

[*Shri Raghu Ramaiah*]

the Report of the Scheduled Castes and Scheduled Tribes, the Draft Fourth Plan, discussion on industrial policy and so on. All this will be considered according to the time available.

श्री रामसेवक यादव : गन्ने की जो हालत है वह बहुत महत्वपूर्ण सवाल है उस पर जरूर विचार होना चाहिये ।

MR. SPEAKER : I will get them discussed in the Business Advisory Committee, and we will find out time.

श्री शिव नारायण (बस्ती) : यह बहुत इम्पोर्टेंट क्वेश्चन पूछा गया है । यू. पी. और बिहार में रेजोल्यूशन पास हो गया है कौंसिल के ब्रबालिशन का । उसके बारे में कोई जिक्र नहीं किया गया । प्राइम मिनिस्टर की ड्यूटी है कि वह इस का जवाब दें ।

MR. SPEAKER : In future when such reports are presented, it is much better that Members give their views to their party leaders who can speak, so that no regular debate is allowed.

THE MINISTER OF LAW (SHRI GOVINDA MENON) : With reference to the Upper House in Bihar, one or two days back a communication was received from the Government of Bihar, and the matter is being processed. So far as U. P. is concerned, we have read it only in the newspapers.

13.05 hrs.

The Lok Sabha adjourned for Lunch till Fourteen of the Clock.

The Lok Sabha re-assembled after Lunch at four minutes past Fourteen of the Clock

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

MATTER UNDER RULE 377
FINANCE BILL, 1970

MR. DEPUTY-SPEAKER : Before we take up the next item on the agenda,

namely, the Finance Bill, I have to inform the House that I have received a letter from Mr. Dandekar who wants to raise certain points under rule 377 relating to this Bill. Mr. Dandekar.

SHRI N. DANDEKER (Jamnagar) : I am raising this point under rule 377 rather than as a point of order, though I am told that it could be done either way. I do not raise a point of order because I hate to interrupt any Minister when he speaks. Rule 377 is a simple rule where by :

"A member who wishes to bring to the notice of the House any matter which is not a point of order shall give notice to the Secretary in writing stating briefly the point which he wishes to raise in the House together with reasons for wishing to raise it, and he shall be permitted to raise it only after the Speaker has given his consent and at such time and date as the Speaker may fix".

You, Sir, have been kind enough to allow me to make my points, and I will try to be as brief as possible. The substance of the point that I am making—I may as well put the cart before the horse is this: that this is a money Bill, and that a money Bill, I will presently read the reference in the Constitution to money Bills, must be strictly confined to matters relating to money, raising of money, and taxes and so on plus only such matters as may be strictly consequential thereto. Sir, my submission is that this Finance Bill proposes a whole range of substantive amendments to the Income-tax Act, Wealth-tax Act, Gift-tax Act and the Companies' Profit Surtax Act, all of which ought not to be here but ought to be the subject matter of a separate Bill. I will presently elaborate on that point further.

Now, I would like to take up this matter logically from where it begins, namely, article 110 (1) of the Constitution of India which defines Money Bills thus:

"For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters namely—"

I will emphasise here the word "only"—

"(a) the imposition, abolition, remission, alteration or regulation of any tax; "

And then there is sub-clause (g), which extend the definition to cover—

"any matter incidental to any of the matters specified in sub-clauses (a) to (f)."

My submission is going to be that this Bill contains many matters which neither impose a tax nor do any of the things that are mentioned here in sub-clause (a) nor are strictly consequential to the imposition of a tax. And here I again repeat the word "only" a Money Bill is concerned, and should be concerned, only with the imposition, remission etc., of a tax or "only" matters consequential thereto, that is to say, necessary upon the imposition of taxes, etc.

There are in this Bill a large number of clauses which do not fall within that definition. I do not, at this point of time wish to challenge either the necessity or the validity or anything contained in these clauses on merit. I shall deal with that when I speak on the Finance Bill, both in the general debate for consideration and during clause-by-clause consideration. Here, I will assume only that there is justification *per se* for amending the Income-tax Act in the manner suggested and the Wealth-tax Act etc., but not necessary that this is consequential upon the imposition of the taxation.

