

those Central Government employees whose services were terminated in the 1968 strike. Even the worst criminals in the country who are charged under Section 302 are given remissions. Their death sentences are being commuted. The Central Government employees were discharged without any notice. They should be re-instated. I have been told that the Prime Minister is considering the matter. With all humility, I would request the Prime Minister, through you, Sir, that she should make a statement and create favourable conditions in the country.

SHRI RAJ BAHADUR : Sir, he has raised certain points which we could not include in the list of business for the next week. He has asked me to take note of them. All that I can say is, I have taken note of them.

12.39 hrs.

TAXATION LAWS (AMENDMENT) BILL—Contd.

MR. SPEAKER : We now take up further consideration of the Taxation Laws (Amendment) Bill. The time allotted for the Bill was 3 hours out of which 1 hour and 40 minutes have been taken. We have a balance of 1 hour and 20 minutes. The Finance Minister is to reply to the debate.

THE MINISTER OF FINANCE (SHRI YESHWANTRAO CHAVAN) : Mr. Speaker, Sir, I must express my thanks to the whole House for giving a very splendid support to this Bill. Of course, some Members have made certain suggestions and moved some amendments which can be discussed while we take up the clause-by-clause consideration of the Bill. I would like to reply to the specific points raised by some Members.

Hon. Member, Shri Virendra Agarwal made the point that acquisition of immovable property would give a setback to the building activities. I really fail to understand the logic behind this argument. What we are providing against is the evasion of tax and undervaluation and under-estimation of properties. The Bill, really speaking, is not intended against any honest house-builder or construction activity as such. Unfortunately he seems to have missed

the entire objective of the Bill itself. This argument was quite superfluous, I should say.

Hon. Member, Shri Shukla, made the point that, in cases where properties which are the subject matter of transfer are not acquired under the proposed provisions for any reason, the difference between the fair market value of the transferred property and the apparent consideration should be treated as the undisclosed income and wealth of the transferee. I can understand his anxiety about it. But under an existing provision in section 52(2) of the Income-tax Act, in a case where the fair market value of a capital asset transferred by a taxpayer exceeds the consideration declared by him by more than 15%, the Income-tax Officer is empowered to levy capital gains tax on the basis that the consideration received was equal to the fair market value. This provision takes care of the point made by the hon. Member in this regard.

As regards the transferee, if the Income-tax Officer finds that the investment actually made by him in purchasing an immovable property exceeds the consideration declared in the transfer deed, and he offers no explanation about such excess or the explanation offered by him is considered by the Income-tax Officer to be unsatisfactory, the excess amount can be assessed as the income of the transferee for the relevant financial year. If this fact is established by proper and cogent evidence it will be permissible to assess the amount of such unaccounted for investment as the concealed income of the transferee. This takes care of the argument that he made about transferee.

Hon. Member, Shri Dasaratha Deb, has made a point that the definition of the expression "immovable property" is defective as it will not bring within the ambit of the proposed legislation transfers of flats in buildings owned by Housing Co-operative Societies. This point was very carefully considered by the Select Committee also. This was one of the points that was mentioned to the Select Committee, and the Select Committee has made a certain observation about it. The point is, what is owned and what is transferred in the case of flats of cooperative societies is not the ownership of the flat but the

[Shri Yeshwantrao Chavan]

shares—the right of ownership of shares being virtually the right of ownership of flats. Registration is the pivotal factor in the entire thing. Unfortunately transfer of shares is not required to be registered. We have therefore, made a suggestion that for this purpose the Registration Act will have to be amended. If we make the necessary amendment in the Registration Act making registration compulsory on transfer of shares, then the Act will cover that position as well.

