneys are not frittered away in dividends but your economic development takes place. This problem is facing the public sector as much as the private sector. On the present system of taxation it is even difficult to keep a plant in good health, apart from modernisation. The cost is mounting so high these days that in the industries which are important one you are just unable to provide even for bars good maintenance. Every plant is a national asset. If any plant deteriorates, its health goes down. Let me give you an example. Take, for example, electricity. Why is there shortage of electricity in India? We have got antiquated generating sets which have not been kept in good health.

MR. CHAIRMAN: Mr. Palkhivala, any replacement is a 100 per cent revenue expenditure. Isn't replacement of an engine in a truck allowed as an expenditure to be written off?

SHRI N. A. PALKHIVALA: You are aware how many litigations are pending on this very point. We never get that kind of deduction from the Department. You have to fight.

If the financial costs were increasing normally by 2 per cent then it is some thing else; but now there is galloping inflation, not only here but abroad.

To-day, perhaps, hon. members may not be aware, if you place an order for machinery anywhere, you will never get a firm quotation. They will only tell you, that is subject to escalation. How will you be able to generate resources? My point is with our limited resources we must so deploy and programme savings that the economy can develop. If you are going to do this by fiscal incentives which have an important part to play, given the right type of tax structure.

SHRI ERA SEZHIYAN: It is not at the cost at which it has been erected. It should have a bearing on what the cost is now. That is his opinion.

Suppose Government says 10 per cent the assessee will contest and it will be causing litigation.

SHRI N. A. PALKHIVALA: It may even be more. But the man has to take the decision of the Government under the law. In fact Government will specify the increase in the cost, for the purpose of adjustment to depreciation. They will give a sizeable part of the increase. The man has no reason to complain. The law itself will provide for the rate of increase in depreciation. That factor will be prescribed by the Government year after year and the Government's decision will be final. This is not a new single idea merely to benefit the business man. Throughout Europe it is being done.

MR. CHAIRMAN: Following what Mr. Sezhiyan has said, I have another reservation about this increased replacement cost factor being taken into account for the purpose of depreciation. Whatever be the merits of this case you will have to appreciate that it pre-supposes existence of a very highly sophisticated tax mechanism which is completely lacking in our country. How is it possible to introduce such a sophisticated system in a Department where the whole working is still to come up to certain standard, even when the laws are much simpler than this. That, I think, is one drawback of this scheme. Do you not think it is real-

ly very difficult to be working upon it?

SHRI N. A. PALKHIVALA: My suggestion is that our existing administration would not find it more difficult to work this scheme than the various fiscal incentives here given some years ago in our past budgets.

MR. CHAIRMAN: That is, other incentives were equally difficult.

SHRI N. A. PALKHIVALA: The hon. Chairman will recall the tax relief based on the additional excise and tax release on what is exported. How do you calculate your export earnings? The Company is selling goods here and abroad. How do you calculate the profits made on the export? How do you allocate overheads between the sales abroad and the sales in our country?

MR. CHAIRMAN: The data that they will have to fall back upon cannot be got easily.

SHRI K. R. GANESH: I do not think your fear about the inability of the tax administration to gear itself to the proposal is a secondary question. May be, the tax administration may be able to adjust it. We are to accept what the hon. member says.

MR. CHAIRMAN: You yourself suggested that data is required by the Government. Is it possible to get under the circumstances? Are we complicating the issue is a point?

SHRI N. A. PALKHIVALA: My point is having regard to the very abnormal inflationary factor that we are experiencing. This has become a necessity and it will not be as if Government will not be able to cope with it. We have our dearness allowance increase all the time. On what basis is it done?

MR. CHAIRMAN: On the cost of living index.

SHRI N. A. PALKHIVALA: People of India are getting D. A. on the cost

of living. The wholesale price index is published every year. The Government publishes every year the increase in the cost of food crops, plant and machinery, raw materials. They have got the data, and statistical data outlines are published by different companies. It may well be that Government may not give 100 per cent total neutralisation. Quantum is a different aspect. After all, the objective is that the economy of the country must develop. You want unemployment to go away. This can be possible by creating more jobs, by seeing that the financial resources are deployed in the direction of growth. The money which you leave with the public and private sector will not be used for payment of dividends, but will not be used for any public right, except for creation of more jobs. When you have more machinery and plant, it will mean more employment, more excise. It will mean more tax. If you have this kind of structure the revenue collections of the Central Government would increase. They would not decrease because you will create a larger industrial base. You are going to get more because of more production. You are going to have more goods, more excise and the scarcity will go.

Steel and Cement costs you in the black market 100 per cent more than the controlled price. This is because of scarcity. We are not able to generate enough.

About electricity if you see the reason of shortage, it is because the plant has not been kept in good health. It is not as if resources are available; the resources are not there. What I am suggesting it will not only generate resources but compel the management to employ resources, take them into the industrial base and the net result will be larger collections for the Government.

SHRI D. D. DESAI: The Government is publishing statistics in respect of labour, urban debts, etc. and

even for the manufacture of goods and raw materials required by the Industry the statistics are more exhaustive.

SHRI N. A. PALKHIVALA: I agree.

SHRI BHAGWAT JHA AZAD: For long we are hearing that there is not enough to keep the plant in good condition. May I know from the Ministry or his advisors here, is it not correct that the plants which are old and not in good health are heaping huge profits. Take for instance sugar. The obsolete plants are giving huge amount of profit. How is it that we are talking of Europe, Norway and other places? How do those considerations or arguments apply in the case of our country? I want Government to explain this point.

SHRI A. N. PALKHIVALA: May I answer this question as a witness?

SHRI BHAGWAT JHA AZAD: I am not asking the witness to reply, but I want to have this information from Government. Are there not plants in this country, which have not been maintained properly and whose advisers had given them advice only to reap huge profits and not to keep the plants in good health? How can you, Mr. Chairman, say that it is not sensible or it is insensible and so on for the Committee to have such things? What do you mean by 'insensible'? Are you having the dictionary meaning in mind? You are saying that there is a complete lack of the tax system in this country. I would like to ask whether this Government is without a tax system. How is it that you are allowing the witness to go on haranguing and abusing the whole Government and the people while at the same he goes on supporting the businessmen only?

MR. CHAIRMAN: There has been no abuse of the Government. That is the view of the witness, which he is canvassing.

SHRI BHAGWAT JHA AZAD: I understand it that the witness has

put forward one point of view. How can he say that it is insensible on the part of the Government or the Committee to hear all these things? And I find that you are so much charitable to him that you go on allowing him to say that it is insensible and so on and tell the same story every time to use.

MR. CHAIRMAN: Whenever we invite a witness, it is his right, in parliamentary language, to present his view. We may not accept it, but that is another matter.

SHRI BHAGWAT JHA AZAD: you cannot allow him to say that it is insensible for the Committee to spend its time in this and so on, or say such unparliamentary things. After all, this is not a law court.

MR. CHAIRMAN: All that Mr. Palkhivala stated was that the whole concept...

SHRI BHAGWAT JHA AZAD: First, let my question be replied to by Government. I have given the example of cotton, sugar and also cement about which we are being told now. When the control was removed on cement, which we opposed in Parliament by saying that it was a wrong decision on the part of Government, it was said that the entire profit that would accrue thereby would be reinvested in the cement industry. Now, the witness says that it should be adjusted because of the increasing costs, towards the cost of replacement of the plant. But is the Government's tax structure responsible for increasing costs in this country? Are not these persons also responsible for the increasing costs?

MR. CHAIRMAN: It is a matter of opinion.

SHRI BHAGWAT JHA AZAD: But we would not allow this kind of opinion to go around. We want to know from Government the information on this vital point, whether it is a fact or not.

MR. CHAIRMAN: The hon. Member can elicit any information he wants.

SHRI SAMAR GUHA: I would like to make one submission in regard to a procedural matter. It has been our convention that whenever we sit in a Committee like this, if we discuss any views put forward by any witness, we do so among ourselves. If any clarification is required in regard to the opinion expressed by the witness, then we can seek those clarifications from him, but whatever views we have we should discuss them among ourselves later. So, it pains me that there has been a little bit of deviation from that convention or practice today. I would suggest that it is better that Government do not give that information at the moment in reply.

MR. CHAIRMAN: It is not a view, but it is factual information which he is asking for, and if Government have any information on this point, they may give it. The point on which information is sought is whether or not plants are being properly maintained. If the hon. Minister has any information on that point, he may give it.

SHRI BHAGWAT JHA AZAD: I appreciate what Mr. Guha is saying. My only point is that the whole argument of the witness is based on certain premises which are wrong in my opinion.

The first premise is that because of the tax structure, the resources are not coming up, and it is made to appear as if resources could be had only by means of tax rebates, and that is the position obtaining all over the world, in the U.K., Holland so on and so forth. secondly, an argument is made about the plant being kept in good health. But are there not enough examples in this country where the plants have not been maintained in good health not because there are no resources but because the management is interested only in reaping huge profits and squeezing the maximum out of the plant so that when under the pressure of public opinion, Government take over

the plants, they would be giving only junks?

MR. CHAIRMAN: The query in short is whether it is the default on the part of the management or lack of resources which is responsible for this lamentable state of Affairs?

SHRI BHAGWAT JHA AZAD: Is not the management responsible for this? Take, for example, steel. For instance, in Japan, if for one unit they require five thousand, we require six hundred per cent more in our country. Is this not an instance of mismanagement? I have no brief for the public sector; if they are doing something wrong, they are also to be blamed. But the Reserve Bank reports show that as compared to what Japan produces, we need 600 per cent more for producing the same quantity. Is this not a sign mismanagement? I would like to have information from Government on this point so that we can appreciate the point being canvassed by the witness.

SHRI K. R. GANESH: On the specific question which the Hon. Member has asked, I do not have the information immediately available. The different Secretaries to Government will be appearing before us and they will be the proper persons to answer this specific question with regard to various industries.

MR. CHAIRMAN: On this point only, namely; whether the improper health of the plant is attributable to lack of resources.

SHRI K. R. GANESH: This point has been discussed time and again in Parliament. Mr. Palkhivala with all his erudition is putting forward a particular viewpoint. I do not want to intervene at this stage. But it is a particular viewpoint, and that viewpoint is not acceptable to many of us. Of course, he has every right to put forward that viewpoint with

all his erudition. But he should also agree that that it is a view which is not acceptable to quite a large section in Parliament as well as outside and there is another view also. It is not my purpose to go into that now in detail.

As regards the basic approach which he is having, in the other Committee we have said time and again that the Reserve Bank study has shown that 292 companies have made and retained profits at a rate which was higher, and if these profits are not being ploughed back, it is not because of lack of resources or lack of savings but because of other reasons. I cannot quote any thing better than the latest Reserve Bank study on this.

MR. CHAIRMAN: Mr. Palkhivala please deal with the remarks of Shri Ganesh also because that impinges on the question of effective rates.

SHRI N. A. PALKHIVALA: I shall.

SHRI BHAGWAT JHA AZAD: In regard to the highest tax incidence, it has been quoted to us in the other Committee that what is claimed to be 98.67 per cent or so is actually in the case of the top industries the 298, and below that it is 40 per cent.

MR. CHAIRMAN: The corporate sector.

SHRI SOMNATH CHATTERJEE: During the last 25 years there has been a tremendous expansion of the resources of various companies generally known as monopoly houses apart from other houses. There has been expansion in the present tax structure. So long during the period when the development rebate was in force or was being allowed, there has been industrial expansion made by these houses. I would like to know this from witness who has experience in these matters. He says that if the development rebate is now abolished, as it is going to be, there will be a

tremendous retardation in development. How has this development rebate been taken advantage of for expansion? What will be the consequences of its withdrawal? He says the proposal to allow initial depreciation is a useless provision and, therefore, need not be incorporated in the statute at all. What will be the effect if no provision at all is made? I would also like to know his views how it could be that these big business houses are allowing tax arrears to remain?

MR. CHAIRMAN: That is a question not related to this. The other questions are utterly germane.

SHRI SOMNATH CHATTERJEE: The plea, as I understand, subject to correction, is that because of the tax provisions as such, there is no incentive to save and as such there is no ploughing back of resources. Therefore, lack of resources is the reason put forward.

MR. CHAIRMAN: That is the premise on which he has suggested this.

SHRI PALKHIVALA: My function here is to give honest evidence in all sincerity. Whether it coincides or not coincide with the philosophy or ideology of any one else is, to me, irrelevant. I am on oath to tell you the truth and I shall tell you the truth, however unpleasant it may be to anyone else. I would be failing in my duty as a witness appearing before the Select Committee if I try to mouth any platitudes or say things which are only pleasant and comfortable. If the hon. members are satisfied that I am wrong, they will reject my evidence. If any of the Hon. members think that I have something worthwhile to say, they will give it importance. What matters ultimately is the Hon. members' decision. It is my duty and I am on oath to tell you the truth.

Now, let me take the points which are made against me....

SHRI K. R. GANESH: There is a difference between truth and viewpoint. If you canvass a viewpoint in the manner you are doing-you have got to do it-you have also a duty...

SHRI PALKHIVALA: My evidence consists of two things-opinion and facts, to the extent to which I have to express opinion, I can only be true to my own conscience. To the extent to which I have to tell you facts. I can only tell you facts as I honestly know them. So both so far as opinion and facts are concerned, I can only give such evidence as I know in my own conscience to be true. Otherwise, I would be wasting your time. I repeat what I have said before that if initial depreciation is to be given in this form, it is my clear opinion that it will serve no purpose. If it serves no purpose, then the corollary follows that it would not be worth your while to deal with this aspect.

This is my opinion-and I say it again.

Now, let me deal with the hon. member's points.

SHRI BHAGWAT JHA AZAD: I understand the vehemence and force and strength of arguments with which the witness is defending his viewpoint. That is correct. But we are also functioning in this Committee. We are also on oath. When he puts before us certain propositions, which according to our information, are not true, we have the right to ask him why he does so. It is not true to say that only he has taken oath and that we are not on oath.

I have put a few questions. These questions are of a basic nature. According to facts, the premises of the witness are wrong. I think Government should come forward with the facts. What is the use of the Committee if we know that the witness is proceeding on certain propositions on the basis of wrong facts?

SHRI D. D. DESAI: The Committee consists of more than one member. It is not proper to give more emphasis only to one viewpoint.

MR. CHAIRMAN: You are also entitled to seek elucidation. I am sure witness will give it. We are on the question: to what do we attribute the ill-health? We want him to give his viewpoint.

SHRI SOMNATH CHATTERJEE: Mr. Palkhivala has just now said that the initial depreciation, as contemplated in the Bill, will not serve any purpose. It is his opinion. I want to know from him what are the factors that contributed to his coming to that conclusion. So far as I am concerned, I do not wish to enter into a controversy with the witness. My questions are directed to getting certain clarifications from him so that we can consider his viewpoints more objectively.

SHRI N. A. PALKHIVALA: I am grateful to you. In fact, I was just going to say that the question put by the Hon. member who just spoke is, to my mind, very crucial. His question was: Please let us know the data how much development took place when development rebate was allowed and what is the rate of development now? It is a very relevant question.

SHRI K. P. UNNIKRISHNAN: There are other factors also operating in the economy.

SHRI N. A. PALKHIVALA: I wish the factors could be gone into. You would be really surprised to find the difference between the rate of growth in those years and the rate of growth now. Speaking from memory, the rate of growth during the years development rebate was allowed was about 8 per cent as against the rate of growth which has dwindled to 3 or less than 3 per cent recently, which, to my mind...

MR. CHAIRMAN: Development rebate is still intact.

SHRI N. A. PALKHIVALA: I was going to say that it would dwindle further after development rebate is abolished. Why was development rebate given? It was given as an encouragement, as an incentive. The hon. member asked: why do I think that initial depreciation by itself will serve no purpose. The reason is: it will serve no purpose, as a stimulus to economic growth. That is the whole point of this debate. Will it serve as a stimulus to economic growth? I say it will not, for this reason, that so far as initial depreciation is concerned, it only means, as I said, that in the first year you will get more depreciation, but less depreciation in subsequent years.

Let me give an example. You engage a man on a salary of Rs. 1000. He says 'Look, this is inadequate; please give me more'. You say 'All right. I will give you Rs. 1500 in the first year, but in the subsequent year you will get Rs. 500'. This is the exact point about initial depreciation. You are not giving any incentive to the man when you tell him. 'Your salary will remain Rs. 1000 per annum. I will give you Rs. 1500 in the first year; in the subsequent year you will get only Rs. 500'. He will tell you, 'Looking over a period of two years, I am only getting what I was getting before'. You say, 'No; I give you an incentive'. He says 'No, Sir; there is no incentive to me'. If this homely illustration will bring home the point to hon. Members, I have explained myself. It is exactly this and nothing else.

What happens in development rebate? You tell the man. 'Look, your salary is Rs. 1000. It will remain Rs. 1000. But in the first year I will give you extra Rs. 200 when you are in charge of this new plant. Afterwards, you will get Rs. 1000'.

These are the two types of examples. In one case you give a regular salary every year. In the first year

you give something extra. That is development rebate. In the second case, you give a higher salary in the first year, but a lower salary in the subsequent year. The whole effect of the initial depreciation is that over a period of years what he gets in the first year he will not get by way of deduction in the subsequent year. This is the point.

That is why what I am suggesting is this. Apparently, people are concerned—some of us are concerned with the lack of economic growth. Some of us feel that the idea of economic growth is not that a few pockets may be lined but that the poor may one day see a better tomorrow and there would be more employment for them and more revenue for Government.

Now I may give an example. Suppose the rate of industrial growth was 12 per cent a year, it has been calculated beyond question that the Central Government alone would get Rs. 1000 crores annually by way of extra revenues, leaving aside the State Governments who will get more sales-tax. The Central Government alone will get Rs. 1,000 crores per annum more if the industrial rate of growth was 12 per cent. There may be resources, but the resources are neither available to the honest people nor the Government, which the blackmarketeers and tax-evaders who are getting more and more prosperous. The whole object of what I am saying is, prosperity should not be confined to the tax-evaders and blackmarketeers, but prosperity should be uniform throughout the country. As a result of these shortages, as a result of development not taking place, I must tell you and I repeat that statement that if a handful of individuals are lining their pockets, I do not want that to happen. By giving the type of fiscal incentive that I have in mind, you will be only helping the honest. The dishonest do not care

for your fiscal incentives. They give their incentives to themselves. They are prosperous and happy. As a result of expansion not taking place, who is gaining today? Take fertilisers. It is not the producer who is gaining. The man who sells it in the market at a hundred per cent premium gains. Again, in the matter of coal, the Government corporation is getting far less than what it deserves. The dealer gets a hundred per cent profit here also.

SHRI BHAGWAT JHA AZAD: I am happy you have mentioned the case of fertilisers. But we know it; we know the dealer gets hundred per cent. It is known. But then the producers in Bombay, the biggest industrialists in the country, before they despatch every wagon, charge from the dealer 100 per cent. Why? Who is the big producer who is producing and charging the peasants and the farmers indirectly through the dealers?

SHRI N. A. PALKHIVALA: Whoever charges, whether it is the dealer or the manufacturer, my point is this. Please give incentive to the honest. Assuming the facts are correct, assuming that the manufacturer is charging extra, he is not worried about the fiscal incentives. Your fiscal incentive is no more than a flea-bite to him; he has enormous fortunes which he has built up. The dishonest are going the easy way. The wealth is being distributed from the honest rich to the dishonest rich. These incentives are only for the honest; the dishonest do not care for the incentives.