The first clause to which I take exception on this ground is sub-clause (a) of clause 3. It says quite explicitly that "it seeks to amend clause 14 of section 2 of the Income-tax Act which defines the term 'capital asset'. I will not read more. It is concerned with amendment of a substantive provision in the Income-tax Act,

relating to definitions; what is sought to be radically amended by sub-clause (a) of clause 3 concerns the definition of 'capital asset'. Similarly, as regards sub-clause (b) of clause 3; although this makes a minor change but nevertheless, I take exception, in this taxation measure, to changes coming about in respect of the organisation of the income-tax department. The notes on this clause says that "sub-clause (b) seeks to amend clause 16 of section 2 of the Income-tax Act which defines the term 'Commissioner'." They are now introducing a number of Additional Commissioners and also introducing a definition of their jurisdiction including the conferring powers on the Central Board of Direct Taxes to define their jurisdictions wherever they are overlapping several Commissioners of Income-tax.

Then, Sir, I mention clause 4. It seeks to amend section 10 of the Income-tax Act. Sub-clause (a) of clause 4 seeks to insert a new clause (20A) in section 10 of the income-tax Act retrospectively from the 1st April, 1962. There could not be a more glaringly substantive amendment to the Income-tax Act than a new exception in the Income-tax Act being inserted retrospectively from 1st April, 1962.

Similarly, sub-clause (b) seeks to insert a new clause (22A) in section 10 of the Income-tax Act, the effect of which will be that the incomes of hospitals, etc., will not be liable to tax, in certain circumstances. As I said, I will not deal with the merits of these things. I am only saying these are substantive amendments of the Income-tax Act which should have no place in the Finance Bill.

Clause 5 and 6 embody amendments which are going to make wide sweeping changes in the law relating to the taxation of charitable trusts: the charges will affect the definitions of charitable trusts what are or are not charitable trusts; the circumstances in which and the extent to which income of charitable trusts will be exempted under section 11; and so on. Again, I do not wish to join issue here on the merits of these clauses, as to whether and to what extent the amendments of sections 11 and

[Shri N. Dandekar]

13 of the Income-tax Act are desirable or justified. I would only say that clauses 5 and 6 of the Finance Bill are going to make permanent, long-term extensive and wide sweeping changes in a law which has been there for years. The law relating to charitable trusts, the circumstances in which income from charitable trusts will be exempt from tax, etc. is well established law, both statutory as well as case-law. Now it is sought, under the cover of the Finance Bill to amend in a long-term way the substantive provisions of the Income-tax Act, having very far-reaching consequences, through clauses 5 and 6 of the Bill.

Clause 7 seeks to amend section 16 of the Income-tax Act with effect from 1st April by substituting a new clause as regards the allowance for motor cars in the case of salaried persons. I will not here join issue on the merits. Perhaps it can be argued that this is a clause giving relief and it ought not to be objected to. But again it is of a long-term measure amending the basic provisions of the Income-tax Act. That is why I have taken exception to it. However, Sir, if you were to hold that this clause gives specific relief from taxation—it is not vague—and that therefore I ought not to take exception to it, I would accept your ruling.

Clause 8 seeks to amend section 35B of the Income-tax Act relating to the grant of export markets development allowance retrospectively from 1st April 1968. Here again, it is not merely a consequential amendment of substantive provisions of the Act, but an amendment of substantive provisions with substantive effect on earlier years. Normally, there can be question of imposition of tax with retrospective effect or things of that kind.

Clause 9 seeks to impose an "explanation" to section 36 (1) (viii) of the Income-tax Act retrospectively with effect from 1966. Here, too, I can repeat that any provision of this kind which is substantive and retrospective is not an incidental, consequential matter under the Finance Bill, which should be concerned only with imposition of taxes.

Sub-clauses (b) and (c) of clause 10 are again amendments of basis provisions of the Income-tax Act and must therefore to be challenged, as not relevant in the Finance Bill.