Then, the other hon. members, Mr. Baladhandayutham and also Mr. Dasaratha Deb, made a point that the condition that the provisions for acquisition of property can be invoked only in cases where the fair market value of the transferred property exceeds Rs. 25,000 should be deleted. At present, we have said, this Act should take care of properties the transferred value of which is more than Rs. 25,000. Their point is that it should take care of properties of any value—even below Rs. 25,000. Administratively, it will not be a feasible proposition, because our main point is not only to catch the small fish but also the big whales. Looking to the number of transactions which are registered, the number is so huge that it will be very difficult to go into these. Then, we have provided again this six-monthly period. For example, I can mention this. This is the information that we have tried to collect and I would, therefore, say that it is approximate. For example, in Bombay city alone in the calendar year 1970, the number of transfers registered is 12140. Calcutta—12000 plus, Delhi—38000. I will just cite a sample. In a State like Tamil Nadu—this includes the transfers of immovable property also, that means even the agricultural land—in the year 1969-70, the number of transfers that were registered is 35,45,024. It gives you an inkling of the problem. So, the Select Committee went into this matter also and it was thought that if at all we wanted to make this Act more practicable and effective, it is much better to make it selective and, therefore, properties worth less than Rs. 25,000 have been excluded from the operation of this law which, I don't think, is unreasonable. Therefore, in my speech of introduction also I made a reference to this point which Mr. Baladhandayutham made in his note of dissent also.

So, I don't think that that point has much in it.

Some members have made a point: why should we pay 15% solatium? An hon. Member from my Party, Shri Narayana Rao, has said, 'Reduce the solatium from 15% to 12%'. The provision made in the Bill is on the lines of the Land Acquisition Act and it was the view of the Law Ministry that if we do not do it, the constitutionality of the Act may be questioned. I don't think this is a flimsy ground. Some members have said that it is a flimsy ground. The question of constitutionality of the Act is not a flimsy ground. It is a very solid and valid ground. While we enact a law, we should not do it superficially or light-heartedly. Therefore, I don't think I can accept this suggestion of the hon. Member.

Hon. Member, Shri Viswanathan, made a point that provision should be made in the Bill to make the buyer and the seller of the properties to get an advance ruling from the Income Tax Department as to the fair market value of the property proposed to be transferred. Hon. Member, Shri Piloo Mody also made this point in his minute of dissent. I have referred to it in my introductory speech.

अव्यक्त महोदय : पता नहीं कहाँ चले जाते हैं। गोर के वक्त आ जाते हैं। न आगे आते हैं और न पीछे।

श्री यशवन्तराव चव्हाण : वह तो है लेकिन क्या करें।

But, it is my duty because whatever they said is on the record.

To get an advance ruling from the Income Tax Department as regards the fair market value of the property will amount to a delaying tactic. That means every one must get clearance. Therefore, the responsibility is placed on the administration to give the clearance before the transfer. It is certainly a negative approach as far as the objective of the Bill is concerned.

The only point that remains to be dealt with is the suggestion made by hon. Member, Shri Shukla but he has an amendment. Possibly, I will deal with it when the amendment comes.

That is all I have to say. But, by and large, I found that the House has welcomed the Bill and I am grateful to them.

MR. SPEAKER: The question is:

"That the Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Gift-tax Act, 1958, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

MR. SPEAKER: There are no amendments to clauses 2 and 3. I will put them to the vote of the House.

The question is:

"That clauses 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 4 — (Insertion of new Chapter XXA)

MR. SPEAKER: There are some amendments to Clause 4 but the hon. Members are not here.

Shri Shukla, are you moving your amendments?

SHRI B. R. SHUKLA (Bhraich): I have an amendment No. 6 for incorporation of a new clause 1A. This is clause 1-A.

MR. SPEAKER: Is it for substitution or for adding something? (*Interruption*) I am sorry, you cannot move it just now. At present, we are on Clause 4. You cannot move that just now, because your amendment is for insertion of a new Clause, that is, Clause 1-A.

SHRI B. R. SHUKLA: It can be fitted anywhere in the Bill. It is an independent amendment.

MR. SPEAKER: You may move it when we come to Clause 1. Now, no amendments have been moved to Clause 4. There are no amendments right up to Clause 25 and so I will put all these clauses together to the vote of the House.

The question is:.....

SHRI C. CHITTIBABU (Chingleput): May I just interrupt for a

minute? In Clause 4, the word that is used is 'compensation'. Can it stand in a court of law, instead of the word 'amount'. You simply say, 'compensation'....."

SHRI YESHWANTRAO CHAVAN: My advice is, it will.

SHRI C. CHITTIBABU: Will it be valid?

SHRI YESHWANTRAO CHAVAN: Yes, it will be valid.

MR. SPEAKER: The question is:

"That Clauses 4 to 25 stand part of the Bill."