I want this hon. Committee to apply its mind to the question whether the time has not come when the honest people who will not make black-market money but honestly pay your tax, should benefit by the fiscal incentives which are only for the honest tax-payer. The tax-evader does not need 20 per cent; he will take 40 per cent, and he is not waiting for your incentive. Your incentive are only meant to help the honest. You will

be distorting the picture if you do not bear in mind the basic fact that these incentives are really meant for the actual development of the efforts of honest people. I will not take more time on this. If the hon. Members ultimately decide that they will have initial depreciation and nothing else, that they will not adjust the depreciation allowance. In that case, I have three submissions to make as to the way in which you can improve the scheme, so as to make it worthwhile.

On the assumption that you will have only initial depreciation and nothing else, my suggestions are these, to improve the scheme and make it worthwhile. The first is, initial depreciation should be given to all industries, because you are giving it only for new plant and machinery. That means only in those cases, where some expansion takes place. My submission is that 40 per cent initial depreciation should be given in those cases where the industry falls within the Ninth Schedule which you propose to introduce, because according to the Government's thinking presumably, that is the most important sector of the economy, and that is why they have picked up 22 industries and those 22 industries must get 40 per cent initial depreciation. Those industries which are in the existing Fifth Schedule and which do not occur in the Ninth Schedule should get 25 per cent by way of initial depreciation. All other industries which fall neither in the Ninth Schedule nor in the Fifth Schedule should get 20 per cent initial depreciation. If you do this, first of all, you will eliminate the political pressures. I am unable to say on what rational basis some industries have been excluded and some others are included in the Ninth Schedule. Some industries are equally vital for us. In fact, they are, from certain points of view, more vital. But they have been excluded. Give initial depreciation to all the industries but in varying proportions; then the concerned people will not

grumble merely because one industry has been given more and the other less. This is my first suggestion which involves the point that the principle of the initial depreciation should be applied to all industries and the rates should be 40 per cent., 25 per cent and 20 per cent depending on whether it is in the Ninth Schedule, Fifth Schedule or it is outside both the Schedules.

My second suggestion is this. It is even more important than the first suggestion. We must do something to see that your initial depreciation becomes something more than mere postponing of taxes and becomes more than a giving a higher salary to the employee in the first year and cutting his existing salary in the second year. This is really what initial depreciation does over a period of years. In order that there may be some real incentive, please treat initial depreciation as something which should not be taken into account in deciding the totality of depreciation to be enjoyed over a period of years. In order to do that, I have given the actual draft. That will be useful.

MR. CHAIRMAN: If we accept that principle, your draft will help us.

SHRI N. A. PALKHIVALA: Since I have given it in the memorandum, I will not repeat it now. Now you can ask, are we not reviving development rebate, because development rebate was also in addition to depreciation. My answer is no. In order that it may not be development rebate which is revised, I have made two suggestions. Firstly, in deciding what would be the balancing charge.

I take one example, I will give the very same one which I have mentioned in the written memorandum. Suppose, for the purpose of argument the cost of an asset is Rs. 1,000 and the initial depreciation which has been enjoyed is Rs. 200. The normal depreciation is Rs. 600. In all he

should get Rs. 800. Ultimately, when he discards the asset and is able to sell it for Rs. 300, having enjoyed Rs. 800 as initial depreciation and having got Rs. 300 by way of sale-price, he gets Rs. 1,100. Suppose it was a development rebate, he would not have been taxed at all, whereas under my suggestion he will be taxed on the balance of Rs. 100. Likewise take the question of balancing allowance in the event of there being a shortfall when he sells. Suppose the asset cost him 1000. The normal depreciation was 600, initial depreciation was 200, he is able to sell it for 150. He has 600 plus 200 plus 150 sale price making in all Rs. 950. It will be taken into account in deciding what must be the balancing allowance which would be only Rs. 50.

MR. CHAIRMAN: The tax payment is postponed to the date of his disposal. If he disposes of the assets and if he realises less, he will have obsolescence allowance deduction; if he realises more it will be taken into account.

SHRI N. A. PALKHIVALA: The great advantage will that so long as he continues to maintain it in good health he will enjoy the benefit of initial depreciation as if it is an excess deduction which is given to him.

MR. CHAIRMAN: We shall consider this.

SHRI N. K. SANGHI: In case we think on the lines of balancing it for the purpose of writing down the value when it is discarded, may we take it that the first suggestion is to be overlooked?

SHRI N. A. PALKHIVALA: My first suggestion is: you give adjusted depreciation allowance. If you accept the first suggestion, the subsequent alternative does not arise for consideration. Since I do not know which way the hon. Committee will ultimately decide on this matter, I am making an alternative suggestion.

MR. CHAIRMAN: The second suggestion is closer to the Bill.

SHRI N. A. PALKHIVALA: It needs only a little adjustment. If you accept the second suggestion in my point of view it would be still different from the development rebate; it would not merely duplicate the development rebate.

MR. CHAIRMAN: You said that the way these were mentioned in the Schedule led to litigation. We are examining this after noon witnesses from the Government, who will explain to us the rationale behind this. It appears from the Statement of Objects and Reasons that possibly we may add or subtract from the Schedule but we shall have to basically adhere to the Schedule. That being so, to avoid litigation, do you think it would be better to make the description of the industries more exhaustive?

SHRI N. A. PALKHIVALA: I suggest that hon. Members may not deviate from the terminology already used, because once you deviate you are going to have a crop of litigation.

MR. CHAIRMAN: Does the Bill deviate?

SHRI N. A. PALKHIVALA: A particular industry is mentioned in the Fifth Schedule. It also happens to be mentioned in the proposed Ninth Schedule but the terminology is different.

MR. CHAIRMAN: It should be different unless you intend to restrict the scope of the industry itself.

SHRI N. A. PALKHIVALA: The learned Committee could consider why a change is necessary. Once you are satisfied that the change is relevant, one will have to examine whether the phraseology used is accurate or needs some revision.

SHRI N. K. SANGHI: I take it that litigation was going on in respect of the industries mentioned in the Fifth Schedule, because the Ninth Schedule is being brought in now. What are the industries with reference to which litigation is going on?

SHRI N. A. PALKHIVALA: I should certainly be able to give the cases within my knowledge. My point is that the terminologies used have already resulted in litigation. The new terminology used is not such as to set at rest the doubts which have already arisen and broadly speaking, they are such that they will raise a fresh crop of disputes. Some of the disputes which arose under the 5th Schedule have already been subject matter or decided cases because the Fifth Schedule had been there for so many years. You will start another crop of litigation by having some new industries and also by having a different terminology for industries which are already there. I shall try to recall those cases which have resulted in litigation. Of course my list will be a limited one.

MR. CHAIRMAN: If you are good enough to send it quickly, it would help us.

SHRI SAMAR GUHA: What are the points that are being noted as matters of deviation? What is the exact deviation that you notice here?

SHRI N. A. PALKHIVALA: Some examples have been given in the memorandum from the Bombay Chamber of Commerce.

MR. CHAIRMAN: Some of them are there. One may want to be strict; one may want to be liberal. But one has to be clear. We shall consider it, if you could send it to us as quickly as possible.

SHRI N. A. PALKHIVALA: I shall apply my mind to it straightaway and send it quickly.

SHRI VASANT SATHE: The manufacturers who had come to us say that the amount which is being allowed should be an increased percentage because they say that after 15 years the cost goes up and that money allowed was not enough to replace the machinery. I asked them the question. Every year a certain

amount is put away by way of depreciation which is ultimately to be utilised for replacement. The cost at the time of replacement may be two times or even three times. Can this amount not be funded with the Government as replacement finance? Government will pay interests on that and this amount will be available to the industry at the end of the period. It will also be a larger amount for replacement. I had asked this question because today we find that many industries utilise the depreciation amount for other purposes like investment in more profitable sectors, repayment of loan etc. In the meantime, the unit becomes sick and is closed down.

SHRI N. A. PALKHIVALA: Funding with the Government will not help for two reasons. Suppose a man borrows Rs. 1 crore from a nationalised bank to instal a plant. You give him depreciation. He has got to repay the loan in a certain number of instalments. All these expansions etc. have to be on borrowed money because internal resources are not sufficiently generated. If he is asked to deposit the amount with the Government, he will not have the money to repay the loan. When you are dealing with some well-established sector like steel, it is all right. But when you are dealing with thousands of small people, it will play havoc. My suggestion is, if you find they misuse it and do not use it for the purpose specified, you take it back. That is what happens in the case of development rebate. If the development rebate is not used for its legitimate purpose, there is a provision in the Act which says that the Government will take back the development rebate granted years ago. Likewise you can provide that if this reserve is misused, the amount which had been deducted in the past will be taxable as if it was income of that particular year.

SHRI VASANT SATHE: By giving this initial depreciation, we are los-

ing tax. In addition, we are providing money for repayment of loan.

SHRI N. A. PALKHIVALA: You are providing money for repayment of loan in order that there may be additional assets created or replacement of assets, which after a period of years will cost much more. The whole object of the exercise is to take care of inflation. In days when there was no inflation, no country gave this relief. Today it is given because all the time costs are mounting. You are giving it in order that the businessman may have some resources to meet the expenditure on development, modernisation, expansion, etc. The whole object is to give something more in order that the plant may not just die down.

Sir, I wanted three changes to be made and I have finished with two. The third one is, in clause 2(b) of the explanation you have defined new machinery or plant like this:

“Machinery or plant would qualify to be treated as new machinery or plant if such machinery or plant is imported in India by the assessee from any country outside India.”

My suggestion is that the words “by the assessee” should be deleted. This is an inadvertent error. The STC may import it for him or some other person may import it. So long as it is new plant or machinery, what difference does it make whether it is imported by the assessee or STC or some other person?

MR. CHAIRMAN: We will consider it.

SHRI N. A. PALKHIVALA: My next point is about clause 4, amendment of section 34.

MR. CHAIRMAN: I will give the background to this. Every time the department calculates depreciation, there is difficulty with the overhead. There are varying rates for different items. Therefore, to get rid of this botheration once for all, it has been

decided that the prescribed authority will give the certificate and I.T.O. will give you the depreciation.

SHRI N. A. PALKHIVALA: Internal audit creates more difficulties for the income-tax department and for the tax-payer. There are any number of decided cases where the department has acted absolutely correctly and the audit has been proved to be wrong. The audit man is not a qualified lawyer or expert. Suppose you do not collect a tax or there are mathematical errors in calculation, audit can point that out. But who is the audit to tell the income-tax department, “You may read the section in one way. But I read it in another way”?

MR. CHAIRMAN: we are dealing with it in some other Committee.

SHRI N. A. PALKHIVALA: If you have a certificate from the prescribed authority, that does not interfere at all with the powers of audit. They have a right to say that the certificate was wrong. It will only mean, the I.T.O. will say, “If anybody has made a mistake, it is not I, but the prescribed authority”. So, from the point of view of litigation, what difference does it make? What does the prescribed authority certify? Not that this is the amount of depreciation.

MR. CHAIRMAN: No. They certify the type of machinery, as a result of which classification will be very easy.

SHRI N. A. PALKHIVALA: Leave aside big cities like Bombay or Delhi. Take small place which is 60 or 80 miles away from Delhi. Suppose a small new factory is started there by a small man and he installs a new machinery. He is only a small man and not a big business man. There are thousands of such small businessmen in Punjab. He installs such machinery and he says it is agricultural machinery. He has got his plant. But he cannot file the return

till he has got hold of a certificate from the prescribed authority, on payment, of course. That authority has to look at the machinery and certify that this machinery is needed for the purpose. Just consider what would happen. Suppose the tax-payer thinks that this machinery is needed for the purpose and the prescribed authority feels it is not needed, who is to decide? I would say with the greatest respect that you are preventing a man from agitating his point under the law.

MR. CHAIRMAN: I Can he not go in appeal?

SHRI N. A. PALKHIVALA: Where is the appeal against refusal to give a certificate? There is no such appeal. There is a small tax-payer 80 miles away from Delhi. He is honestly convinced that the plant is required for his purpose and it may be that ultimately the High Court will vindicate that he is right. He thinks that this machinery is needed for the purpose of his business. He goes to the prescribed authority. There is no guarantee that your prescribed authority will be omniscient, sensible etc. There are men and men. Some people have the requisite knowledge and others do not have, and we have no control on who will be appointed. The person who has installed the machine goes to the prescribed authority and asks for a certificate. The authority goes to the factory. Money is wasted. Even though I am not on the monetary aspect, you compel the assessee to pay the money. The authority goes and inspects the machinery and says "I do not think this machinery is needed". Now, this prescribed authority is not an expert on all industries, but he is dealing with hundreds of industries. How can one man know about agriculture, ship-building and a host of other things. This one man, your prescribed authority, would be dealing with 20 different industries. He would say "look, with my limited knowledge I am satisfied that this is not needed". So, there is no certi-

cate forthcoming and the man cannot claim deduction. It is not as if a man ultimately vindicate himself. He just cannot claim a deduction, because you make it impossible for him to claim a deduction by not giving him a certificate. You are preventing a tax-payer from even agitating his point even though he may be completely in the right.

SHRI N. K. SANGHI: Suppose a man has got 25 pieces of machinery. He may be having five pieces which cannot be actually utilized and he may be wrongly claiming deduction. There must be some mechanism to check it. At the same time, the prescribed authority should not arbitrarily say so many pieces are not needed.

SHRI N. A. PALKHIVALA: You may ask what is the difference between the existing practice and the proposed one. The difference is very wide. As it is, the income-tax officer is entitled to have a check. I am assuming there are still some honest men in this country. If the income-tax officer after inspection disallows depreciation, I can fight it out. But here even if you provide for an appeal or revision against the decision of the prescribed authority, you would have provided a cumbersome procedure.

MR. CHAIRMAN: If the Department really makes out a very strong case for the prescribed authority, we will ensure that an assessee will not be debarred from having a valid remedy. Secondly, we will ensure that it is not cumbersome and onerous. Thirdly, if at all there is to be a prescribed authority, he has to be a technical person. Care will be taken of that.

SHRI N. A. PALKHIVALA: Will you kindly consider what problems you are creating, supposing the prescribed authority does not give a certificate in time? Have you heard of any country where you have a prescribed authority's certificates to claim ordi-

nary depreciation? Even when you gave development rebate, did you provide for such a prescribed authority? We will only manufacture white-collared jobs and not produce anything for the country. There would be thousands of people all over the country who would be doing useless paper work.

SHRI R. D. SHAH: I entirely appreciate the viewpoint of the hon. witness. But the Income-tax officer is not a technical man. We have found that what he has treated as a priority industry has been objected to in audit. Similarly, in many cases Income-tax officers have allowed depreciation at a rate which was objected to by audit saying that this depreciation rate should not have been applied. There are some borderline cases where this happens. There is revision of many such assessments in that grey area and this means a lot of inconvenience both to the Department and to the taxpayer. Here the underlying idea was that the technical man in the Industries Ministry would only say that this is a priority industry or not. I would like to make it clear that there is no intention of the person in the technical Ministries going and verifying the machinery in respect of those articles which are to be produced, as outlined in the Schedule. So, with a certificate that "this machinery is installed for this purpose" the matter ends.

Then comes the next question. If the audit raises an objection, it will raise an objection against the technical man whose view ultimately would be final. Today audit can raise an objection against the view of an Income-tax officer because he is not a technical man. We have seen in a number of cases this controversy between the Income-tax man and the audit man as to whether a particular industry is a priority industry or not and both of them are non-technical men. Therefore, because of this provision, the volume of litigation would come down rather than increase. Of course, we can improve upon it.

SHRI N. A. PALKHIVALA: May I give two answers to this? Take agricultural machinery, a simple case. There will be hundreds of different items. How can the prescribed authority dealing with this problem be expected to know all these items? Secondly, even assuming you want to have a change, you should provide that in the event of a dispute between the ITO and the assessee, the matter will have to be referred to the prescribed authority and then the assessee would have the right of appeal against the decision of the prescribed authority. Otherwise, as it is, what happens if the prescribed authority is wrong?

MR. CHAIRMAN: We see the validity of the argument. We do not want unnecessarily to burden the department with work which is not really fruitful, which is not going to put an end to litigation. We will certainly consider this.

SHRI N. A. PALKHIVALA: If at all you want to have any reference to the prescribed authority, do not do it at the stage of the assessment; let it be at a later stage. Take the procedure in the case of wealth tax. If there is a dispute between the department and the taxpayer, then it goes to the valuer. Here also you can provide for the same kind of machinery. In the event of a dispute between the ITO and the department, specifically for the purpose of the Ninth Schedule it will be referred to the valuer.

MR. CHAIRMAN: Here the dispute is between the I.T.O. and audit.

SHRI N. A. PALKHIVALA: Audit should not interfere with the discretion of the department. I honestly tell you that this new provision will benefit only a few professional lawyers and nobody else.

SHRI ERA SEZHIYAN: Why do you presume that audit will not have competent persons?

SHRI N. A. PALKHIVALA: So far as audit is concerned, it consists of people who are experts in accounting but not in other matters.

SHRI ERA SEZHIYAN: I beg to differ from you. I have worked in the Public Accounts Committee and I have come across many competent auditors.

SHRI N. A. PALKHIVALA: Internal audit is different.

SHRI ERA SEZHIYAN: I have seen statutory audit people from close quarters. They have been very helpful in interpreting the statute.

MR. CHAIRMAN: We are seized of that matter and we are going to find out, to what extent they are liable to the interpret the law.

SHRI BHAGWAT JHA AZAD: It was said that the audit may not be knowledgeable. Suppose in this case, the competent authority is the Ministry of Industrial Development, will that do? There is a dispute at present and it is said that it has been done wrongly because the other person does not know. It can be otherwise also.

MR. CHAIRMAN: According to him, I.T.O. should take care of it.

SHRI N. A. PALKHIVALA: I will explain this. Development rebate and depreciation have been worked for so many years without any prescribed authority. What is the trouble? Sometimes if the Audit raises an objection, the same may be fought out.

MR. CHAIRMAN: They say that half of their energies are wasted in fighting out the audit.

SHRI VASANT SATHE: Your problem will be solved, Mr. Palkhivala, if the competent authority, as Mr. Bhagwat Jha Azad pointed out just now, is really a knowledgeable authority like the Industrial Development Ministry with all the staff for every field right from electronics to agricul-

ture. I believe, that the men in the Ministry of Industrial Development are as knowledgeable as the man who has started the Unit. Take for instance a layman in Punjab, who has started an industry for manufacturing a particular item. I believe, his knowledge can be equated at least with the knowledge of the technical man in the Ministry. If that is so, and if in the initial stage, he were to certify that here is an industry which falls within this schedule, it will enable that assessee to avoid any further difficulty. That will be binding on the I.T.O. If we provide in law that it will be the final authority to certify, to that extent, that will bind the hands of the audit. Will not that solve the problem?

SHRI N. A. PALKHIVALA: There are two types of cases. While you have dealt with one type of cases, with respect I would say, that you have left out the second category. You have dealt with the category, where the prescribed authority agrees with the assessee. But what about the other category, where the prescribed authority say, 'no, your business does not fall within the Ninth Schedule. What is the remedy?

SHRI VASANT SATHE: We provide a machinery for appeal to the assessee. It will be technical man. If an appeal is provided, I think, that will solve the problem.