Clause 11 and Clause 12, - I have some doubts about these; I will be frank. But clause 13 seeks to amend section 80G (5) (i) of the Income-tax Act; and this must be objected to as the proposed amendment is consequential to the insertion of a new clause (22A) to section 10 of the Income tax Act by clause 4, to which I have already objected as being a substantive amendment.

Clause 16, it is true, seeks only to make a clarificatory amendment; but it seeks substantively to change the law. The explanation given is that section 80 MM as presently worded lends itself to an interpretation that the concession it embodies will be available in a case where an emplication for the approval of the agreement is made before 1st October of the relevant assessment year, regarding of whether such approval is ultimately granted or not. In other words, it is a substantive change to put matters right because of bad drafting when section 80 MM was first introduced into the Income-tax Act.

Clause 17 seeks to amend section 116 of the Income-tax Act by substituting the existing clause (c) of that section by a new clause. Under the amendment, Additional Commissioners of Income-tax will now be included within the categories of income-tax authorities.

Sir, I want to draw your attention only to some more of the major clauses which offend Article 110 of the Constitution. So, I will go a little faster. I will object to clause 18 and also clause 19. Clause 20 inserts a new clause (4A) in section 139. Under this new provision, the trustees of a charitable or religious trusts will be required to submit a return. It has been well-established law that only those people have to submit returns who have income chargeable to tax. Now they are going to amend this provision to say that even if you have income not chargeable to tax,

being a charitable trust, be even if the income of the charitable trust is exempt, a substantive liability is put on the people who are not liable to tax to submit returns arising out of this clause 20.

Clause 21 is really a very very important clause and it has extraordinarily far-reaching effects. It has been the subject matter of debate all over the place. The new section introduced by this clause seeks to change drastically the basis of taxation with certain types of cases. This is not a Finance Bill imposing a tax or anything of that kind. It seeks to change the whole basis of taxation of certain representative assesseees, namely, the court of wards, the administrator-general, the official trustee or any receiver or manager appointed by or under an order of the court and a trustee appointed under a trust declared by a duly executed instrument in writing in cases where such representative assesseees do not receive income and on behalf of any one person or where the individual shares of the persons on whose behalf the income is received are indeterminate or unknown. This is a most complicated provision. I have been endeavouring to study it and I have been endeavouring to formulate adequate amendments to remove the harshness of the proposed amendments. To some extent I accept the objectives of the new section 164; but I say these changes are irrelevant in a Finance Bill. They are going to make most far reaching changes in the taxation of, what I would call, discretionary trusts.

Then, Sir, clauses 22, 23, 24 and 25 are all right. I have no objection to them under Article 110. Then I come to sub-clause (c) of clause 26. This is concerned with having two or more Commissioners, giving the Board the power to define their jurisdiction; to this I object.

Then I come to sub-clause (e) of clause 26, which seeks to insert a new sub-section (4) in section 21 of the Wealth Tax Act. This is really important. This is the new provision in the Wealth-tax Act corresponding to the new provision in the Income-tax Act in relation to the assessment of discretionary trusts. The one I referred to earlier was concerned with the assessment

of the income. The whole law relating to the taxation of discretionary trusts is being changed and here sub-clause (e) of 26 is concerned with the taxation to wealth tax of the net assets of discretionary trusts, which is making a substantive change in the whole law.

In clause 27, again, sub-clause (b) is concerned with making some changes in the organisation of the income-tax department by introducing new taxation authorities, to which I object.

Finally, there is clause 39 to the same effect relating to the companies profit surtax.

My submission Sir, is, that all or many of the provisions to which I have made reference are not concerned with imposition of tax, nor concerned with consequential changes upon the imposition of taxes that is involved in a Money Bill. I emphasize the word "consequential" in the sense that if a certain imposition or change of tax is made and if a certain consequential imposition or change is not made, the imposition are change in the tax might not be effective. Therefore, consequential and necessary changes which came under clause (g) of article 110 (1) of the Constitution would be legitimate. Now, all this which I have been urging is not something new. It is new only in one sense. Gradually, in this country, because of the over riding majorities that have been in fact enjoy is by Government, as the years go on the governments are becoming more and more irresponsible.