The motion was adopted.

Clauses 4 to 25 were added to the Bill.

Clause 1—(Short title and commencement)

MR. SPEAKER: We come to Clause 1. Mr. B. R. Shukla. You are proposing a new Clause, Clause 1-A.

SHRI B. R. SHUKLA: I move* this amendment:

Page 1—after line 9, insert—

"1A. In accordance with article 31C of the Constitution, it is hereby declared that the provisions regarding acquisition of immovable property or land or any interest therein under this Act, are enacted with the object of giving effect to State policy contained in article 39(b) and (c) of the Constitution." (6)

Sir, my object, in moving this amendment is this. There appears to be some Constitutional defect in this Bill. For, under article 31, property can be acquired only for a public purpose on payment of compensation and by authority of law. So, three conditions have to be satisfied namely that it should be by authority of law and after providing for compensation. These two conditions are there, but as regards the third condition namely that the acquisition should be made only for a public purpose, that public purpose is not apparent from the provisions of this Bill.

*Moved with the recommendation of the President.

[Shri B. R. Shukla]

Last year, this House passed an amendment to the Constitution inserting article 31C which says that in a law itself it is declared by Parliament that that law is enacted for giving effect to the Directive Principles of State Policy contained in article 39(b) and (c), that is, to break up monopoly or concentration of wealth, then the validity of such law cannot be questioned in a court of law. So, in order to put this measure on a sound constitutional footing, I have put in this amendment that it should be declared in this very law that it is being enacted in order to give effect to the provisions of article 39(b) and (c) of the Constitution.

SHRI YESHWANTRAO CHAVAN: I know that the hon. Member is very well intentioned in this matter and he has tried to help us to ensure the constitutionality of this measure in case it is raised in the Supreme Court etc. But I can assure him that we have considered this question very carefully.

In this Bill what we are really doing is that we are adding a new chapter to the Income-tax Act, the Wealth Tax Act etc. It is fundamentally designed to prevent tax evasion and under-valuation of properties. Really speaking, it is not therefore, necessary to have the declaration which he thinks is necessary. I can assure him that it will be rather very superficial and lighthearted if we start making such declarations. If we make that kind of declaration here, it will be a matter of ridicule. I do not think, therefore, that it is necessary to have it.

SHRI B. R. SHUKLA: I am not quite convinced, but certainly in view of the considered opinion which the Finance Minister has formed about the future course of litigation, I am not pressing my amendment.

MR. SPEAKER: Has the hon. Member leave of the House to withdraw his amendment?

SEVERAL HON. MEMBERS: Yes.

*Amendment No. 6 was, by leave,
withdrawn.*

MR. SPEAKER: The question is:

"That clause 1, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

*Clause 1, the Enacting Formula
and the Title were added to
the Bill.*

SHRI YESHWANTRAO CHAVAN:
I beg to move:

"That the Bill, as reported by the Select Committee, be passed."

MR. SPEAKER: The question is:

"That the Bill, as reported by the Select Committee, be passed."

The motion was adopted.

12.58 hrs.

PUNJAB NEW CAPITAL (PERIPHERY) CONTROL (CHANDIGARH AMENDMENT) BILL

MR. SPEAKER: Now, there is a very small and innocent Bill, namely the Punjab New Capital (Periphery) Control (Chandigarh Amendment) Bill. If hon. Members could finish it without much discussion, then we may pass it before lunch.

AN HON. MEMBER: Let us have it after lunch.

MR. SPEAKER: Then, the hon. Minister may move the motion.

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND FAMILY PLANNING AND IN THE MINISTRY OF WORKS AND HOUSING (PROF. D. P. CHATTO-PADHYAYA): I beg to move:

"That the Bill further to amend the Punjab New Capital (Periphery) Control Act, 1952, as in force in the Union territory of Chandigarh, be taken into consideration."

This is a very small piece of legislation. The Punjab New Capital (Periphery) Control Act was enacted with a view to see that unauthorised structures did not come up around the city of Chandigarh some ten miles around Chandigarh. But it has been observed that some shabby-looking structures not consistent with the aesthetic and elegant point of view with which the city was built up are coming up.

13 hrs.

It is primarily to prevent this sort of unauthorised structures that this Bill has been brought before the House.