SHRI N. A. PALKHIVALA: Then you must have the prescribed authority for thirty other provisions. You see, what the magnitude of the problem is. Take depreciation, and see how we are tackling it. You have different rates of depreciation. You must have a prescribed authority for that also to tell you which of the different rates of depreciation applies. Then there are disputes with the Audit, with the Department about the newly established undertakings. Does it really come within the definition or is it outside? Is it an expansion of an existing unit or otherwise? There are

hundreds of cases like this, where the disputes arise between the Income Tax and the Audit and Income Tax Department and the assessees. If you want a certificate in this case, you should have certificates for other cases also. These problems arise all the time.

SHRI VASANT SATHE: Who will decide that? I.T.O. is not an experienced person.

MR. CHAIRMAN: We will consider what Mr. Palkhivala has said on this point. It is a very valid point. If it remains, it will remain in a manner that minimum hardship is caused either way.

SHRI SOMNATH CHATTERJEE: Mr. Palkhivala says that if the prescribed authority does not agree with the assessee, without providing for an appeal, it will cause hardship. But why not an assessment made on a certificate which is not accepted by the assessee, in appeal that can be taken up. That question can be gone into then. Why a separate appeal should be required.

SHRI N. A. PALKHIVALA: As the provision is provided, unless an assessee gets a certificate, he has no right to claim initial depreciation. The right is conditional on the certificate. That is why, an appeal would have to be separately provided for.

SHRI SOMNATH CHATTERJEE: Supposing it is provided a certificate has to be given. There is no question of not giving a certificate. That would be a subject matter of appeal from the assessment order.

SHRI N. A. PALKHIVALA: There is no right of appeal. He will be asked, "Did you produce a certificate". Appeal will be dismissed without a certificate. That is a condition here.

MR. CHAIRMAN: One company is engaged in the manufacture of nylon yarn from imported capro-lactum. The Company's claim that it is engaged in the manufacture of articles falling within item 18 of the Fifth Schedule

was accepted by one I.T.O. The successor I.T.O. took a different view. According to the latter I.T.O., while capro-lactum is a petro-chemical, the further processing of capro-chemical into nylon does not fall within item No. 16 of the Fifth Schedule. The Revenue Audit has also taken a view in conformity with the later I.T.O.'s view and has pointed out that in the earlier years, there has been considerable under-assessment on account of incorrectly treating the Company as one engaged in priority industry. To resolve the issue, expert opinions from three or four authorities have been obtained and even the opinions of the experts have been found not to be uniform.

SHRI N. A. PALKHIVALA: ITOs are being unnecessarily criticised. The existing remedy is adequate. The Department has the right to appeal, as also the assessee. Let it work. For ordinary depreciation, this problem arises all the time. When you instal something in your manganese mine or coal mine, the question is always there, whether it is electrical machinery or a mining machinery. This problem arises again and again. I have myself appeared for a public sector undertaking, where we went to the Supreme Court. If you start like this, there will be no end. Everyday your Customs Officers have to decide, whether a particular item imported is item A or B. He decides, and he is the one who decides all the time. You don't need the Industries Ministry to deal with it. How do you deal with the customs cases and excises cases every day? You will undoubtedly have these problems when you say that discretion will be exercised. One man may take one view and another man may take another view. This is necessarily incidental.

You will have to provide a fairly cumbersome procedure for the right of appeal against refusal of the certificate, even if the certificate is to be produced not at the time of filing the

return, but before the assessment. Suppose the authority has wrongly refused to give you the certificate or suppose the authority is too busy, the assessment will have to be postponed. You will have five thousand matters pending before the prescribed authority and he may take time to deal with them. In the meantime the assessment cannot be completed.

MR. CHAIRMAN: Let us go to the next point.

SHRI N. A. PALKHIVALA: The next item is clause 5 which seeks to amend Section 35. The idea is that whatever has been spent on scientific research before the commencement of the business should be allowed. The intention is to help scientific research. But if the change is to be in this form, it is not worth making the change at all.

In the Explanation to Section 35(1) (i) on p. 4 of the Bill, the following is sought to be inserted:

"Wherever such expenditure has been laid out or expanded before the commencement of the business within three years immediately before the commencement of the business".

These conditions are such that any man will say "Kindly leave me alone; I don't want it". First he has to go to the prescribed authority and tell him what the scientific research was about and how he incurred expenditure three years before the commencement of the business and so many other things. When you realise how much time it takes just for the licence application to be cleared, you will be surprised. I am asking myself the question whether it makes any sense or is logical that if I incur expenditure on scientific research of about 2 lakhs before the commencement of the business, I must go to the prescribed authority for certificate; but if I continue to incur expenditure for thirty years after the commencement of the

business, I can get thirty years' deduction without such a certificate. Does this make any sense? My submission is that this "prescribed authority" should go. You are just creating white-collar jobs and a lot of paper work and nothing else. Let the ITO decide. If you ask me whether he is competent for this, then I will ask the question: how is he competent to decide after the business has commenced and is going on?

The second point is that the deduction is confined only to salaries and the cost of materials. But power, rent etc. are also items on which expenditure is incurred. You should either allow research expense properly or not allow it at all. What about the fuel and rental charges? And if he has to go about by car, what about the perquisites like travelling allowances etc. All that is being ignored and only the bare salary will be allowed. What is the logic behind this? Perquisites are permitted even under the Income-tax law; but they are to be ignored here. This, I submit, does not make to me any sense. Is this the idea of the Government for promoting industrial research?

MR. CHAIRMAN: We must find out from the Government as to what is the rationale behind this. If they are going to allow some expenditure relating to research, why is it that they are taking only the bare salary and allowances and leaving out other things? In the afternoon we will be examining the people responsible for this.

SHRI VASANT SATHE: Now, you say that the clause should be made more comprehensive and that we should take away the prescribed authority?

SHRI N. A. PALKHIVALA: That is one point. My other objection is that you are not allowing anything like the real scientific research expenses which must be allowed.

SHRI VASANT SATHE: So you want to make it more comprehensive?

SHRI N. A. PALKHIVALA: Yes. For example, the salaries are subjected to a certain ceiling; you cannot give anything you like they are restricted under the rules. So all these restrictions are there, but subject to those restrictions, whatever items of expenditure are there should be allowed.

SHRI SAMAR GUHA: Research expenditure also.

SHRI N. A. PALKHIVALA: That is what I am pointing out.

SHRI SAMAR GUHA: As a student of science I would say that the witness is 100% right.

MR. CHAIRMAN: Well, don't concede anything in his presence!

SHRI N. A. PALKHIVALA: It must make some sense. You incur expenses on rent; you incur expenses on transport. These are all items of expenditure incurred on scientific research; so why not given a reduction for them?

Then, my next point is in regard to p. 4. You say that you will give deduction to a person provided he makes the donation for the purpose of research relating to the "business carried on by him". My suggestion is that it should be "business or profession carried on by him" because there are doctors, engineers etc. who carry on a profession and not a business. Therefore, my suggestion is that on page 4 Section 35 line 44 the words starting from "related to the business carried on by him" should be deleted from the proposed Bill.

MR. CHAIRMAN: That means subsection (1) to be used for scientific research related to be business carried on by him" is not necessary.

SHRI N. A. PALKHIVALA: Suppose a man wants to give a lakh of rupees for research purposes, let him contribute that amount for research institutions.....

SHRI VASANT SATHE: How will you define the scientific research or otherwise carried on by him?

SHRI N. A. PALKHIVALA: The safeguard is given on page 5 of the proposed Bill. "Provided that the scientific research is undertaken under a programme approved in this behalf by the prescribed authority having regard to the social, economic and industrial needs of India." So you have a complete check on this. Only that research which is approved by the Government, which the Government thinks is in the interest of India will be considered.

MR. CHAIRMAN: Why should it be related to the business carried on by him as long as it is for scientific research? We will consider this. With this safeguard, we can consider that weighted deduction is not allowed by any one whether it is related to business of profession or not.

SHRI N. A. PALKHIVALA: The next point is about Section 80HH which is sought to be inserted in clause 9 on page 5. It is a very laudatory objective. There is in fact a separate necessity to promote the economic growth of backward areas; because unless you do that, there will be regional imbalance, there will be violence and sometimes agitations for disintegration. For example, the hon. Members are aware that in several areas in certain States, people think that they have not been given proper treatment and they have not been economically developed.

Section 88HH is extremely laudable and it is very necessary that this objective should be achieved. My only point is about the way it is done, this clause will not achieve the objective. The reasons for this are as follows.

If you start an industry in the backward area, first you have to provide road facilities, transport facilities, availability of power etc. And for doing all these things, what you have provided is that for 10 years from the date you start your production, 20% of the taxable profit will not be taxed. Now, the magnitude

of the problem is such and the difficulty facing the man who wants to start business is so much, that this 20% exemption is just meaningless. I have tried to examine what is done in other countries. Ours is not the only country facing the problem of this kind. This problem is also faced by other countries. There are many countries both East and West, old world and new world, where this kind of incentives are given for backward areas. First take the period. You give the relief for 10 years. This period of 10 years is on paper but in practice it will come only to about 5 years. Who makes profits for the first 5 years in backward areas. The backward areas. If you look at it can you say how many have made profits statistics give information about the during these 5 years?

MR. CHAIRMAN: How, the industries should be started in the backward areas.

SHRI N. A. PALKHIVALA: In Maharashtra, we do have some industries in backward areas because our State Government is much more liberal and it has given relief in electricity and other fuel, sales tax, etc. Now the point is that the State Government can not do it alone.

SHRI VASANT SATHE: Which area you have in mind in so far as Maharashtra State is concerned? Do you have any industry in Vidarbha or Marathwada? Can you tell me which industries have been started in those areas?

SHRI N. A. PALKHIVALA: If you want the details, I can supply them.

MR. CHAIRMAN: The real difficulty is this. We had some eminent industrialists who gave evidence before us. One of them very frankly told us that whatever physical incentive we may provide in legislation, that would not matter. We would determine the location of the industries from the viewpoint of soundness of industry, etc. Therefore the basic question is: can we by physical legislation really

work for eradication of regional imbalances or disparities?

SHRI N. A. PALKHIVALA: I would say 'yes'. I accept what the businessman has told you. He will, for setting up an industry in a particular locality or region, look at it from viewpoint of economic viability and all that. Suppose there are two areas—one area is so developed that without any incentive one can start an industry and there in another area which is either backward or partially backward. If an entrepreneur has to choose between the two and if the tax laws are the same, he will first select the area where better facilities are available even. But the tax laws give more substantial relief to the businessman who opens an industry in the backward area,—a different type of relief which I have in mind and which I will submit to the Committee for consideration,—then he is bound to say that although all facilities are available in the developed area. it is better to go to the backward area. What I have in mind is that, first of all, the ten-year period must start from the date when taxable profits come to be made; it cannot be from the date when you start your production. The real period of ten years can only be from the date when he starts making profits. First of all, you have to choose your commencement date and then give him incentive. Otherwise, quite frankly speaking, he is not interested. No man is bound to come to a backward area. For that, all that is required is that you must put him in such a position that he does not suffer much. Justice requires that you must give a sizeable incentive to a man who develops this country by going into a backward area. In this way, a sizable part of the hardship he suffers is eliminated. What is the good of offering relief in the years when no tax is payable. This is misleading. When there are no taxable profits, you are not offering any relief at all.

May I therefore suggest that your relief must start from the year when

taxable profits emerge. (2) In the case of a newly established undertakings, you give relief both to the company. and to the shareholders to the extent dividends are declared out of the tax free profits in the hands of the company. Likewise, there should be a provision in Section 80HH that the shareholders must get relief in respect of the dividend which is declared out of those profits which get exemption in the hands of the company. (3) You must give incentives to a man who builds up the infrastructure. What is lacking today in the country is infrastructure. Roads are not there; water supply is not there. If you want to develop the nation, give him the incentive to build roads. If he builds the road, the nation will use that road. This is very important. By definition, a backward area is one where roads are primarily lacking. If he builds a road, he will not get any depreciation, because it is not a capital assets for which any rate of depreciation is provided. This does not make sense. In order to make sense, give him the incentive of a deduction in respect of the expenses he incurs by building up the infrastructure which is going to be used for the benefit of the whole nation.

The difficulties are fantastic. There are bewildering problems. Unless, we tackle them, the backward area will remain backward. My plea is that whosoever does anything for the benefit of the nation, for the unity of the country.—should be given incentives. If the Govt. can do everything, then there is no problem. If the Govt. wants that citizens should do something for the benefit of the nation, then they should be placed in a position where they can do it reasonably.

The expenses incurred on roads and other infrastructure should be allowed the benefit of tax deduction in the year in which they are incurred. In other countries, they are more generous in this respect. What I am suggesting is not an unheard thing. Let us take Ireland. As compared to

India, it is a better country, but it is a poor country. First of all there 45 per cent of the total capital expenditure is met by the Irish Government and you get a depreciation of 100 per cent in any year of your choice. Then, your profits are completely exempt for ten years. In Malaysia and Indonesia, similar reliefs are there. They allow full tax exemption. In the Bill, if nothing better can be done, it is my view that it is better not to tinker with the law. but just leave it as it is.

SHRI VASANT SATHE: Suppose, if we were to take a bold decision that whatever amount you spend on building up infrastructure, we will not ask you from where you have got the money. Instead of thinking of taking a deduction, etc. what would you feel? Because the money which he will spend, he will take from the bank which is a public money, shareholders' money and then ask for deduction. That really does not help us. There is so much black money in the hands of the people, they do not know what to do with it. I would like this amount to be utilized for the development of the backward areas. Your point that you will ask this 20 per cent from the date when you start making profit is valid and fair enough. But for infrastructure, we have to see.....

SHRI N. A. PALKHIVALA: When I fight and plead the cases of honest tax-payers I come across such problems of being misunderstood that I do not know how gravously if I championed such a thing, I would be misunderstood.

SHRI BHAGWAT JHA AZAD: Can that help in any way?

SHRI VASANT SATHE: I am serious on this.

SHRI N. A. PALKHIVALA: What you have said has been done in other countries with great success. On this point, I will say nothing because, as I said, the atmosphere in the country

today is such that, even if you suggest something sensible....

SHRI BHAGWAT JHA AZAD: We can think over that.

SHRI VASANT SATHE: Black money is not the prerogative only of bad men. Bad and good in this country are now indistinguishable. Black money is available in plenty to all those—they cannot help it—who are engaged in business and industry in a big way. They cannot help it. It just comes to them. They do not know what to do with it. Let us try to encourage these people to go to backward areas. What is wrong about it?

SHRI BHAGWAT JHA AZAD: Even those who are supposed to be honest have black money.

SHRI R. D. SHAH: Mr. Palkhivala, I would like to point out to you one problem which arises in multiple ways. A company which is entitled to the benefit under Section 80J will have thousands of shareholders and there will be hundreds of such companies. Now, in the initial stage, when the certificate is given by the company as to the percentage at which Section 80J relief is to be given, the assessment of the shareholders would be made on that basis and whatever tax credit is to be given, will be given. When the assessment of individual companies is made, the percentage would vary. This results in revision of thousands of assessments and because of changes in the assessed income due to appeal etc., this revision may have to be made a number of times. Do you think of any better method by which....

MR. CHAIRMAN: Relief is given not only to the company but also to the shareholders.

SHRI N. A. PALKHIVALA: This is a very major problem which Mr. Shah has mentioned. If you look at the statistics, you will find that tens of thousands of tax payers who may

be paying tax at the rate of 10 per cent or 15 per cent and who have no means or the facilities for going in appeal, lose the benefit. My suggestion is this. You should set up an independent machinery, consisting of first class people, who may be inside the Government or who may be even from the retired members of the Tribunal, who will decide on the facts etc. as to what is the percentage which should be exempt. Their decision should be final. I would, in fact, rather welcome a wrong decision which is final than this ridiculous spectacle of matters going on and on....

MR. CHAIRMAN: It takes decades.

SHRI N. A. PALKHIVALA: We should choose first class people. I do not want to mention names because I do not want to be discriminatory. You have first class men today even inside the Government. Single them out and put them in charge, and they will look at the accounts etc. and then decide on the percentage of profits which should be exempt. Their decision should be final. There should be no further discussion and no further debate on this. There should be no appeal, nothing. People will certainly accept it. Today, in the Bombay High Court, about which I have a little knowledge, there are matters pending in regard to Sections 80J and 80K, which Mr. Shah mentioned, which relate back 15 years and 20 years. The matters that are decided by the tribunal today will come up before the High Court after 8 years, at the present rate of disposal. My point is this. The simple thing would be to set up an independent machinery. Pick out your men who are known for their ability to rightly interpret the law and who will quickly finish the matter. Their decision should be final, and there should be no appeal. Today, speed is the real thing which is needed. The matters should not drag on and on, for an indefinite period. This is a very important point. I hope you would do

it. This is within your competence, within the purview of the Bill, if I may say so.

MR. CHAIRMAN: That is my next question. You say we will be able to do it. Assuming we provide that relief is to be given to the shareholders also, you can suggest a mechanism.

SHRI N. A. PALKHIVALA: The mechanism is already there. If you look at the Statement of Objects and Reasons, you find that, objective is to provide for certain tax concessions for encouraging industries in selected sectors... Now, what are the selected sectors? The newly established undertakings are the selected sectors. You are selecting newly established, undertakings. Any sector can be selected by reference to the criterion of the region, criterion of the type of industry, category of industry etc.

MR. CHAIRMAN: 'selected sectors', I was taking it to be those which are selected already by the Government. To that, we can add or we can delete. This is in the Ninth Schedule. The second limb of the same object says 'and those in backward areas'. Now, therefore, in regard to backward areas, there is to be tax concession generally. But, otherwise, don't you think that the first part confines our jurisdiction only to industries?

SHRI N. A. PALKHIVALA: Let me even take that. Let me take that construction, which may be a narrow one. But, I will accept it. You suggest a machinery for that. You suggest a machinery for the Ninth Schedule. It does not matter. The Government will then apply it to others. You only say this is your suggestion regarding Ninth Schedule. Your proposition would be like this. The Ninth Schedule which is to be introduced is of vital importance to the country.

SHRI VASANT SATHE: Are you interpreting this to mean, selected sectors as independent from those in backward areas? Is that what you are interpreting?

SHRI N. A. PALKHIVALA: They are dis-junctive.

SHRI VASANT SATHE: I thought this is selected sectors in backward areas.

MR. CHAIRMAN: Backward area, every industry. Otherwise, selected sectors.

SHRI N. K. SANGHI: Mr. Palkhivala, most of the Members are interested in the development of backward areas. There is no doubt about it. We have some proposals which are before you. You have suggested certain alternatives, that the profitability itself should start after profit has started accruing to the industrial concern and you have given other suggestions. Would it help in the faster industrial development of backward areas, if we re-introduce something like development rebate for the backward areas only or do you think that the proposed alternatives that you have suggested would help better in regard to the development of backward areas?

SHRI N. A. PALKHIVALA: The proposed alternatives that I have suggested would be more beneficial, than mere development rebate. The development rebate, for example, will not take care of the infra structure, like roads etc.

SHRI N. K. SANGHI: The proposals that we have made plus the development rebate, would it not help?

SHRI N. A. PALKHIVALA: That would be, of course, a better step.

SHRI N. K. SANGHI: We do not want them to remain on paper only. We really want speedier industrial development of the backward areas. After the area is industrially developed, we can withdraw these concessions. We have given some proposals which will help in the development of the backward areas.

SHRI SOMCHAND SOLANKI: You have said that the exemption of pro-

fits to the extent of 20 per cent would be totally inadequate.