Back in 1956 the then Speaker dealing would a similar point, like the one that I am raising, raised by an hon. Member, said as follows—I am reading out of Volume X of Part II of Lok Sabha Debates of 1956 at column 2105:—

"I would normally urge upon the Finance Minister, not only he but also all his successors, to see to it that only those provisions which relate to the raising of taxation should be included in the Bill. The procedure should be followed and no other provisions should be given attention to unless they are absolutely consequential".

[Shri N. Dandekar]

I am reading the then Speaker's ruling. This is precisely the language I am using namely, that "Consequential" means 'absolutely consequential', or 'such that if you did not have them the provisions imposing the tax would be ineffective in part or whole'. That is the meaning of absolutely consequential. The then Speaker said:—

"The procedure should be followed and no other provisions should be given attention to unless they are absolutely consequential. If we have to provide by way of an amendment to the Income-tax Act or by way of an amendment to a substantial Act."—

in the present case the Wealth-tax Act, the Gifts Tax Act, the Companies' Profit Surtax Act—

"Government must come forward with an independent measure separately, and the House will have ample opportunity to consider it."

This indeed is the fundamental reasons, namely, that the House must have an ample opportunity to discuss these changes in the substantive laws.

Sir I have been raising this point over and over again; and last year the then Finance Minister and Deputy Prime Minister was good enough to exclude as much as he could from the Finance Bill and bring forward all the substantive amending provisions in the Taxation Laws (Amendment) Bill. The Taxation Laws (Amendment) Bill, 1969, is in fact concerned with a large number of amendment to direct taxes Acts—the Income-tax Act, the Wealth-tax Act, the Gifts Tax Act and so on. The then Finance Minister took out all these, which until there were ordinarily and surreptitiously being put into Finance Bills; and he put them all in the Taxation Laws (Amendment) Bill because of this particularly sound principle that the Speaker had enunciated so that the House may have ample opportunity to consider these provisions. That Bill is now before a Select Committee and

I happen to have the honour of being a member of that Select Committee.

The points I wish to raise, therefore, are, firstly, that these provisions are extraneous to the Finance Bill—quite apart from whether opportunity is given or not to Members to consider these provisions ought not to be there. Secondly, there is already a Taxation Laws (Amendment) Bill before a Select Committee and there is no reason why these provisions that are sought to be put through here via the Finance Bill should be put in. There are similar provisions of far reaching import in the Taxation Laws (Amendment) Bill which we have been discussing, namely, to block evasion of taxes, to simplify procedures and various things exactly of the kind about which attempts are being made to legislate here. I am not saying that these various amendments ought not to be made what I am saying is that they ought to be made in a similar manner as the previous Finance Minister made, namely, by bringing forward a Taxation Laws (Amendment) Bill, referring it to the Select Committee were the thing is discussed backwards and forwards, where the public have an opportunity of making representation, where the Members (who are charged by this House with being on the Select Committee to examine the thing properly) have an opportunity dispassionately, quietly and not in a hurry to go into the clause-by-clause consideration of it in the light of its impact, its need, what the public says about it and what the department itself has to say in justification of those provisions and so on. That is the second reason, therefore, why I object to this. The House will not have, by having this debate for three days, an opportunity to examine those provisions in a manner in which those provisions ought to be examined.

Then, there is one more point. You know sir, that the power of the other House in relation to Money Bills is limited, whereas the powers of the other House in relation to non-Money Bills are *pari passu*, equal to those of this House. By shoving in these substantive amendments to other Laws in the Finance Bills I submit to you that the Government are deliberately

depriving not merely Members of this House from an opportunity to discuss and examine them thoroughly, to discuss them with the public at large or the public to discuss them with Member of this House in the Select Committee, but they are also depriving the other House of an opportunity to have the same power in relation to these matters as they would have had if these change were moved by way of an Amendment Bill in the ordinary way like the Taxation Laws (Amendment) Bill now before a Select Committee.