SHRI N. A. PALKHIVALA: It should be at least 50 per cent. I have said so on Page 14 of my memorandum. I repeat that there also. At least 50 per cent of the profits must be given tax exemption. Unless you give a really worthwhile and significant concession, you will not be able to achieve the objectives, which you have in view. If you really want development of backward areas, if you are really serious about this, then this, 10 per cent or 15 per cent is useless. It will not work. If you like, I can work out an exercise, showing in parallel tables, how much a person has to suffer and how much expenditure he has to incur in setting up industries in the un-developed regions compared to developed regions.

MR. CHAIRMAN: That will be very useful.—how much a person has to incur both on the capital account as well as on revenue account. That will be very important.

SHRI SOMCHAND SOLANKI: Why do you say that it should be 50 per cent?

SHRI N. A. PALKHIVALA: This may not be mathematically accurate. But, the magnitude of relief which is really needed, is such that, it would have to be in the range of 50 per cent. I will give you one example. A man in a developed region earns a profit of Rs. 100|-. If you tax him at 60 per cent, he is left with Rs. 40. Let us say, a person in a backward region makes a profit of Rs. 40. Then, if you do not tax half of his profits, he is left with Rs. 20. Then, on the balance of Rs. 20|- you can tax him at 50 per cent. So, even after the exemption, his profits are Rs. 30|- after taxes, as compared to Rs. 40|- or Rs. 50|- in the developed region. His margin of profits is much narrower than in the developed areas. Even if you exempt to the extent of half, or even the total income, the net profit

would be less than in the developed regions.

SHRI SOMCHAND SOLANKI: Would it not be better to fix the quantum of relief on the basis of cost or production and profits, so that the profits in the backward areas and the developed ones may be comparable?

SHRI N. A. PALKHIVALA: In that case, the relief would have to be tailored to the needs of each one of the assesseees. It is better that you have a rough and ready view.

SHRI SAMAR GUHA: Whatever may be the concession given, it will be an immense problem to allure the private industrialists to the backward areas. For making their profits here comparable to the profits in developed areas, can you think of an alternative suggestion, instead of raising the quantum in this manner?

SHRI N. A. PALKHIVALA: Logically speaking, what you say makes sense; it should work that way; but since you will have to deal with hundreds of areas and hundreds of industries where the profits and costs are fluctuating, you should have a norm. It would be difficult to achieve it in practice, although I see the force of your statement, as an ideal. We have, therefore, to work with a broad idea.

SHRI SAMAR GUHA: Why don't you say that in fixing the quantum, the element of flexibility will be taken into consideration?

SHRI N. A. PALKHIVALA: It would be difficult to work it out year after year.

SHRI VASANT SATHE: I was really impressed by Mr. Palkhivala's anxiety and sincere concern in the development of backward regions in the interests of the country's unity, because we also feel the same way. Would you, Mr. Palkhivala, also support this provision in the Bill which says that industries like sugar, paper, tyres and tubes, cotton, textiles, jute

textiles, cement, vegetable oils etc. even if they are not located in backward areas but in places like Bombay, Calcutta or any other developed region, should be allowed this 20 per cent? By way of interpretation, this appears to be the provision.

SHRI ERA SEZHIYAN: Selected areas anywhere in India, seem to be covered.

MR. CHAIRMAN: Any industry will get it; the Ninth Schedule is with reference to initial depreciation. Anyway, Mr. Sathe, we have finished that point and are now dealing with backward areas. Please confine yourself to it, because we have to follow some procedure. If you want to ask something on backward areas, I will give you an opportunity after he has finished.

SHRI SAMAR GUHA: I have something to say. Whatever be the legislation, what I am worried is whether the real encouragement would be there and whether they would go to the backward areas with so much of sincerity.

SHRI N. A. PALKHIVALA: I would request you to consider the five suggestions that I have made in writing—they are on pages 13 and 14 of my written submission. I will say one or two things. Our masses have two great drawbacks, viz. lack of roads and lack of water. One village out of every 4 has no connection with road, nor does it have water. Roughly, this is the extent of their difficulty. A man tries to see that some water is brought in there, he tries to build roads. These are all expensive. You should say, "whatever you incur on them, we would allow as a deduction".

MR. CHAIRMAN: The Committee will give the most anxious consideration to what you have suggested in regard to allowing the expenses on infra-structure incurred by anybody. We will see what best can be done, because eradication of regional disparities is essential.

SHRI VASANT SATHE: Could we also say, "provided they are also made available for the use of the general public?"

SHRI N. A. PALKHIVALA: You can and should put that rider. Now, the last point I have is about 80—H is that the Bill excludes the mining and ship-building industries.

MR. CHAIRMAN: Why?

SHRI N. A. PALKHIVALA: I see no reason why they should be excluded; it is at page 8, line 13. I think this is completely wrong and shows the illogicality of the whole thing.

MR. CHAIRMAN: We would like to ask the people concerned about the logic behind this.

SHRI N. A. PALKHIVALA: There are so many coastal areas, including the Andamans. People there may like to construct fishing craft. What is the rationale behind this provision?

MR. CHAIRMAN: Personally, I am unable to say why these two industries are being discriminated against, if they are located in backward areas.

SHRI N. A. PALKHIVALA: I any person is sought to be given for this, I would like to deal with it. Possibly, it will not be a defensible reason.

MR. CHAIRMAN: We will ask for the reasons. The Secretaries are coming before us and we will ask them. But I do not want to put those reasons before you.

SHRI N. A. PALKHIVALA: The very last thing I would say is about clause 13. I am sure, that is again an oversight and nothing else. You are aware of what happens. Very often, an assessee may take a challan from the Department and voluntarily pay the tax.

MR. CHAIRMAN: Voluntary payment at what stage?

SHRI N. A. PALKHIVALA: It is very simple. Up to the stage he did not make voluntary payment, you can levy the penalty and, from the date the voluntary payment is made, no penalty will be charged. In calculating the penalty, you have to find out the base by reference to which the penalty will be calculated and, in calculating the base, you should ignore the period which is after the voluntary payment of tax.

MR. CHAIRMAN: Whatever tax is paid, voluntary or otherwise.

SHRI N. A. PALKHIVALA: There is the Supreme Court judgment that any payment made by way of self-assessment or on provisional assessment should not be taken into account in levying the penalty. What is penalty? The penalty is for late submission of returns.

MR. CHAIRMAN: That made a mockery of the whole thing.

SHRI N. A. PALKHIVALA: I see the Department's point. I think, it is a valid one. A man delays filing of returns for four years; then, he files the returns and makes the payment by way of self-assessment. Then, a penalty can be charged. But what about the man who may have voluntarily paid the tax within six months after the year ended?

MR. CHAIRMAN: For six months the penalty will apply to him.

SHRI N. A. PALKHIVALA: Not after that. Whatever be the period, when he has paid voluntary tax, after that, there should be no penalty.

MR. CHAIRMAN: There should be penalty levied upto the date on which he has made the payment, not after that.

SHRI N. A. PALKHIVALA: Suppose he has delayed the filing of re-

turns for four years; the voluntary payment is made after one year. Then, the penalty should be for one year. It is true he has delayed the filing of the returns. It may be due to hundred and one things. But he has paid the tax after one year. The penalty should be for one year.

MR. CHAIRMAN: I think, that is a valid point. If he has paid the tax, then from the date of payment at least, he should not be penalised.

SHRI N. A. PALKHIVALA: This particular clause seeks to amend a Section which imposes a penalty for late filing of returns. Suppose a man has to file a return within six months. But he takes two years to file his return. We penalise him for that. The Supreme Court has said that according to the wording of the Section as it stood originally, before this proposed amendment, any tax which is paid, on the late filing of returns, by way of self-assessment or provisional assessment, should be taken into account in deciding whether there should be a penalty or not.

What happens is that sometimes a man does not want to deprive you of the tax—he wants to pay the tax fully—but there may be some technical difficulties in filing the returns. Now, he pays the full tax or he may even pay more because, he knows, he will get the refund. In such cases, there should be no penalty. If there is delay in filing the returns, say, for two years and the tax was paid after one year, then, for one year's delay, you can levy the penalty.

MR. CHAIRMAN: That is all. Thank you.

SHRI N. A. PALKHIVALA: I am grateful to the Hon. Chairman and the Hon. Members for giving me a patient hearing. Thank you.

(The witness then withdrew)

II. The Associated Chambers of Commerce and Industry of India

Spokesmen:

1. Shri M. H. Mody
2. Shri K. C. Khanna

New Delhi.

3. Shri R. N. Ratnam
4. Shri M. M. Malhotra

(The witnesses were called in and they took their seats)

MR. CHAIRMAN: Mr. Mody, for the purposes of record it is necessary for me to read out to you the direction by the Speaker which governs your evidence before this Committee, of which you are aware, I am sure. The evidence you give would be treated as public and it is liable to be published unless it is specifically desired that all or any part of your evidence is to be treated as confidential. Even though you desire so, such evidence is liable to be made available to Members of Parliament.

Now, Mr. Mody, we have gone through your Memorandum. The basic concepts made out in your Memorandum are the very same as have been made out by Mr. Palkhivala in the Memorandum submitted by him. Just now, we heard him for nearly three hours. He tendered a very erudite evidence before the Committee. Therefore, over and above your Memorandum, if you have got something to add, you may do so.

SHRI M. H. MODY: I appreciate that coming after Mr. Palkhivala, it is something of an anti-climax.....

MR. CHAIRMAN: It is not that. The points are the very same which he made out.

SHRI M. H. MODY: I am not aware of what he has said. But, naturally, I can very well imagine that there may be a certain degree of repetition.

I would like to confine myself to two major issues which arise out of the Bill. The first is the one dealing with initial depreciation and the second is the one dealing with relief for backward areas.

As far as initial depreciation is concerned, I would like to deal with a few relevant points. There is a very great need for an adequate allowance for depreciation in one form or another which would encourage the investment in capital assets. Our submission is that there is a very great national need at the present moment that the tax system must encourage investment in capital assets. It is our submission that the proposed initial depreciation allowance is grossly inadequate, if I may say so. I am not going to enter into the question of development rebate and its substitution except to say that there is certainly a very strong case for extending the deadline...

MR. CHAIRMAN: That decision has been taken by the Ministry. That is irrevocable.

SHRI M. H. MODY: Then I will not touch upon that.

There is a great need for adequate depreciation allowance. The concept of depreciation allowance, as you will appreciate, has been evolved over a period of time. When the depreciation allowance was originally granted, the idea was that it must be related to the actual wear and tear suffered by the equipment. This idea has now completely gone over board and the purpose of depreciation allowance is to encourage capital investment and growth of the economy.

Ours is a very backward country. Even countries which are in an advanced stage of development, such as the United Kingdom, and Sweden, allow much more substantial and liberal depreciation allowance, and in that context the proposal of 20 per

cent initial depreciation is grossly inadequate. Our submission is that the scheme of allowance must be revised to take into account the most important element of providing for the replacement cost of the assets. Our submission here is not merely with a view to pointing out that small allowances are available for the benefit of private industries; our view is that the capital assets of private industry are, in fact, national assets because they contribute to productivity, they contribute to the supply of goods which are essential, and they contribute to employment. These are national resources which are being wasted. You are aware of the instance of Brazil where, in spite of a high rate of inflation, when depreciation allowance had been provided taking into account the replacement factor, and this has contributed to a very high rate of growth in the economy. Our submission is that the scheme must take this into account. One of the results which we see today because the system does not take this into account is stagnation of the economy; private companies have to resort to borrowings from the public or borrowings from public sector financial institutions which are again national resources. If one company obtains these resources, it is at the cost of another sector or at the cost of another company.

Having said this, I will not touch upon the other technical issues which we have dealt with in our Memorandum such as the fact that, considering the completely inadequate allowance for initial depreciation which is being contemplated, it is also being further restricted to a very small list of industries. We have not been able to ascertain the principles on which this list has been compiled. It appears to be extremely restrictive. What we feel is that any scheme of depreciation allowance must be across the board. There is no distinction between one industry and another. All of them contribute to production

and employment. There are some specific exclusions, for example, road transport vehicles....

MR. CHAIRMAN: We are examining Government witnesses to find out what is the rationale behind enumerating the various industries in the Ninth Schedule. If you have any specific inclusions to suggest, you may give us the list. You may pay some attention to it and let us have in writing what according to you ought to be included further.

SHRI M. H. MODY: We will give you such a list.

MR. CHAIRMAN: You have to do it quickly because we have to submit our report to Parliament. Please send it by the week end.

SHRI M. H. MODY: Yes, Sir.

The other aspect of this relief which is causing us some concern apart from its inadequacy is the business about a certificate from a prescribed authority being obtained....

MR. CHAIRMAN: We have had very long discussion with Mr. Palkhivala on this matter. He has put the case at the highest, and the consensus appears to be about the prescribed authority business that we need to ask the Department to make a very strong case for the retention, and if at all it has to be retained, then it cannot be as cumbersome and as onerous as this.

SHRI M. H. MODY: In that case, I will not labour that point.

Now I would deal very quickly with backward areas relief. Here it is important to appreciate what are the disadvantages which operate against an industry which is set up in a backward area. These disadvantages are well known to the Government. Probably the most important is the absence of transport facilities, communication facilities, telephone facilities, telex and things like that. Another factor is the absence of water supply and power supply which are very important requirements for any kind of industry. The third factor is

the absence of skilled labour, and what is even more important is the lack of an industrial environment. There is also an absence of housing, sanitation, medical and educational facilities. These are the adverse factors....

MR. CHAIRMAN: In other words, the infra-structure.

SHRI M. H. MODY: Therefore, I personally feel that the relief which we should allow must be specifically geared to counteracting the disadvantages which flow from the absence of infra-structure. Our first submission, therefore, is any expenditure which a company incurs in providing the infra-structure....

MR. CHAIRMAN: Mr. Palkhivala has made a very powerful and persuasive plea before the Committee that the entire infra-structure expenditure must be allowed. His second suggestion was that 50 per cent of the profits should be allowed to be written off for ten years from the first year when there is taxable profit.

SHRI M. H. MODY: May I make one additional point. Corresponding to the relief allowed for new industrial undertakings, relief should also be allowed to the shareholders.

Then I would deal very quickly with the relief for export development expenditure which is provided for in the Bill. I am referring to Clause 6 of the Bill. The proposal contained in the Bill is that, instead of 'one and one-third times' the allowance will be 'one and one-half times' in the case of a company in which the public are substantially interested. In other words, the relief is being confined to public companies. Our submission is that the need for encouraging exports is very great and, therefore, this relief should be allowed to all kinds of assesseees. As a matter of fact, in export development a very large number of small assesseees are involved. For instance, handloom exports. This activity is, in fact, carried on by small companies, small partnership organisations and there is

no reason why such companies who have even less financial resources to deal with the situation should be deprived of this relief.

MR. CHAIRMAN: It would be one and one-half times in the case of public companies.

SHRI M. H. MODY: My understanding is that the existing 'one and one-third times' will be allowed to all assesseees and for public companies it may be one and one-half times. There is no real justification for this discrimination. What matters is export performance which government wants to encourage.

MR. CHAIRMAN: Which page of your Memorandum?

SHRI M. H. MODY: On page 7, clause 6.

I would then like to refer to amendment of Section 271 which has also been proposed. We are all concerned that the amendment should be retrospective in character as it is proposed.

MR. CHAIRMAN: Why should it not be retrospective?

SHRI M. H. MODY: The Government themselves have said in the past that they are against retrospective legislation.

MR. CHAIRMAN: Retrospective legislation cannot be rejected outright in all cases. It has to be seen in what context it has been made. Don't you think arising from the decision of the Supreme Court the basis on which penalties are levied makes a mockery of the whole concept of penalty?

SHRI M. H. MODY: Where decisions go against the assessee the Government want retrospective legislation and where it goes against the revenue, they do not want retrospective legislation.

MR. CHAIRMAN: It is not only penalty so far as this is concerned. Even Mr. Palkhivala has said that what we intend to do is extremely not only desirable but it is very necessary also.

SHRI M. H. MODY: I am not disputing it from that point of view. But

such a principle should apply in favour of the assessee also.

MR. CHAIRMAN: We will see. I, for one, stand for prospective legislation.

SHRI M. H. MODY: I am only making the plea for other situations. Then this question of prescribed authority also arises in the case of research. I think the committee is conscious of that problem.

We shall then refer to the Schedule, the 9th Schedule making certain changes in the terminology.

MR. CHAIRMAN: We will also see to it that we do not add to the litigation. In fact, when you give this supplementary memorandum to us, you may tell us as to which are the important industries which, according to you, must come in the Ninth Schedule and also you may give us why you think they are important. You may also refer to the terminology in a manner so that we may avoid litigation.

SHRI M. H. MODY: I have nothing more to say.

MR. CHAIRMAN: Thank you very much.

(The witnesses then withdrew).

(The Committee adjourned for lunch and reassembled at 15.00 hours)

- III. (1) Shri B. D. Pande,
Cabinet Secretary,
Government of India.
- (2) Shri M. R. Yardi,
Finance Secretary,
Government of India.
- (3) Shri H. N. Ray,
Secretary,
(Department of Expenditure),
Ministry of Finance,
Government of India.
- (4) Shri R. V. Raman,
Secretary,
Ministry of Industrial Development,
Government of India.

(5) Shri B. B. Lal,
Secretary,
Ministry of Planning,
Government of India.

(The witnesses were called in and they took their seats).

MR. CHAIRMAN: Mr. Pande, for the purposes of record it is necessary for me to read out to you the direction by the Speaker which governs your evidence before this Committee, of which you are aware, I am sure. The evidence you give would be treated as public and it is liable to be published unless it is specifically desired that all or any part of your evidence is to be treated as confidential. Even though you desire so, such evidence is liable to be made available to Members of Parliament.

You are aware of the background in which Bill was referred to the Select Committee. When the Bill came for consideration before the House and for being passed, very strong protests were voiced from all sections of the House against the very approach of the Bill itself. It was emphatically and unequivocally mentioned by almost all the members who spoke on the Bill that whereas the objects are laudable and for achieving those objects fiscal measures are necessary, the entire approach was considered hopelessly inadequate, hopelessly unrealistic. In fact it was considered as if it were an exercise of sheer futility. We have also been hearing witnesses and some of them have come and I must endorse what the Members said while participating in the debate on this Bill. Now it is in that connection we thought it best to get some of the points clarified and basic fundamental questions involving the principle on which the entire legislation is made out.

So far as I am concerned, the first question which I consider very important with reference to this Bill is to provide for certain tax concessions for encouraging

industries in selected sectors and those in backward areas as also for promotion of research and development of export. These are four fold objectives. I want to know whether you had projected any revenue calculations one way or the other for determining what would be the impact of these incentives either with reference to initial depreciation provision or with reference to proposed concessions in the backward areas.

SHRI M. R. YARDI: Tax concessions by themselves will not be sufficient to achieve the objective of having growth in selected industries and in the backward areas. A multi-pronged effort will have to be made to see that the proper industrial climate is created for this purpose. So, so far as backward areas are concerned it will be useless to say that any tax concession that you give will be able to bring about development in the backward areas. This will have to be coupled with giving of intra-structural facilities—i.e. roads power, etc. Similarly, you see some concessions for the availability of land, certain other concessions, for instance, Sales Tax. It is only when all these come together, necessary climate will be created for industrial development in the backward areas. I do not know whether the Committee knows about the various facilities and incentives which are offered by the States for this purpose. I would present a copy of the publication, which gives some information as to what kind of incentives are being given. These are not the only concessions which are contemplated. There is a concession which is given by the financial institutions so far as industrial concerns are concerned. So far, Rs. 38 crores of finance has been given by these financial institutions. It is only with a combination of all these things that you conceive that a certain dent on the problem will be made.

Industrial development does not require merely tax concessions or finan-

but it requires many other factors. For example, the social and economic infrastructure has to be there. There has to be a certain trend of growth which should already have taken place. Wherever efforts have been made in this direction, there has been progress. For example, I can quote an example in this connection. I hope you will not say that I am becoming proud of my State when I say this. But where certain steps have been taken to provide the necessary facilities, development has taken place. For example, take the work which SICON is doing in Bombay. It has tried to locate growth centres which are coming up and it has tried to give the necessary facilities in the matter of acquisition of land, the provision of power, the provision of roads and so on. Coupled with all this, if certain tax concessions are given, we believe that a certain rate of development will be fostered as a result of this. But this by itself will not be able to do that. Merely increasing the tax concession from 20 per cent to even 50 per cent by itself will not be able to bring about this result. It is only when a multitude of various factors is brought into play in the backward areas that something could be done.

Similarly, so far as the industries are concerned, there has been a feeling whether in the conditions which exist in this country where there is a sheltered market, where there are shortages of goods, where the prices are not controlled but are going up and up, there is any need at all to give any subsidy. The development rebate was essentially an accelerated depreciation allowance plus a subsidy, that is, it gave the benefits of accelerated depreciation allowance plus a development rebate on the plant to the extent of 25 or 15 per cent according as whether the sector or industry was a priority one or not. Now, the question is whether under the present conditions, a subsidy is necessary to any industry for the purpose of bringing about rapid indus-

trial growth. But it was felt that at least in a certain selected industries, it was necessary to give certain facilities to have a reasonable cash flow during the first few years of industrial growth when the production is not coming up but when the concern has to find more and more funds for putting the factory into production. Therefore, it was felt that if an initial depreciation allowance of 20 per cent was given, the cash flow position of the company will be very satisfactory in the first few years and it should be able to make good on the basis of that.

As regards the question whether the concessions given are adequate or not, there can be two views. The industry is bound to say that they are not adequate, because in this country, industry does not function without any incentives, because they seem to think that if they have to do some national service, they must get certain incentives. But the question is whether incentives by way of subsidy are necessary in this country under the present condition when there is not anything like a competition, where it is a sellers' market and the people can make money and we know how people are flourishing both in industry and in trade.

Therefore, it was thought that while development rebate should be withdrawn, some facilities should be given so that the industries are not worse off when the teething troubles start and when their requirements of finance are the greatest in the initial stages.

If it is argued that this initial depreciation allowance should be given on the basis of 120 per cent of the capital cost of the project it means continuing the development rebate by decreasing it from 25 per cent to 20 per cent.

MR. CHAIRMAN: Why are you assuming anything? You may explain the rationale of what you have done.

SHRI M. R. YARDI: I have got with me also the suggestions which have been made by the FICCI and Mr. Palkhivala, and I have to deal with them also, and I hope you would not mind if I refer to them. After all, I must explain those points also.

MR. CHAIRMAN: As I have said, there are two views. One view is that these incentives are adequate under the present conditions. The other view is that they are not adequate. You say that they are adequate. How can you say *ab initio* whether they are adequate or inadequate? Have you examined the cash flow statements to come to this conclusion? How many cash flow statements of how many companies did you examine before you came to this conclusion that this sort of initial depreciation would improve the cash flow position of the company in the first few years?

SHRI M. R. YARDI: I personally have not examined any cash flow statement. But I am personally clear that this kind of allowance will see them through in the first few years.

MR. CHAIRMAN: Is it then a theoretical proposition that you are putting forward?

SHRI M. R. YARDI: If you want practical things, I can get them made and send them on to you.

MR. CHAIRMAN: Do you know for how many years the companies do not make profits? Do you know how many companies do not even get a set-off of depreciation? If you say straightway that this initial depreciation will improve the cash flow, it is a highly theoretical approach. Have you made a study of this? Do you know how many companies are not able to get even a set-off of depreciation or development rebate?

SHRI M. R. YARDI: The Chairman of the Board of Direct Taxes will be able to tell you, because I do not have it...

MR. CHAIRMAN: But you have made the statement.

SHRI M. R. YARDI: I am making a statement on a general basis.

MR. CHAIRMAN: On a theoretical basis you are making it.

SHRI M. R. YARDI: On a general basis I am making it. If you ask me whether I have examined the balance-sheets of companies, I would say I have not.

MR. CHAIRMAN: If only you would have made an assessment of the new industrial undertakings, I am sure you would not have made a statement like this that this sort of initial depreciation would improve the cash flow position of the company.

SHRI M. R. YARDI: It will improve the cash flow position compared to what it would be if this initial depreciation were not given. I am making only a comparative statement. I am not saying that it will improve in such a way that it will make up for everything. I am saying that it will improve the cash flow position to a certain extent as a result of this depreciation allowance.

SHRI ERA SEZHIYAN: Before I go to the contents of the Bill, I would like to hear from the many Secretaries who are appearing before us their basic approach towards the taxation laws and the taxation amendments which have been made so far.

When this Bill was introduced in the House, many Members from both sides of the House expressed their deep concern at the frequent amendments that were being brought forward to the taxation laws and the large number of amending Bills which were being introduced. We urged that stability of the taxation laws should be one of the basic things that should be aimed at. When the Law Commission was asked to go into the Income-tax Act, the precise object

was that the Income-tax Act should be simplified and codified. The legal luminaries in the country and the eminent jurists of the country like Mr. Setalvad, Mr. Chagla, Mr. K. N. Wanchoo, Mr. Satyanarayana and Mr. V. K. T. Chari, Mr. G. S. Pathak and Mr. Palkhivala and others went into this and suggested a model Bill, and then we had the Act of 1961. As the time that Bill was introduced for consideration and passing, the then Finance Minister said that at last we had arrived at a simplified taxation law and it was hoped that at least for five years there might not be any amendments. But within the first five years, I have found as many as 400 amendments, and I find that now the number of amendments has gone up to 900 or so.

What is the general approach to the taxation laws, especially to the Income Tax Act which was put on the Statute Act which was put on the Statute Book in 1961 with all the best hopes and best efforts that it would not need any amendments in the near future? Why has it undergone such a vast and numerous quantum of amendments? What is the basis lacuna or weakness? Is it in drafting or anything else?

SHRI B. D. PANDE: I do not know whether it can be attributed to weakness in drafting. As I have been able to see it, after a measure like the 1961 Act was put on the statute book, as one went along, problems came, changing situations came, there were demands all round. It was felt that certain amendments were necessary. If L may submit these we are all approved and enacted by Parliament.

SHRI ERA SEZHIYAN: If you wish to imply that Parliament is also a party to it....

SHRI B. D. PANDE: Not that. Some of these amendments became necessary probably because of deficiencies noticed by MPs in the administration of the Act, when deficiencies were noticed in the reports of the Public Accounts Committee in the case of

some provisions of the law. For example, deficiencies were noticed about the provisions relating to penalties, fines etc. That had to be tightened. Then the changing circumstances, Economic necessities necessitate a change.

When we come to this particular measure, the development rebate had been in force in this country for about—speaking from memory—17 years before the finance Minister's announcement about its withdrawal. He gave three years' notice which was required. The Finance Minister also had at that moment when he made the announcement said that while the development rebate, which had been in force for so many is being removed, it would be replaced by some other legislation to give some incentive, not in the same wide way and to the whole gamut of industries covered earlier, which would assist industrialisation. At this time, the Finance Minister indicated that his intention would be to restrict the concessions to identified backward areas to selected industries which would be industries considered important in the national interest or in the national programme. It was in pursuance of that that this modified suggestion has been brought in. So this was the compulsion of the situation. When development rebate goes, either there is nothing and we are left with no incentive or there should be a limited incentive.

SHRI ERA SEZHIYAN: I made two points. About the numerous amendments necessitated, we can talk in general terms, but the fact is that it has gone beyond the expectations or the basic impression that was given in 1961. Regarding the second thing brought in this Bill, he talked about the Finance Minister's assurance given in the budget speech.

We have another Bill, the Taxation Laws (Amendment) Bill introduced in May 1973. This could have been taken care of in it. If we take the seven

objectives given here, all these could have been taken in stride there. I do not know why a Bill which was introduced in May, 1973 could not have taken care of these amendments also as that would have helped the Committee and Parliament also. That was not done. There could be only one objective which could be considered separate, namely (ii) relating to the Supreme Court's judgment to remove the difficulty created by that judgment. This judgment was given in January, 1973. You had ample time to put all this into the Taxation Laws (Amendment) Bill introduced in May, 1973.

SHRI B. D. PANDE: Perhaps Shri Yardi will supplement what I say. The other amendment Bill covers a very large number of subjects arising out of the wide-ranging recommendations of the Wanchoo Committee. This Bill has a more limited purpose. Since development rebate is coming to an end in May, 1974, it was felt that adequate time or at least advance information at an early date should be available to prospective industrialists and entrepreneurs. This being a smaller measure with a limited purpose, it was thought, could perhaps be enacted quicker, as that was expected to take a much longer time because it was wide-ranging in the scope of its amendments.

SHRI ERA SEZHIYAN: About that also, this was known long ago.

SHRI B. D. PANDE: It could not be introduced too far ahead of time. It was introduced in August, 1973. It was thought it could be enacted early and it would be available in time to prospective industrialists.

SHRI M. R. YARDI: That is the main reason. This Bill has a limited purpose. It was necessary to get it passed in the next budget session. Otherwise, the development rebate would have been withdrawn and

there would be no continuation of any incentives to industry. Then there was the object of taking care of the Supreme Court's judgment. It is only a procedural matter. If the Supreme Court's judgment stands, we shall have to refund a large number of penalties. Apart from that, there will be no compulsion on the income-tax payee to pay the advance tax or self-assessed tax in proper time. He can do it at any time before the demand is raised.

Therefore, it was felt necessary to have this Bill passed early. It was expected that the other Bill, which has a large number of provisions, which restructures the whole income tax law in a very fundamental manner, would naturally take time, and would not come before the House in next budget session.

SHRI ERA SEZHIYAN: The Supreme Court judgment was given in January, 1973.

SHRI M. R. YARDI: Even then we have to consider it, consult Law, draft legislation and so on. All that takes time.

SHRI D. D. DESAI: Could you say that the Bill would enable the industries to have enough cash generation or cash position to replace the plant and machinery in the initial stage?

SHRI M. R. YARDI: No. If that is the intention, no kind of concessions under the income tax law, nor even wholesale remission of income tax, will enable them to replace it.

SHRI D. D. DESAI: In other words, the tax system enables the Government to take away the investment in the form of tax.

SHRI M. R. YARDI: Not investment.

SHRI D. D. DESAI: Capital.

SHRI M. R. YARDI: So far as capital cost is concerned, it can never be expected that it would sort of be amortised....

SHRI D. D. DESAI: Will this not result in many sick industries in course of time saddling Government with the liability of taking them over?

SHRI M. R. YARDI: I do not think so.

SHRI B. D. PANDE: That is not our understanding. The industry would have to be viable on its own. After the initial depreciation is over, it will have to justify its existence.

MR. CHAIRMAN: It is no part of Government's job to subsidise the entire plant and machinery.

SHRI M. R. YARDI: I will answer this. You are talking about an existing industry which has gone into production. What about an industry which comes after five years? It has to incur a higher capital cost and it has to compete with the existing industry. Every industry will have to come on its viability.

SHRI D. D. DESAI: The industry in course of time will have to replace its plant and machinery. Will it have enough with it with this sort of taxation?

SHRI M. R. YARDI: Personally, I think the profits which industries make should enable them, if not to replace the whole of the plant and machinery, at least a substantial part of it.

SHRI D. D. DESAI: You know that after payment of tax and dividends, there is no profit left.

MR. CHAIRMAN: That is not germane to this Bill.

SHRI S. R. DAMANI: I would like to refer to the objects of the Bill. You have referred to the establishment of industries and the giving of concessions so that industries can be established in the country. First of all, I would like to know this. During the last four or five years, what are the reasons for industrial production not having gone up? Especially

when our agricultural production has gone up, when money supply has increased and the demand has increased why has industrial activity remained stagnant, when at that time, Government was offering a development rebate which is also still in force? Even then, having a development rebate and having agricultural production going up, and when the money supply also has increased, what is the main reason that industrial activity has remained stagnant and industrial production has not risen? We must examine what was wrong. We have to take corrective measures to see whether the measures suggested in the Bill are sufficient to correct this, or something more is required to be done.

SHRI M. R. YARDI: The very fact that the existence of development rebate which was considered to be a substantial incentive did not help the industries to grow at a sufficient rate would show that tax concession by itself is not sufficient for industrial growth. As to why this industrial growth did not take place, I would request either Mr. Pande, who was the previous Industries Secretary, or Mr. Raman to explain.

MR. CHAIRMAN: We will have to confine ourselves to the provisions of the Bill vis-a-vis the objectives, and it is no use lecturing on the generalities. I do not want witnesses nor the Members to dwell on generalities.

SHRI S. R. DAMANI: Our aim is the setting up of industries, and expansion of industries and giving concessions so that they may go up. Unless we know the reasons for the slack, how can we judge the things?

MR. CHAIRMAN: Mr. Damani, there might be a variety of reasons truly outside the scope of the Bill which may or may not be responsible for the supposed stagnation in industrial growth or unsatisfactory growth in the industrial sector. That has absolutely no relevance so far as the scope of the Committee's work is

concerned. These officials have been called here because we wanted to apprise ourselves of the position and to get a rational explanation for the various provisions of the Bill, reaching the objectives. I would request Hon. Members to get out of the generalities completely, and come to specific points as to the provision and objectives of the Bill.

SHRI SOMNATH CHATTERJEE: It is assumed in this country that there cannot be industrial growth without incentives being given. One sort of incentive that is obviously thought of, it seems, is in the fiscal legislation by way of taxes incentive. The development rebate has existing in this country for a number of years. I would like to know from the Secretaries what role this development rebate has played in the generation of industrial growth. In his written note, Mr. Palkhivala says because of the development rebate, there has been an industrial growth at the rate of eight per cent. I do not know what was the basis of this statement. I would like to know that.

MR. CAIRMAN: He said that between 1956 and 1964, industrial growth was at the rate of eight per cent and thereafter it declined to three per cent notwithstanding there was the development rebate. The question that the Hon. Member has put is, in other words, has any study been made before this legislation was brought.

SHRI SOMNATH CHATTERJEE: Now that a decision has been taken—it appears to be an irrevocable decision—that development rebate will be abolished and that initial depreciation is thought of, what is the expectation of industrial growth as a result of this initial depreciation being granted at the rate of 20 per cent? It is being said that this niggardly allowance or incentive which is being given is useless. If the industry does not want it, why should you at all think of giving the depreciation? If a policy decision has been taken to do away with development rebate, why

should you change the law which the industrialists reject out of hand? If we are to pamper the industrialists or try to persuade them by giving them lollypops which they do not want, we had better not give them. Let us see if the industrialists behave or not, tax incentive or no incentive, when they do not care for it.

SHRI VASANT SATHE: I would like to know in what respect this 20 per cent initial depreciation which we are now proposing is different from the development rebate which was available and how much additional financial resources are made available initially to serve as an incentive. Secondly, I would like to know, if development rebate is not serving the purpose, what other measures including those which the Maharashtra Government tried, are thought of? Here, I want to differ from Mr. Yardi;—with all the incentives that have been provided in Maharashtra including concessions on sales-tax, electricity tax, etc., industrial growth in small places has been very little. For instance, Nasik, a small place, is the backyard of Bombay; you cannot call it as backward, apart from the jugglery of definitions. It is Poona's frontier!

And then there is Nagpur. There, no industrial growth worth the name has taken place except for a few units such as Mahendra and Mahendra and some others. No industrial growth worth the name, considering the resources available in that region, has really taken place. In spite of the fact of the declared policy resolution of the 15th March, 1958 that was made on the floor of the Assembly that hereafter we will not allow any new industries to start in Bombay, that had to be taken back and we had to go back and say no.

SHRI M. R. YARDI: I am proud of the fact that incentives were given for the starting of industries in the backward areas. If these incentives had not been given, all the industries

would have come to Bombay and Bombay suburbs.

SHRI B. D. PANDEY: I may reply first to Mr. Somnath Chatterjee's point, namely, about the development rebate. I think we should not mix the development rebate with the growth of industries but with the establishment of industries. I would say that the development rebate did serve the purpose of establishing a very large number of industrial units in the country during the period it was in force. Actual production varied from year to year on account of all kinds of factors, availability of raw material, power, demand and supply, etc. But there was considerable investment in different industries and a fairly wide spread industrial structure was established in the country. The concessions given under development rebate scheme led, if I may put it like that, to two major deficiencies. It led to over-capitalisation; more capital was invested than was really necessary for the industry. Secondly as industry grew more and more, the loss of revenue became sizeable; an estimated Rs. 70—80 crores under the corporate tax was the benefit that the industry gained in one year. A large diversified industrial base already having been established, and some industrial capacity being unutilised, the purpose of the development rebate was reviewed and Government announced that rebate will cease to apply after three years. Government still wants to encourage industry in a certain direction, specially in certain backward areas. Here is a limited incentive being given to certain selected industries in selected areas. This does not mean loss of revenue; the industry will pay the full corporate tax. This is an incentive for a limited period. Whether it will succeed or not is a difficult thing to say. All over the world whenever incentives had been given to establish industries in backward areas—some have given 50 per cent capital advance, etc.—it has not always been successful; experience varies from country to country.

SHRI M. R. YARDI: I should like to give the dimension of assistance given by way of development rebate, and the assistance being given by way of initial depreciation. The cost of the development rebate during the last few years has come to Rs. 70—80 crores. That means the Government has subsidised the industry, not in any particular field or areas, to the extent of Rs. 350—400 crores over the Fourth Plan period. That has enabled them to make profits also, sometimes. Development rebate is given over a period of eight years so that for industries which are established upto May 1974, it will be carried forward upto a period of eight years. But any industry which comes into existence after May will get only initial depreciation allowance. That also means that during the five year period, the same amount which would have been given by way of development rebate would be given, but not as subsidy. That has to be made over the period of the life of the plant. Some money is given in advance. Normally they would have got it by way of development rebate or subsidy but it is given as a sort of depreciation allowance, so that they get some amount that has to be made good in the latter years.

SHRI ERA SEZHIYAN: Prior to 1956 initial depreciation of 20 per cent was there—When it was given up Mr. Deshmukh, the then Finance Minister in 1956, he proposed 25 per cent development rebate. You are giving it up and bringing back initial depreciation. Are we going in a vicious circle?

SHRI B. D. PANDE: As I mentioned the original 20 per cent did not have the acceleration that was intended. A large incentive was given.

SHRI ERA SEZHIYAN: We are withdrawing the larger incentive.

SHRI B. D. PANDEY: Only in a limited area; a lesser incentive.

SHRI M. R. YARDI: I do not think that the whole industry has rejected

this. May be some spokesmen of some industries are saying that it is not adequate. I am doubtful whether they will not also avail of this.

MR. CHAIRMAN: We want to judge the efficacy of the proposed measure as a tax concession. I want to know: what is your concept of tax concession? Postponement of tax liability is a tax concession?