My final point is this. You may say "All right : What should we do ? What is the remedy ?". There it is the Finance Bill. You cannot throw the whole Finance Bill out. Of course, you do have the power, for, when the question is raised, you have to satisfy it as a Money Bill. If you are not satisfied, you can say, "I will not certify it as a Money Bill." Sir, I will not ask you to take such an extreme step. I think the affairs of the country must be allowed to run, however bad the way in which the Bill may have been drafted.

The only other way, and the only sensible way of curing this Bill of the defect is that those clauses to which I referred should be withdrawn from this Bill. They should be introduced separately by way of a Taxation Laws Amendment Bill which should then be referred to the same Select Committee which, fortunately, is now considering a similar Bill. The heavens will not fall. This Select Committee has been given an extensions of time to report by the first week or the second week of the next session. It could very well consider these provisions also. It could very well invite comments on these provisions. I see no reason why the Government are shirking an examination of these provision thoroughly by a Select Committee, by a discussion with the public and by a discussion among ourselves quietly, dispassionately, instead of the thing becoming a party matter.

For all these reasons, I submit, in the first place, that this Bill, as it is, you cannot certify as a money Bill. Secondly if they would amend it in the way I have suggested, they should withdraw the provisions to which I have taken exception,

which constitute substantive permanent amendments of the Taxation Law and bringing a Bill this session, tomorrow or on Monday, to amend the Taxation Law in the manner in which I have suggested and refer that also to the same Select Committee on the Taxation Laws Amendment Bill. If they do that, then the purpose would be served and this Finance Bill would be saved.

SHRI SRINIBAS MISRA (Cuttack) : Mr. Deputy-Speaker, Sir, the point of order that I shall raise will not be of the type raised by the hon. Member, Shri Dandeker.

SHRI D.N. PATODIA (Jalore) : In that case, you, Sir, dispose of the first one and then taken up that.

MR. DEPUTY-SPEAKER : Let me hear him.

SHRI SRINIBAS MISRA : After hearing the hon. Member, Shri Dandeker, somehow, I am unable to agree with the dangerous proposition that he made that this Finance Bill is not a Money Bill. If it is not a Money Bill, the Government could very well introduce it in the other House. It is a Money Bill But what he objects to, perhaps, if I have understood him aright, is the inclusion of some extraneous matters in the Money Bill.

Sir, article 110 of the Constitution says that a Bill in certain circumstances will be a Money Bill. There is no provision either in our Rules or in the Constitution as to what will be contained in the Bill. The Bills come as they are and the Speaker simply has to judge whether it is a Money Bill or not by applying the provisions laid down in article 110 of the Constitution.

I may only point out to the hon. Member, through you Sir, that in article 110, the words used are "any matter incidental" and not the words like "ancillary or consequential". Article 110 (a) says :

the imposition, abolition, remission, alteration or regulation of any tax;"

[Shri Srinibas Misra]

It is a definition of certain matters or certain terms. Without such definitions, the taxes cannot be regulated. If definition of certain terms and of certain powers of officials are needed for regulation the taxes, I do not think it will come outside the purview of article 110.

Now, coming to my points which are very simple or very near to our Rules, I would request you to kindly turn to Rule 70.

"A Bill involving proposals for the delegation of legislative power shall further be accompanied by a memorandum explaining such proposals and drawing attention to their scope and stating also whether they are of normal or exceptional character."

Here one by one I will take exception to certain clauses of this Bill to show that whatever is intended to be normal delegation of legislative power to the Union Government is really exceptional, arbitrary and something very serious, giving power to the Union Government to nibble the Constitution itself. Clause 3 wants to include agricultural land within capital asset. Agricultural land is agricultural land as used in common parlance. Now power is being given to the Government to notify certain urban areas and 8 kilometres from the boundary of those urban areas will be included in urban land. This is a power being given to the Government to notify certain towns. At the same time 8 kilometres from that town will all become urban land and will be included in capital asset. It is not only delegation of power but it is double delegation of power one is power given to the Government to declare certain areas as urban areas and then to declare 8 kilometres from that area will be urban area and this will be excluded from agricultural land and then it will become liable to tax. This is delegation, unguided power to the Government to say with agricultural or rural area will become urban areas. This is excessive delegation.