SHRI B. D. PANDE: Postponement of tax liability until the industry becomes a viable, productive and profitable industry is also an incentive.

MR. CHAIRMAN: Is it a tax concession? The words are 'concession'.

SHRI M. R. YARDI: Tax concession could be tax which is a deferred tax.

MR. CHAIRMAN: That is your concept. In how many cases would this really be deferred tax? Assuming in a particular industry for four years there are no profits, you carry forward the losses for four years—that will be carried forward until it is set off. In any case there is postponement of tax liability. Have you projected this? Have you made any study as to what will be the exact tax concession by way of postponement of tax liability? Have you made any study of the assessments of the new industrial undertakings?

SHRI B. D. PANDE: We have to answer this question in the negative.

MR. CHAIRMAN: What are the facts and figures on which you are saying that the cash position has improved?

SHRI M. R. YARDI: If the Committee wants that study to be made, we shall have it done.

MR. CHAIRMAN: We want to do that quickly and give us by the weekend. Take typical cases. How long does it take for an industrial undertaking to reach this position?

SHRI M. R. YARDI: We shall have to take industries which are managed efficiently.

MR. CHAIRMAN: Take only the Ninth Schedule industries.

SHRI M. R. YARDI: There also we have to take industries which have gone into production with the maximum efficiency and see the effect.

MR. CHAIRMAN: But let them be chosen utterly at random. Let us know whether this is only a figment of our imagination or something real.

SHRI D. D. DESAI: Is there any case of any public sector undertaking making a profit in the second or third year?

SHRI B. D. PANDE: By and large public sector undertakings are long gestation plants where even under the project report for the first 8 or 10 years no profit is expected. Some industries which are setting up small units dealing with consumer goods can become profitable in the second year. Some may take 5 years. There are instances of public sector industries which have become profitable in the second or third year like Instrumentation Ltd., Kotah, Shipping Corporation etc.

SHRI M. R. YARDI: The distinction is not between public and private sector. It is between good management and bad management.

MR. CHAIRMAN: Whether public sector is well managed or not, at least it is honestly managed.

I want you to substantiate whether or not it is a tax concession. Please take representative companies.

SHRI N. K. SANGHI: We want to help certain selected sectors for industrial development. We have had development rebate for 17 years and according to your view, it has helped industrialisation of the country. Since you have decided that this should be given up from 1974, do you think the stage has come that industrial development will be taking place without this?

SHRI B. D. PANDE: It is not felt that there will be need for widespread incentive being given to all industries

in all areas. A large number of industries will be able to go along without any development rebate. This is now a limited incentive only in backward areas to selected industries.

SHRI VASANT SATHE: It is to be given to all industries in the Ninth Schedule, whether they are in backward or forward areas.

SHRI N. K. SANGHI: When a main industry comes up in a particular area, a number of ancillary industries also spring up to help this main industry. You are giving some advantage to the big industry only and not to the ancillary industries.

SHRI M. R. YARDI: It is a very valid point. We shall get it examined.

SHRI VASANT SATHE: You have said that development rebate has led to an over-capitalisation of Rs. 300 crores. Who benefited most by this—the 22 industries listed in the Ninth Schedule, particularly big houses or all industries?

SHRI B. B. LAL: So far as over-capitalisation was concerned, the reference was to the fact that since such a heavy rebate was allowed and that was over and above the actual cost of the plant also, therefore many industrialists had a tendency to go in for a high degree of mechanisation to the detriment of employment opportunities, instead of having labour intensive processes. In a country like India with such a large scale of unemployment, we would like to encourage industries to have, of course, a certain degree of mechanisation, but also to have as much employment potential as possible.

SHRI ERA SEZHIYAN: If it is so, how is the present provision going to ward off that danger? I want to underscope the plea put forth by Shri Unnikrishnan on the impact of the development rebate. Mr. Palkhivala said that the rate of development has come down from 8 to 3 per cent. Whatever be the rate of industrial growth, the big monopolies are growing. If you take the period 1956 to 1966, all the big industrial houses

like Tatas and Birlas have grown. This shows that it had a bias in favour of larger industrial houses. What is done in the present Bill is that you are taking away the development rebate and giving initial depreciation. Is it going to help the smaller firms and not big houses?

SHRI B. B. LAL: Firstly you have asked how the tendency for over-mechanisation or over-automation will be prevented by the new provision as against the old one. I would submit that under the old system the income-tax concession available was more than the cost of the plant. If the plant cost Rs. 1 crore, the allowance given was much more than Rs. 1 crore. The total depreciation that you provided was over and above that. Here we are giving a certain facility but now you cannot claim more than 100 per cent. of the cost of the plant. Suppose I am setting up an industry in which a large amount of manual operation is involved. Under the old scheme I could set off more than Rs. 2 crores or an investment of Rs. 2 crores. Now we are not going to give more than Rs. 2 crores on an investment of Rs. 2 crores. Although you are getting more relief in the first two years, ultimately you will not get more than 100 per cent. In this way, it is different from the development rebate which was allowed and the tendency to over-capitalise will probably not be there because of this difference.

You mentioned about larger and smaller houses. No house, be it larger or smaller, can go in for an industry without an industrial licence. Once an industrial licence is given to an industry, then we give it a rebate, and that also not on the ground that it is a small house or a big house but because it is an industry in the priority sector, where government want to encourage production because of shortage and other things.

SHRI VASANT SATHE: Is it not a fact that this has led to exploitation by larger houses?

SHRI M. R. YARDI: The old development rebate was available to every industry, be it small, medium or large, according to the amount of investment made by him in plant and machinery. If a person had invested more on plant and machinery, he would get a proportionately larger rebate. It is a fixed percentage.

SHRI RAGHUNANDAN LAL BHATIA: What was the basis on which these 22 industries have been selected for inclusion in the Ninth Schedule?

SHRI M. R. YARDI: There were a number of factors which were taken into account in preparing this list of qualifying industries. One is the capital-intensiveness of the industry. Where the capital is large, the amount needed in the first few years before the plant goes into production is fairly large. Next comes high priority of the product from the angle of experts; then, essential needs for intermediate and investment goods then, essential needs of mass consumption. The main point is where there is a capacity constraint on the production of a particular product and where by giving this incentive there is a reasonable possibility that the capacity will be increased then we include it in the priority industry. Then, if an industry is making abnormally high profits, then that should not be considered for inclusion because profitability is a very great incentive. If that incentive is sufficient, then it does not merit tax incentive or tax concession. These were some of the factors which were taken into account. If you look into some of these cases, you will find that most of the industries relate to goods in which a shortage has occurred, in which it is necessary to create greater capacity. Therefore, many of the industries which are taken would satisfy this objective. Take, for example, iron and steel; it is necessary to create more capacity. Cement is very crucial from the point of view of industrial

growth. Similarly, soda ash and sugar are required from the mass production angle and also export angle. In the case of sugar, for the first time in the history of the sugar market, the international prices are sufficiently remunerative to enable us to export larger quantities. This was not so a few years ago. Similar is the position in the case of paper pulp, newsprint, ships and aircrafts; caustic soda and soda ash are very essential for chemicals; fertilizers, the whole agricultural growth depends on that. Most of the industries selected are such that they will enable industrial growth to take place in various directions. It is not our intention to give it to the consumer industries or other industries which are making very high profits.

MR. CHAIRMAN: Which are the industries in the Ninth Schedule which are making very high profits and which are still there?

SHRI RAGHUNANDAN LAL BHATIA: What about the cotton textiles?

SHRI B. D. PANDE: Cotton textile industry was in the doldrums for a number of years and there are so many committee reports that they are not able to make both ends meet.

MR. CHAIRMAN: The textile people have made so much profits that they have never done in hundred years.

SHRI B. D. PANDE: We have to take the totality into account.

MR. CHAIRMAN: in Ferro-alloys and tyres and tubes they are making fantastic profits. Then there is newsprint and paper pulp.

SHRI M. R. YARDI: Shortage is one of the considerations. We want more plants to come up because we want more of newsprint.

MR. CHAIRMAN: Is there a commodity for which there is no shortage in the country? Further, there are so many other things which are more basic.

SHRI M. R. YARDI: If any suggestions are made in this regard, we will consider them.

MR. CHAIRMAN: What about pesticides, pharmaceuticals, drugs, petrochemicals and electronics?

SHRI M. R. YARDI: Pharmaceuticals is a very profitable industry.

SHRI RAGHUNANDAN LAL BHATIA: Sugar is also very profitable.

SHRI M. R. YARDI: It is necessary to give the sugar industry incentive from the export angle.

MR. CHAIRMAN: Are you willing to take the balance-sheets of Companies in these 22 items and find out what the profits are?

SHRI M. R. YARDI: Profit is not the single criterion.

MR. CHAIRMAN: In respect of pharmaceuticals, you said, it was profitable, So is the case with paper, pulp and newsprint, tyres and tubes, vegetable oils etc.

SHRI M. R. YARDI: In conditions of shortages, people are making profits. As far as vegetable oils are concerned, it is an item of mass consumption. The more you produce, the more people will be happy. Merely larger profits are not going to increase production. Is the production increasing in proportion to the needs of the community?

SHRI VASANT SATHE: If in spite of profits, they are not increasing production, you mean, therefore, we must give them incentives.

MR. CHAIRMAN: At one point, you emphasised one aspect and at another time, another aspect.

SHRI M. R. YARDI: You may have to consider the totality...

MR. CHAIRMAN: Some scientific approach should be there.

SHRI M. R. YARDI: I know weightage and arithmetic. I would say that if you take criterion by criterion, I can prove to you that no industry will qualify for any incentive. When we take the totality you have to take a judgement there. I am a mathematician myself and I can tell you that no satisfactory formula can be devised for a thing like this.

SHRI VASANT SATHE: The rationale should be growth. Let us take totality in the interest of the nation. Profitability is not by itself a factor, shortage is by itself not a factor, need by itself is not a factor, export by itself is not a factor. Ultimately it is growth.

SHRI M. R. YARDI: It is a totality of the factors. I would not have included sugar two or three years ago, but at the moment, sugar is fetching such high profits. If we increase sugar production, we shall be able to earn a substantial foreign exchange.

SHRI VASANT SATHE: Let us take sugar. It is making huge profits. Production is going up. Export will encourage it further. Export will serve as incentive. Why do you want to give incentive on the top of it?

SHRI M. R. YARDI: We want this production to take place at a faster rate.

SHRI VASANT SATHE: Will that argument not apply to other industries. Don't you want pharmaceuticals to grow? Are the essential drugs available for the people?

SHRI M. R. YARDI: We are taking up that in the public sector.

SHRI VASANT SATHE: Public sector also needs incentive. It does not matter, whether it is private sector or public sector.

SHRI M. R. YARDI: This is only a concession which is given to improve the cash flow in the first few years.

MR. CHAIRMAN: That is yet to be established.

SHRI M. R. YARDI: We are proceeding on that basis.

MR. CHAIRMAN: I want you to give clear-cut arguments for inclusion and exclusion.

SHRI R. V. RAMAN: In regard to the industries, which you particularly mentioned, namely pesticides, drugs, electronics, petro-chemicals, these industries were examined by us before we made the recommendations to the Finance Ministry.

In particular, about drugs, we were worried that production was not going up and there was shortage and imports had increased in the last two/three years. The real problem of drugs was not a problem of investment. It is quite modest as compared to many other capital intensive industries. The deficiency here was that in terms of the policy, there was a limit, by which we put that heavy investment sector only was allowed for large houses and foreign companies. This is an industry, where large houses and foreign Companies had been dominating. They were not in a position to expand.

In regard to the other categories, there was the technology. This was the real reason, why the growth has been affected, not that tax concession would have mattered.

In regard to pesticides, the problem is not of investment, it is of technology. In some of petro-chemicals there is capital intensity, while in certain type of down-stream processing, it is not a question of capital. In regard to the more capital intensive industries in the petro-chemical side, most of them are in the public sector, where really the problem is not so much of tax concessions and so on. There were capacity constraints and there were shortages. Having regard to that and the fact that investment had not come in these fields we felt that these industries could be considered.

I would also mention one point about the development rebate, and that was that it was not related really to utilization, but to investment,

installation of plant and machinery. The initial depreciation allowance would really depend on the installation and the fact that the plant is utilised. To that extent, we thought that his type of approach will be helpful in encouraging investment as also capacity utilization.

SHRI SOMNATH CHATTERJEE: It now appears that the main factor which weighed with the Ministries which made the suggestions that these are the industries where large business houses and the foreign firms would come to invest.

MR. CHAIRMAN: He was only explaining this with reference to two or three items.

SHRI SOMNATH CHATTERJEE: Only large business houses can possibly think of industries listed here. No small scale or medium scale people can think of them. Does it mean that our policy is to give tax incentive to large business houses and foreign companies to set up industries? No thought is given to the medium or small scale which might set up industries.

SHRI B. D. PANDE: Machine tools, sugar, vegetable oils, cotton textiles, castings and forgings—these are all medium industries.

SHRI R. V. RAMAN: Transformers, switch gear and other equipment connected with energy and power development is, again, a part of it.

SHRI VASANT SATHE: In all these cases, if a small unit comes in competition with a big house, the big house will eat away the small.

SHRI M. R. YARDI: You will have to take care of the large business houses through licensing. If you don't want large houses to come in certain fields, you will have to do it through the licensing system rather than the tax system.

SHRI RAGHUNANDAN LAL BHATIA: I want to know whether any study has been made by you before formulating the list of these twenty-two industries for which con-

cession is being given, whether all or most of them are not concerned in one way or the other with big houses.

SHRI B. D. PANDE: Mr. Raman has stated that the Ministry of Industrial Development had very carefully examined the entire list of industries and, in consultation with the Finance Ministry, indentified these industries where concession has been given. The question of large houses or non-large houses was not the question at the back of the discussions. There is an item here called "industrial and agricultural machinery". This is a wide definition. Industrial and agricultural machinery is only production machinery, production being the large item, and whether it is done by a small, medium or a large house is immaterial. The list was drawn up from the point of view of the importance and need for national economy. Who produces it is another matter.

SHRI VASANT SATHE: We are not new to this. In public life you are also there and we are also there; so let us not assume that we are innocent.

You say that it is the growth factor that is important. This reply was given to my question in the House that wherever growth takes place we must encourage it. So the necessity of growth was said to be the main factor and that whether it is a large house or a small house will not be taken into consideration. Growth will be the important thing and therefore, indirectly, those houses which have the capacity will get the licences.

Therefore, when you made the detailed study, did you make the study that industries which are basically in the small scale sector also need incentives—in fact, more incentives? And as far as foreign companies and pharmaceuticals are concerned, could you not exclude them and say that foreign companies will not get concessions, if you were really so concerned about it?

SHRI M. R. YARDI: Actually, the initial depreciation allowance is given where the cost is heavy. After all,

subsidy is also being given to all industries in the backward areas.

SHRI VASANT SATHE: We are not on the point of backward areas; we are on the point of the scheduled of inclusions irrespective of the backward areas.

SHRI M. R. YARDI: Government has got a scheme of incentives for small scale industries and medium scale industries also. It does not mean that every tax concession should also be given to small scale industries.

MR. CHAIRMAN: No, it should not be given; you must exclude the small man as much as you can!

Will you please explain to me the rationale of the proviso to Clause 6 where the deduction is 1 1/2 times for large companies and only 1-1/3rd times for smaller people? Why this discrimination?

SHRI M. R. YARDI: This is because the larger companies are predominantly widely held companies.

MR. CHAIRMAN: All the Tatas and Birla Companies are widely held companies; all the monopoly houses are widely held companies.

SHRI M. R. YARDI: The quantum of tax benefit which will be available under the existing provision and at the present rate of income-tax will work out as follows. For widely held companies the tax benefit is 77% for closely held domestic companies the tax benefit is 84%, for closely held trading companies it is 91%...

MR. CHAIRMAN: What benefits are you referring to? Are you referring to the rates? Different companies have different rates? That has nothing to do with this.

SHRI M. R. YARDI: The rate of income-tax for widely held domestic companies is 56.7% and so the tax benefit at the rate of 1 1/2 will be 77%.

MR. CHAIRMAN: And therefore?

SHRI M. R. YARDI: I am explaining. For closely held industrial com-

panies the rate of income-tax is 63% and therefore the tax benefit under the existing provision is 84%. For closely held trading companies the rate of income-tax is 68.24% and therefore the tax benefit is 91%...

MR. CHAIRMAN: Are we talking of percentages or in absolute terms?

SHRI M. R. YARDI: Percentages are also relevant.

MR. CHAIRMAN: In this context we are talking of a particular activity—the entitlement to a certain benefit. Rates are fixed up on the total income and when the total income is liable to be taxed, a particular incentives would work out differently so far as the rates are concerned. But so far as the basic philosophy is concerned, why has the small man been discriminated against?

I am not talking of the corporate sector. What about the non-corporate sector?

SHRI B. D. PANDE: I think there is a misunderstanding on this point. This percentage of 50% and 1 1/2 times has been fixed to see that the total benefit remains a little less than 100%. Otherwise, at a tax rate of 97.75% it may come to 130%.

MR. CHAIRMAN: How many people are paying 97.75%? I am talking of a small man and you are talking of 97.75%!

SHRI M. R. YARDI: You want to give them a benefit which is more than the tax?

MR. CHAIRMAN: My question is much different—what a small man is entitled to and what is the philosophy behind this provision. If there is one thing which is absent, it is logic? When we are coming to basic principle, in this it has to be admitted that a smaller amount will get only 1-1/3 and larger amount will get 1.5 times. Then what is the impact on this? If there is a less, then there is nothing. What are these calculations about? The question does not arise here. The

question arises only if there is profit. Therefore, may be in one case, if it is just marginal, it would be something different. Therefore what is your philosophy in arriving at this aspect?

SHRI M. R. YARDI: In tax matters we cannot go on the basis of philosophical aspect.

SHRI RAGHUNANDAN LAL BHATTIA: Are we trying to compensate the difference that exists in Taxation Laws?

SHRI M. R. YARDI: You can give relief upto the expenditure incurred. But you cannot give relief beyond the expenditure incurred.

SHRI RAGHUNANDAN LAL BHATTIA: Supposing other industries who also form this rational and if they claim, will they also get the depreciation?

SHRI M. R. YARDI: No, Sir. Now the decision will have to be taken at the time Parliament enacts act. There is no provision for that at present. The objectives will not go into the Act.

MR. CHAIRMAN: Why not Parliament purely lays down the criteria?

SHRI M. R. YARDI: There will be endless sort of representations before the tax administrators. Then if it is refused, there will be endless litigations.

MR. CHAIRMAN: If you take these points for consideration then everybody will come forward.

SHRI M. R. YARDI: Sir, the extension or rejection of this list will be for the Parliament to decide.

MR. CHAIRMAN: Instead of this, why not we lay down the criteria only?

SHRI M. R. YARDI: That will create endless problems to tax administrators. Therefore I would respectfully submit that if the Parliament says that it is not sufficient, they can add to it.

MR. CHAIRMAN: We want proper representatives or experts to appreciate this.

SHRI M. R. YARDI: If you lay down the principles, that will give us endless troubles because the Income-tax Officers will have to decide this.

MR. CHAIRMAN: Then who will decide and determine which are the industries to be entitled for exemption and who will publish a list. And if some industries are excluded they can make representation before that authority and adjudication of that authority will be final.

SHRI B. D. PANDE: Would it not be better that instead of Parliament, the Select Committee decides this point?

MR. CHAIRMAN: The Select Committee is not empowered to go into these points. We will not. We only knew a few facts here and there. It can be done by the Ministry concerned because they have various data and expertise etc.

SHRI ERA SEZHIAN: May I request the witnesses to let us have a note on this?

MR. CHAIRMAN: Besides pharmaceutical between Fifth and Ninth Schedule, if you submit a note, we can consider that.

SHRI B. D. PANDE: For the specific things, we can give you a note why they have not been included. But on the negative side we will give reasons why it was not considered necessary.

MR. CHAIRMAN: And on that basis, the Select Committee can determine.

SHRI R. V. RAMAN: I may state that in trying to select industries we had several types of lists before us. The Fifth and the Sixth Schedules of earlier income-tax act have definitely been gone through everyone of us. We have in the Plan 31 industries which are regarded as core industries. Wherever plan targets have not been achieved, the reasons were called for. Lastly at the time of the formulation of industrial Policy in February 1973, we had drawn a list of priority indus-

tries in consultation with the Planning Commission and the Finance Ministry. Now, these 4 lists we had before us. Then we tried to go through these items to see in which category the production was not there, whether it was possibly due to price control, whether it was possibly due to other constraints. And we tried to form a judgement based on the criteria which Mr. Yardi had set up and this was one of the industries which was considered.

MR. CHAIRMAN: Therefore, Mr. Raman, I would request you to confine yourself only to Fifth and Sixth Schedule and that was why you had excluded this. But we would then on your reasoning evaluate whether we agree or disagree on this. Then we will decide on this point.

SHRI M. R. YARDI: Criteria is being listed in the act. I am not quite sure whether the selection of an industry, on the basis of the criteria, not be justiceable.

MR. CHAIRMAN: We can provide for that and that will be the final authority. What we would do is we will ourselves try to do this for worse or better.

SHRI ERA SEZHIYAN: Along with that note, I want to have further clarification on about 23 items out of 33 items regarding their headings. Previously, something was defined in the Fifth Schedule and now something has been defined in the Sixth Schedule.

MR. CHAIRMAN: In other words, Mr. Raman, unless you have in your mind something different than what is contemplated in the Fifth and Sixth Schedule, kindly adhere to the same terminology. Whatever laws we want to make, the minimum we can do is at least to make them clear.

SHRI VASANT SATHE: One thing more may be kept in view while giving that note that we want to encourage these industries which have got employment potential such as fishery, leather goods handicrafts and

canning. Why has this not been considered for being given incentives?

MR. CHAIRMAN: In other words, are you suggesting some industries over and above the Fifth Schedule?

SHRI VASANT SATHE: We are not bound by the Fifth Schedule.

MR. CHAIRMAN: We are not bound by anything. We have to confine ourselves, because we cannot go endlessly.

SHRI B. D. PANDE: I may like to mention here that Mr. Yardi will be able to explain it. In respect of employment oriented industries, various attempts were made to see and examine whether any suitable, viable definition could be framed and prepared which will enable us to find out what are employment oriented industries, but we could not come to any conclusion.

MR. CHAIRMAN: Wage factor and the cost of production could not be the criteria?

SHRI M. R. YARDI: The main thing is that incentive will have to be given for doing something more and in that respect, additional employment is there. Now, the main difficulty was how did we define additional employment schemes?

MR. CHAIRMAN: I want to put it a little differently. We want employment oriented industries to be taken in the Ninth Schedule. We can have viable or reasonable criteria. But I do not know which are the employment oriented industries? Mr. Yardi, in that case, it would be difficult.

SHRI M. R. YARDI: That itself is a difficult point.

MR. CHAIRMAN: If that is the difficulty, we have to leave it.

SHRI M. R. YARDI: We shall give you a note on the various attempts made.

MR. CHAIRMAN: What do you mean by a wage factor? Where the

wage factor is more than 5 per cent whether it is an employment oriented industry or not?

SHRI M. R. YARDI: Certain industries are employment oriented industries.

MR. CHAIRMAN: Bidi factory is a highly employment oriented industry. Then leather and coir industries. Why should we not get that here?

SHRI M. R. YARDI: For certain other industries, do you want to give incentive to industries to create employment? Employment will automatically come as a result of the industries coming into being. For example, Mining Industry. It is an employment intensive industry. Our idea was that we must try to see that an industry created employment as much as possible and not mechanised it to the last extent. That was the view which we had taken.

SHRI VASANT SATHE: Have you given the concessions to industries other than the Mining Industry? How you will be able to.....

SHRI M. R. YARDI: Now, it is a question of policy.

SHRI VASANT SATHE: People get concession in Iron and Steel industry. Why not in Mining also? Therefore, the first criterion is that it should also be in the private sector to enjoy concessions. Why are you excluding.

SHRI M. R. YARDI: I am thinking of encouraging self-employment also. To start a unit of production and if you give them incentive, that should encourage self-employment. Supposing even there you exclude large houses, that will be an encouragement. There is no disagreement on the incentives. They have to be provided to the medium and small scale industries. There is no doubt about it. But the main question is whether that incentive should be provided by the provision which is made here or by other provisions.

SHRI VASANT SATHE: In respect of other provisions, why not provide them here? I want to know the rationale of that?

SHRI M. R. YARDI: The rationale is that the industry which requires not very heavy capital, they will not benefit by this relief.

SHRI N. K. SANGHI: Would they also give a thought to the other matter that intial depreciation does not remain only on paper and it results in the nationalization of that particular industry?

MR. CHAIRMAN: Mr. Sanghi, they have explained to us what they have in their mind. It is for us to give thought to it. It is not for them to give thought to it.

SHRI RAGHUNANDAN LAL BHATIA: With this type of rationale, the other industries will be entitled to it. The whole purpose will be defeated. Therefore, since the experts are here, we should request them to narrow it down to such an extent so that we may be able to do it.

MR. CHAIRMAN: Fifth and Sixth Schedule may be taken as the base. Please give us rationale for exclusion and we shall try to come to a conclusion.

SHRI VASANT SATHE: I do not say that these should be taken as the upper limit or as the base. I do not say about rationale in that. If we are making tax concessions to encourage industries, we should encourage them in backward areas.

MR. CHAIRMAN: All right. If it is so, let me have a list of all industries and we will spend it to them. You will send this information to us by the week-end, because we have to report back the Bill to the Parliament, as soon as the Session starts. What are the criteria of a backward area?

SHRI B. D. PANDE: On this criteria of a backward area. I do not know whether the Committee's attention has been drawn to a report which was

prepared in 1969 or so. This happened to be prepared under my Chairmanship when I was Secretary in the Planning Commission. I think it is brief report and had gone through certain earlier attempts to classify backward areas and the attempts were made.

Attempts were made since 1960 onwards. Certain criteria were drawn up by this Committee as to what should be treated as an industrially backward area and an industrially backward State. This Committee did not recommend general backwardness. This was only in relation to industrial backwardness. This recommendation of the Committee was placed before the National Development Council and the National Development Council met in September 1969. At that time, this Committee had recommended that certain States be divided into two categories, industrially backward and not so industrially backward. But, this recommendation was not accepted by the National Development Council and they said the criteria should be by districts and not by State because there are backward districts even in what may be described as industrially forward States. Then, district was taken as the unit and certain criteria were laid down such as road mileage per lakh of population, per capita income etc. It should not be so backward as not to have the minimum infrastructure for industrial development. There are two types of backwardness. One is, totally backward, where there is no electricity, no water and incentives alone will not set up industries there. There other is a backward area, where the minimum infrastructure is available. These criteria were, by and large, accepted by the National Development Council and they decided that the incentives should be classified into two parts. One, where the financial institutions under the leadership of the Industrial Development Bank, should classify such districts, where concessional finance will be available for setting up industries, and another, more limited number of districts be selected. At that time, it was sugges-

ted that there should be two in the industrially backward areas and one in the industrially forward States, where in addition to the finance, some positive subsidies be also given, if the unit does not exceed Rs. 50 lakhs in size. The State Governments were asked, under these criteria, to prepare a list of these districts. These lists were discussed by the financial institutions on the one side and the Reserve Bank on the other. Ultimately, the Industrial Development Bank gave the list where they would extend concessional finance and the districts that would be eligible for subsidy were fixed in consultation with the State Governments on the basis of their recommendations, and in consultation here between the Ministry of Industrial Development, the Planning Commission and the Finance Ministry. On that basis, it has to be seen whether the criteria indicated had been applied by the State Governments.

MR. CHAIRMAN: This was done by the IDBI?

SHRI B. D. PANDE: They did it for the financing part of it. But, this Committee did it for the subsidy part of it, where the Government of India was giving a subsidy. Since the choice had to be limited only to two districts in the industrially backward areas and one district in the industrially forward areas for subsidy purposes, I think by and large, this Committee went by the recommendations of the State Governments, as long as they saw to it that they did not choose either a very backward district, where development would not take place or a very forward district where industrial growth would be expected to take place without the subsidy. This is the present rationale.

SHRI VASANT SATHE: What were the criteria for industrially forward districts?

SHRI B. D. PANDE: I am referring to this Committee. They have laid down certain criteria. For instance, they have laid down certain criteria

in regard to the identification of backward districts. The districts should be outside the radius, about 50 miles from large cities or large industrial projects.

SHRI VASANT SATHE: What do you mean by large cities?

SHRI B. D. PANDE: 'Large cities' means the cities with a population of one million, if I am not wrong, so that, it was expected that there would be a spread effect on that; poverty of the people as indicated by low per capita income per thousand of population; under utilisation of productive resources; low percentage of population engaged in secondary and tertiary activities; low percentage of factory employment; non or un-utilisation of economic and natural resources like minerals, forests etc.; availability of power or likelihood of availability of power within one or two years; availability of transport and communication facilities or likelihood of their availability within one or two years; availability of water or likelihood of its availability within one or two years. These were the broad definitions that were given and they were to be judged, each district was to be judged, in respect of its distance from the medial level of the State's average per capita income. Those which were very far below were not to be taken and those which were a little below were to be taken.

SHRI VASANT SATHE: I would like to ask one question. Mr. Yardi may be able to enlighten on this point. May I know, why in Maharashtra, you excluded Wardha, Amaravati and Akola? You might have considered Nagpur as a big city with a population of one million. May I know, on what basis, these were excluded, even though they fulfilled all the criteria which have been mentioned just now.

MR. CHAIRMAN: Wardha or Akola or any other district may be taken as representative of districts which are otherwise really backward, but not included here.

SHRI M. R. YARDI: The main criterion which was adopted was, how

many were above the average level of per capita income and how many were below the average level of per capita income and we shall have to find out as to what extent....

SHRI VASANT SATHE: You take the per capita income of all districts and then decide on the average level of per capita income?

SHRI M. R. YARDI: It was done district-wise.

SHRI B. B. LAL: Actually, in the selection of these backward districts, the State Governments were asked to send their recommendations on the basis of certain criteria which were laid down and these were examined by certain Ministries here, which were concerned with this, like the Ministry of Finance, Ministry of Industrial Development, Planning Commission and so on. If the recommendations of the State Governments complied with the guidelines laid down, we agreed to it. But, I was going to submit to you one thing. Actually, the whole thing arose out of the desire of the members of the National Development Council to have more balanced growth region-wise. There were two problems in this. One was, in regard to certain States, the State as a whole was very backward compared to the average level of per capita income in the country; secondly even within each State also, there were regions which were more backward than the other regions in the rest of the State. Two types of exercises were carried out by these two Committees which were set up under the instructions of the National Development Council. One was to decide which are the States in India which could be regarded as being below the average level of industrial development in the country. So, for that, certain criteria were laid down, like road mileage per one lakh of population in each State; rail mileage per lakh of population; per capita income; number of industrial workers employed in the State per lakh of population and so on. A number of criteria were laid down. First, the average for the country was laid

down. Then, the States which were less than the average in the country, were regarded as industrially backward and then the list was finalised. First, it included Andhra Pradesh, Bihar, Madhya Pradesh, Orissa, Rajasthan, Uttar Pradesh in addition to Jammu and Kashmir, Nagaland and Assam. These States were regarded as being below the average level of industrial development in the country. Then, for different districts in each State, the same exercise was carried out. The average level of development in the State was taken and any district which according to the criteria which were laid down, fell below the average in the State, was regarded as industrially backward district in that State. Now, the list which has been added to this amendment Bill is the list of those districts, which were recognised, after carrying out this exercise, as backward districts. Actually, these are exactly those districts which were regarded as backward on the basis of these criteria.

SHRI B. D. PANDE: To-day, these lists are being used for concessional finance, as approved by the Committee.

SHRI VASANT SATHE: That has led to such a trouble for us. People of Amravati are worried as to why they are differentiated from the people of Yeotmal, which is an adjoining area.

SHRI B. D. PANDE: I can appreciate that. If I am not mistaken, this covers nearly 212 out of 330 districts i.e. nearly two-thirds of the country.

SHRI VASANT SATHE: Precisely, therefore, logical reasoning indicates that since a minimum level of infrastructure is needed, tribal areas do not come therein. Otherwise, except in the case of big cities like Bombay, Calcutta, Madras and other industrially developed centres, practically the entire country and all the small and medium towns and the surrounding areas will be treated as industrially backward. Will it not be a most straightforward appraisal, rather than making this laboured exercise?

SHRI B. B. LAL: If every district is declared as backward, then the

whole object of the exercise will be frustrated.

SHRI VASANT SATHE: It is already frustrated because of two-thirds of the number of districts being included.

SHRI B. B. LAL: Let me point out the logic of the whole thing. We want to give certain incentives to areas which are below the average to enable them to come up to the average or a little higher level. For doing this, it is natural that we draw the line between districts; it is fairly logical.

SHRI VASANT SATHE: The line is too thin.

MR. CHAIRMAN: It should be non-existent as between Akola and Yeotmal.

SHRI B. B. LAL: I cannot say anything about particular cases; but whenever such demarcation is carried out there are bound to be cases which are just above or not below the line.

SHRI KARTIK ORAON: We often use the word 'backwardness'; but its definition is very vague and confusing. One area may be agriculturally advanced and the other industrially advanced. The *per capita* income there may be very high. One district may be agriculturally very backward, but industrially very advanced, yet the *per capita* income there may be very low. My point is that the *per capita* income should be the final determining factor, and not whether an area is industrially backward or agriculturally forward. For instance in Bihar, some districts have been shown as backward ones. They are having 5 or 6 crores of paddy, i.e., three normal crops; the fourth is flooded, the 5th is affected by the drought and the 6th by political pressure. The *per capita* income in that area is very high. Raw materials are not available in some districts; without them how can an area be industrially forward?

MR. CHAIRMAN: In view of these basic difficulties in properly identifying the backward areas on a rational and fool-proof basis what according to you should be our approach in re-making the Schedule?

SHRI KARTIK ORAON: It should be based more on the *per capita* income; that is the only way by which we can remove the disparity between district and district and areas and areas.

MR. CHAIRMAN: According to you the living conditions in a particular district should help us.

SHRI KARTIK ORAON: We will produce coal and we will suffer. Where we had 6 crops, we would now have 2. There is something basically wrong. This should be re-scheduled.

SHRI D. D. DESAI: The country itself is already backward. Therefore, it should not be very difficult to identify and have a list of the developed areas.

MR. CHAIRMAN: That is what Mr. Sathe had suggested. If I have understood Mr. Yardi and Mr. Lal correctly, they seem to feel that the whole purpose will be frustrated if you make the long list, longer. It would then no longer be a question of identification of backward areas; but one of excluding the developed areas and treating the rest as backward. But they have gone on certain criteria.

SHRI M. R. YARDI: The definition of the words 'developed area' is itself not very easy.

MR. CHAIRMAN: I think it should mean an area where any further industrial activity is not warranted.

SHRI M. R. YARDI: Then the whole country, except a few islands of prosperity, will have to be treated as backward area; and the very idea of concentrating effort on some relatively backward areas will be frustrated. As such, we thought that average development should be treated as the basis.

SHRI B. D. PANDE: The qualification which I would make is to say that the Committee spoke of identification of industrially backward areas. It is not general backwardness.

MR. CHAIRMAN: The real difficulty is this. In Maharashtra, one of the districts included is Colaba. Mr. Madhu Limaye pointed this out in the Parliament to the tremendous embarrassment of the Finance Minister and said that Colaba is the district selected for the twin area.

SHRI M. R. YARDI: Not for the whole district, Sir; but for a portion of it.

MR. CHAIRMAN: In regard to backward areas at least, we should leave it to be legislated to be made by the board or some other authority, instead of making a schedule.

SHRI M. R. YARDI: Again, the same problem will come in.

MR. CHAIRMAN: Industrialization is more subjective; but this will be more objective.

SHRI VASANT SATHE: Suppose we were to exclude those districts which do not have even the minimum *infra-structure* for industrial growth and those districts which are top-heavily concentrated with industrial growth. You exclude these two categories and include the rest.

SHRI B. D. PANDE: As I said, the attempts have been made from 1960 or even earlier to identify them. But it has always proved to be a very difficult task.

MR. CHAIRMAN: What happens on delimitation? As a result of delimitation, there is a very serious complaint made by the people saying, "We were formerly in backward area and now just because of political reasons, we are tacked on to some other districts which are no longer in a backward area."

SHRI B. D. PANDE: All kinds of difficulties are there, the people who have to identify these districts find it very difficult to do that job. Take, for example, Colaba which has been selected as a district for the development of the twin city concept. At

the time when this was programmed, in 1969-70, it was not anticipated when that concept would materialise and so on. Colaba is otherwise probably, comparatively, an industrially backward district.

The point is that when this Bill was introduced, in order that we do not go over the same exercise in a different way, over and over again, when a list of district had already been finalised which was, in fact, working as per the notifications and instructions given by the Industrial Development Bank and the Reserve Bank for financial things, the easiest thing that was done was not to re-open the question. Here was a list of districts where financial aid was being given. So, that as taken up.

SHRI VASANT SATHE: You did not want to re-open the question. You followed the line of least resistance. Because you had a ready-made material before you, you adopted that.

SHRI B. B. LAL: It is not that. It was done on the basis of the guidelines laid down by the National Development Council.

SHRI N. K. SANGHI: We are discussing the manner in which the backward regions have been identified. The National Development Council laid down certain guide-lines by which these areas came to be identified as backward areas. Whether a particular area is really backward or not from industrial development point of view there is a lot to be said and done. I do not think we can come to any conclusion in a short time as to what should be the criteria for identifying backward areas.

MR. CHAIRMAN: We are not coming to any conclusion now. We are having a dialogue now.

SHRI N. K. SANGHI: The most important point is what they have provided as an incentive for developing the backward areas. Does it really go to an industrially backward area? Inclusion of areas in that category can be done from time to time.

MR. CHAIRMAN: We are coming to the quantum of incentives. Now, we are on identification of backward areas.

SHRI N. K. SANGHI: Mr. Sathe has said so much about Maharashtra. In Rajasthan, Balmer is identified as a backward area. But Jaisalmer which is worse than Balmer has not been identified as a backward area.

SHRI B. B. LAL: Jaisalmer is identified as a backward area.

MR. CHAIRMAN: The Eighth Schedule refers to a list of backward area, not industrially backward areas. But you have to identify them with reference to industrial backwardness.

SHRI B. D. PANDE: This rebate or whatever financial assistance is to be given is for industrial development of the area.

The whole thing started not about the general backwardness of an area. The direction of the National Development Council was to identify the areas as industrially backward. The concessions are given for setting up industries in industrially backward areas. This list has been drawn up after a very long and detailed discussion with the State Governments and the authorities concerned.

SHRI VASANT SATHE: Would you kindly give us a list of those districts which, according to your study, are absolutely backward in the sense that they do not have even the *infra-structure* facilities?

SHRI B. D. PANDE: That was done by the State Governments.

SHRI VASANT SATHE: You must have got it from the State Governments. You give us the list of those districts and a list of over-industrialised districts.

SHRI B. B. LAL: May I clarify one thing? What Mr. Pande really said or what he really meant was that among the backward districts which have been identified according to the criteria mentioned, as being below the

average state of Industrial development in the State, there were some other districts which the State Governments were asked recognise in respect of which a special type of financial assistance was to be given. Normally, in all the backward districts, the financial institutions give finance at a lower rate of interest, the maximum being 7½ per cent whereas, otherwise, the financial institutions charge 11-12 per cent. Then, the period of repayment also is longer in the case of backward areas. There are also certain other concessions, like, other charges being at a lower scale and so on. In all these backward districts, all these concessions are given by the financial institutions.

Now, in addition to that, in each of the backward States two districts and in each of the developed States one district were to be given a special concession and it was that 10 per cent of the capital invested in an industrial project upto a ceiling of Rs. 50 lakhs was to be given as a subsidy. That was to be given as an outright subsidy. For example, if you set up an industry costing Rs. 50 lakhs, Rs. 5 lakh subsidy was to be given for that. For that the State Governments were asked to identify two districts in each of the backward States and one district in each of the developed States. The States were told, "Look here, this is a very special concession to encourage industries. If you select a district where there is no *infra-structure* at all, then that industry might not come up there." Therefore, the advice given to them was, "Don't select the most backward district in your State. You select a district where there is some elementary *infra-structure* available."

This is what he meant by saying that absolutely most backward districts with no *infra-structure* at all were excluded.

SHRI VASANT SATHE: By that criterion, the State Government of Maharashtra should have include Akola.

MR. CHAIRMAN: Anyway; we will apply our mind to that.

SHRI B. D. PANDE: My attention has been drawn to a letter which was issued in December, 1969, from the Planning Commission to the State Governments on identification of districts. It had issued under my signature. I do not know whether the Committee would like to have a copy of that letter. If you desire, we will supply you a copy of that.

MR. CHAIRMAN: You may supply it to us. You may give us copies of Pande Committee's report, so that we can see how best we can rationalise the Eighth Schedule.

The next question is, how do you think that this 20 per cent reduction in profits over a period of 20 years from the date of production is really going to mean any incentive for an industrialist to go to these areas, specially in view of the colossal difficulties of absence of *infra-structure* and the built-in residence in our country as it is today for people to go away from markets.

SHRI M. R. YARDI: As I said before, this concession by itself will not be an incentive.

MR. CHAIRMAN: Then what are the integrated steps taken?

SHRI M. R. YARDI: There are a number of steps taken for the development of backward areas like concessional rate of finance, extension of initial moratorium on repayment of loan, longer a mortisation period, participation in risk capital, reduction in under-writing commission, reduction in consultancy charges etc. These are generally given by the development banks. Then there are certain incentives given the State Governments...

SHRI B. B. LAL: This is a booklet, 'Guidelines for Industries' published

by the Ministry of Industrial Development.

MR. CHAIRMAN: You can send us some copies.

SHRI B. B. LAL: Yes.

SHRI M. R. YARDI: Various facilities are given by the State Governments both by way of finance as well as other things. For example in Andhra Pradesh, they give developed plots in selected industrial areas to entrepreneurs on suitable terms and conditions; the allotment is made either on rental basis or on hire-purchase basis, then price preference and priorities are given in respect of raw materials; raw materials are made available to cottage industries at subsidised rates to meet the actual requirements of the artisans through a suitable agency. Then, feasibility studies are also made. The IDBI has set up two consultancy organisations, one for NEFA and the other for Kerala. The idea is to set up consultancy organisations for the various zones of the country so that they will be able to give guidance in the selection of industries, preparation of feasibility studies, etc...

MR. CHAIRMAN: The incentives referred to here are concessional finance, better expertise and a limited amount of direct finances available to those one or two districts...

SHRI B. B. LAL: Now that number has been increased to three districts in each industrially forward State and six districts in each industrially backward State.

MR. CHAIRMAN: Nothing is done for *infra-structure*. What I want to know is this. Suppose in an area, a road has to be built or a well has to be dug or a particular land has to be developed. Assuming that the industrialist develops the land or builds a road, which is used by other also, he neither gets depreciation nor is it written off...

SHRI B. B. LAL: I would submit that, by and large, it will be very

difficult for an individual industrialist to construct a road...

MR. CHAIRMAN: We want the industrialists to go and invest money in *infra-structure*. If they invest in *infra-structure*, specially in development of land, building roads, digging wells, etc., why not allow deduction in tax? If they do not do, then they will not get.

SHRI B. B. LAL: I would submit, in practical terms, they might not be able to do anything. For example, where a road has to be built and a lot of private cultivable land has to be acquired, only the State Government can do it; a private industrialist will not be able to do.

MR. CHAIRMAN: A paper mill has come in my constituency. A road has to be built—about three or four furlongs. For that, the land has to be purchased by that factory and the road has to be constructed by the factory itself. The State Government have said that they will not build any road. If the road is built by the factory, which would be used not only by the factory but by others also why not that be allowed to be written off?

SHRI B. B. LAL: This will be treated as part of the capital cost.

MR. CHAIRMAN: To the extent that they invest in *infra-structure* in backward areas, why not that be allowed to be written off? Anyway, so much for the *Infra-structure*. Now, we come to this 20 per cent business.

SHRI M. R. YARDI: As I said, any tax incentive by itself will not be sufficient for bringing about industrial development. It has got to be a sort of a composite effort, a package of incentives which should be given. Now, the incentives which are given both by the States and the Centre and the financial institutions, I think, along with these tax concessions should be sufficient to enthruse them. But I do not expect an industrialist, except a few rare cases as the one you have mentioned where a paper mill is coming up, and it has not been

our experience that an industrialist has taken the trouble to go to a backward area and develop the whole *infra-structure* there. But the question whether the *infra-structural* development should be considered as a cost of putting up the factory for the purpose of depreciation—that can be examined and we shall submit a paper on that.

MR. CHAIRMAN: I am thinking of the total write-off. If somebody is willing to develop the country-side in the backward areas and build the *infra-structure* which is in fact the Government's job—the State Government should do it or the Central Government should do it—but if somebody in the public sector or the private sector business does this, the minimum that may be done is that he should be allowed to write them off.

SHRI K. R. GENESH: It is only a big industrialist who can do.

MR. CHAIRMAN: The paper plant I am talking of is a ten-tonne plant. It is a small one. It is about the principle we are talking about.

SHRI M. R. YARDI: There are many practical and administrative difficulties. Take for example, development of roads. Where will you draw the line? Will you say that the road built from the factory with the trunk road will qualify for this or all the roads which are put up in the whole factory area?

MR. CHAIRMAN: In that district, if someone is so philanthropically-minded to do so, without any relation to his industry, let him do it. It is a very happy proposition.

SHRI M. R. YARDI: He has done that after reaping the profits. Should the Government go on subsidising it? For example, take Walchandnagar. A beautiful industrial city has come up there. They have developed it over a number of years. Or take the paper factory in Nasik. As I had been

there, I know it. Beautiful roads, the whole *infra-structure* are there.

MR. CHAIRMAN: That is of the Maharashtra Government. Is it not so?

SHRI M. R. YARDI: Walchandnagar people have done it. They used to have their own Police..

SHRI VASANT SATHE: A State within a State.

SHRI M. R. YARDI: The State Government has objected to it. Do you want to subsidise it, and if so, where would you draw the line?

MR. CHAIRMAN: I want to draw the line at only one point. That line is: you have identified the backward areas. An expenditure which ought to be legitimately and validly the State's expenditure, if it has been incurred by the assessee himself, the minimum that can be done is: it should be allowed to be written off.

SHRI B. D. PANDE: I will confine it only to the connecting road and not the roads inside the factory area.

MR. CHAIRMAN: No businessman will construct a centimetre of road longer than what is necessary for his factory.

SHRI M. R. YARDI: Walchandnagar factory you should go and see.

MR. CHAIRMAN: In the case of a sugar factory they have captive sugarcane-growing areas. Therefore, it is connected with their business.

SHRI K. R. GANESH: There is one little doubt. The whole trend of discussion to-day when we examined the official witnesses and when other witnesses came, can be divided into two. The trend of discussion when other witnesses came was that these concessions given are absolutely niggardly and it is not going to help the economic growth, and therefore, it is not worth having.

Now, the other trend which is there to-day is that there are two or three points they have given. One is

that the Schedules have to be comprehensive. Then doubts also have been raised by hon. Members whether these concessions will be taken advantage of by the larger business houses, and why not include smaller people and smaller industries also in the Schedule? I would only say that the whole thing has got to be seen. Take roads. Who will build the roads? The roads can be built only by a very large industry. Small industries cannot build the roads.

SHRI M. P. YARDI: As a result of offering concessional terms 600 units have been located in the backward districts from 1972. The total amount that has been sanctioned is Rs. 37.8 crores. This is inclusive of the preparatory period also.

I personally think that with the cumulative effect of the concessions that are being given by the Centre, the States and the financial institutions will be to speed up industrial development.

SHRI S. R. DAMANI: About the development of industries in the backward areas and concessions I have got my practical experience.

The most important point is communications. Take for example a small town which is about 400 miles from Bombay. Sometimes the telephone line is working and sometimes it is not working. I am talking of Akola wherefrom Mr. Sathe comes. What will happen? In spite of all your incentives no industry has gone there. Take my own constituency. Sholapur. We do not get trunk calls even though the telephone is there. Sometimes it is working and sometimes it is not working. It is my practical experience.

SHRI K. R. GANESH: Industrial development the world over has not taken place like that, that telephone line is not working or is working. It needs a spirit of adventure and taking risks.

SHRI S. R. DAMANI: Any person who is going to put up an industry

would like to have contacts with his buyers and suppliers and whether he is getting his goods or not. Therefore, my submission is this: that first priority should be given to those cities which are in the list of backward areas to be provided with STD system so that their difficulties are overcome and so that the communication difficulties are overcome, so that the people who go there get the best information and can keep themselves in contact with the buyers and sellers and the market.

MR. CHAIRMAN: We should also have invited the Secretary of Posts & Telegraphs.

SHRI S. R. DAMANI: The Planning Secretary is there. He can take note of it.

The second is transport. Here my views are these. While opening new airports, those cities which are in the backward areas should get the priority in regard to provision of airports so that people can go and set up industries there.

MR. CHAIRMAN: We should have airports in all these districts?

SHRI S. R. DAMANI: What I suggest is this. In the next five years Government has plans to set up new airports, new automatic telephone connections. Priority should be given to those cities which are backward. Industry can go there. They can get advantage of communication and transport. Without that, giving concession alone, is not enough.

SHRI B. B. LAL: May I mention this fact? In some of the States a concession is also given in respect of sales tax—in the backward districts. This is a very great advantage. I know a State in which new industries are given a concession in the matter of sales tax which is three times in other districts. If the industry goes to the backward areas they will get the sales tax benefit for 5 years. That is a big incentive because sales tax constitute a good portion of the amount one has to pay. This conces-

sion is 3 or 4 or even 10 per cent. That is for industries going to backward areas. I am saying this for purposes of completing the record.

MR. CHAIRMAN: We come to 20 per cent Mr. Yardi.

SHRI RAGHUNANDAN LAL BHATTIA: Regarding industrially backward areas, the Government must put an embargo on big cities saying that no further licence will be given in those areas, for 50 miles radius in respect of big cities. In this way alone the backward areas with development automatically and all these concessions will have a meaning. It is only then that the top industrialists will go to the backward areas.

SHR B. D. PANDE: This was taken up in the National Development Council and the most strong opposition came from Bengal. The question of Haldia came up. From Calcutta, Haldia is less than 50 miles, Kalyani is less than 50 miles. They said, to reduce pressure on Calcutta industries have to go to Haldia, Kalyani etc. Even as a concept if you go by that they said there will be no development in Calcutta. Since this point has been raised, I am mentioning this fact. It was objected to in the N.D.C. That is why this idea had to be given up. This idea has been made on many occasions but there was way strong objection from Calcutta.

SHRI M. R. YARDI: As you know there are problems created by urbanisation and supposing you put a limit like that you will not be able to develop those towns which are within the radius of ring towns, but which are necessary to reduce the pressure on big cities like Calcutta, Bombay, etc. You have got to take steps in that regard also. It is not as if we have one problem; there are so many problems.

MR. CHAIRMAN: The main difficulty is, instead of ring towns, the slums got developed. Now we come to the question of adequacy, according to you, of 20 per cent. There have

been serious criticisms. The strong criticism is that this period of 10 year is illusory. Because, in first 3 or 4 or 5 years there are no tax profits. So the real relief will be available only after 5 years. That is number one. And number two, in view of the increased cost of production in the backward areas....

SHRI M. R. YARDI: Not necessarily. I can say only in a very few cases that the industrialists will undertake infra structural development before they make profits. If the infrastructure development is taken care of by the State Government I cannot say that the cost of manufacturing in backward areas will be more. People used to go from Poona to Bhor about 50 miles away. There was not much of labour cost. Labour cost was low in other areas.

MR. CHAIRMAN: That was because of the tax concession in those days.

SHRI M. R. YARDI: Sales-tax and Income-tax concessions are given by the Centre to the States. These are very substantial tax concessions which are given....

MR. CHAIRMAN: In principle you don't accept that in backward areas the cost of production per unit is more than what is in a developed area.

SHRI M. R. YARDI: We know that where there are multi-units of the same project then the cost of wages is much lower in the backward area.

MR. CHAIRMAN: Take a piece of paper and cost of production of paper purchased from Chandigarh. In a backward area the cost is to be more than what it is in Chandigarh and that is notwithstanding the fact that labour is cheap but because wheat straw is going to be more expensive there. So, it is not cheapness of labour....

SHRI M. R. YARDI: You cannot generalise

MR. CHAIRMAN: That is true; we are not generalising.

SHRI M. R. YARDI: Of course there may be some cases like that, but on the whole I do not know how the infrastructure development should be more

in a backward area than for instance in a developed or forward area.

MR. CHAIRMAN: This position that infra-structure is taken care of by the States is itself possibly not very realistic.

SHRI M. R. YARDI: Industrial Estates mean, practically everything is taken care of.

MR. CHAIRMAN: Have you made any study as to how the tax concession operates?

SHRI M. R. YARDI: It is very difficult to make scientific study as to how a particular tax concession operates.

MR. CHAIRMAN: The point which often arises is, why is there resistance of the industries going to backward areas.

SHRI VASANT SATHE: I will put it in the other way. Why is it that they prefer to put up industries in the concentrated or developed areas like Bombay and Calcutta only?

SHRI B. B. LAL: I say this from the experience of States where we have come face to face with such problems. What he said about telephone is one point, because they do like communications to get in touch with customers for getting raw materials and so on. But I am talking about another difficulty. In the backward area sometimes there are no educational institutions; everybody comes up against the problem of children's education and all that. They are not able to retain good and competent staff as they are always wanting to go. Housing is, therefore, difficult.

MR. CHAIRMAN: Who have to provide all this?

SHRI B. B. LAL: Industry has to provide most of the housing for officers etc. except for local labour. These are various difficulties. Now what is happening is that in many cases where sizeable industrial units are prepared to go to the backward areas, they try

to negotiate with the State Governments. They tell them 'look here, we are going to these areas. Will you provide facilities like power?' Of course power supply is provided for by the State Government. Power cannot be provided by any private industrialist. Will you have more and more industrial housing schemes in this area so that we can have some housing accommodation for our labourers and mechanics etc. going to the cities? These have to be negotiated upon with the State Government. I would submit that in the development of backward areas in the industrial field, unless the State Government cooperates and is prepared to provide a certain amount of infra-structural facilities and certain other facilities development of these areas is very difficult. That is why we, from the Planning Commission advise the State Government. Of course it will not be possible for any State Government to provide for the infra-structural facilities to the backward districts. We have advised to select some focal points in the backward area and each State will select four or five backward districts. They will provide various facilities like electric power, roads and various other facilities, railways hospitals and so on. At least in focal points, some facilities may be available so that the industries may go there. You will of course agree that the development of the backward areas is difficult all over the States in a limited period of two, three or five years. We are advocating for the provision of infra-structural facilities if the industries want to go to the backward areas. For example, various concessions like the income-tax concession or sales tax concession and concessional finances and so on have been given. From the backward experience which I have from the State I can say that there are areas in backward districts which have been declared as such where some facilities have been provided by the State Government by way power etc. If this is provided for one can see the industries going there.

SHRI VASANT SATHE: Are you in favour of providing any disincentive for concentration in concentrated areas? Do you advise that also?

SHRI B. B. LAL: As you know, the Maharashtra Government has already provided some incentives for the industries for moving out of Bombay and Greater Bombay. Apart from that I do not think it is possible to move them. The problem has become so acute enough really that the State Governments or the local administrations may have to be induced to follow suit.

SHRI N. K. SANGHI: In spite of infra-structural facilities, why the industries are not coming up in backward areas? Is it because of certain inherent difficulties? In view of this, should we not do something radical to see that industries go to the backward areas?

MR. CHAIRMAN: We shall consider it among ourselves. They have given their viewpoints. And we shall consider them. They seem to feel that tax incentive is only one of the measures they are adopting. In a concerted bid they are making for development of the backward areas, an impact of it is not possible. They can only evaluate and assess the totality of it. My last question to you is this.

SHRI M. R. YARDI: At the time of discussion if there are any specific suggestions made for improving these things we are prepared to consider them.

SHRI UNNIKRIISHNAN: I am raising a point. On page 8, I find, they have left out mining and shipping. Why is it so?

SHRI B. D. PANDE: Mining, I think, was deliberately left out because it had got to be in the backward areas. Naturally mining has got to be there. And therefore, it has got to be left out.

MR. CHAIRMAN: But, what about small crafts and fishing boats in the backward areas?

SHRI M. R. YARDI: At the time prepared to consider the small craft and fishing boats.

MR. CHAIRMAN: Who are you to consider it? It is before the Committee. The Committee alone will consider that.

SHRI M. R. YARDI: We do not have a closed mind.

SHRI VASANT SATHE: Are you going to think in terms of a progressive taxation as a package deal for the development of backward areas which should also include 'disincentive for concentrated areas' particularly, not having twin city?

SHRI M. R. YARDI: We cannot have disincentives by way of tax alone.

MR. CHAIRMAN: If shipping and mines are taken to the backward areas, they would not be able to get this relief which you are giving.

SHRI M. R. YARDI: The main thing is to give an incentive.

MR. CHAIRMAN: Schedule Nine is to give initial depreciation to the industries going to the backward areas. These are expressly provided for.

SHRI M. R. YARDI: The whole purpose of these incentives is to encourage an industries to go to the backward areas rather than the advanced areas. Mining cannot go to Bombay or Calcutta. But it has got to go to the backward areas.

MR. CHAIRMAN: You cannot carry coal to New Castle. What is the rational for this to be there? Honestly you are not going to work it out. In other words you are helpless when that argument has been put up by Shri Pande. It does not appeal to me at least. If it appeals to the Committee, it is all right.

Thank you Mr. Pande.

(The Committee then adjourned)