What does the memorandum of delegation say. It says it is very easy to say so—

"As it has been made clear that only areas within a specified distance can be notified and as the guidelines on the basis of which the power to notify may be exercised have been spelt out, the delegation of legislative power is of a normal character."

"The delegation is of a normal character." Taxation of agricultural land is in List II. It is purely within the States' sphere. Of course, you can tax. Parliament can sanction taxes in respect of agricultural land under certain circumstances. But you are giving this power to Union Government to enter State field and that is unguided and you say this is normal. That is my objection No. 1.

Regarding the other clause, clause 23 which is to this effect :

"to such income credited or paid in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf in the Official Gazette."

We do not know, this House does not know what scheme the Government will frame. For a future scheme to be framed by the Government provision is being made. Not only we are giving power to the Government but we are giving power to the Government to frame certain schemes in future and taxation will be guided accordingly and that such delegation is normal.

Then the worst is Clause 29 which says : that power is delegated for imposing special duties of customs. This power is delegated, but you will find in the memorandum regarding delegated legislation there is no mention of clause 29, which should be there. It must be under the Rules. They must point out that clause 29 delegates power to the Union Government and that is not pointed out. There is no mention of Clause 29 in the memorandum for delegated legislation. This is also excessive delegation and not normal. You will find that in case of goods chargeable with a duty of customs which is specified in the First Schedule to the Tariff Act, or in that Schedule as amended by this Act or

a subsequent Central Act, if any, or in that schedule read with any notification of the Central Government. Under the Tariff Act the Government has the power to change the Tariff and lay it subsequently before the Parliament. Now, Sir, if they change subsequently, even then, in addition to that subsequent change, certain special duties of the customs will be levied. Is it really delegation of one power? We have already delegated power. Power has already been delegated and you can increase the tariff. Again we are delegating power that you can impose special customs duty on special tariff over the tariff sanctioned under this Bill and in addition to this tariff that will be levied under Government notification. It is treble or four-fold delegation. In future, over and above this, you are also delegation power to levy additional tax on that. And, they say, this is normal. Sir, and abnormal situation is being created by these laws and whenever objection is raised they say: All right, the courts will decide. I say, the Courts are deciding. Because of such hasty legislation courts are deciding against us and now and then we are being accused of being very hasty in legislation, hasty in our drafts.

I will now come to Clause 30. This is about regulatory duties of customs. It says:

“With a view to regulating or bringing greater economy in imports, there shall be levied and collected, with effect from such date, and at such rate, as may be specified in this behalf by the Central Government by notification in the Official Gazette, on all or any of the goods mentioned in the First Schedule to the Tariff Act, or in that Schedule as amended by this Act or a subsequent Central Act, if any, a regulatory duty of customs not exceeding (a) 25 per cent of the rate. . etc.”

Now, Sir, what is being done under this clause is this. Some levy is fixed. Under the law there is some percentage that is levied. That power is being given under this clause. You can levy a regulatory tax on the tax as it is, as will be amended by this Act, and then again, on subsequent amendments also. What ever is

yours is yours. Whatever you are thinking of as levies in future will also be yours. You levy taxes and regulate taxes accordingly. I have no objection to be levying of taxes. It can be levied. But the manner is something which is very objectionable.

Clause 34 is the same thing again, regulatory duties regarding customs and the same objection as to Clause 30, applies here too,

Then Sir, we come to the declaration given at the bottom. It says:

“It is hereby declared that it is expedient in the public interest that the provisions of clauses 28, 29, 31, 32, 33 and 35 of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931.”

The Provisional Collection of Taxes Act 1931 says that there will be “declaration in the public interest that any provision of the Bill relating to such imposition or increase shall have immediate effect under this Act.”

Sir, we remember under what circumstances the Finance Bill was introduced in the middle of the night. And here, Clause 29 which comes into effect immediately on the introduction of the Bill delegates power to the Government, unbridled delegation of power on the future action of Government. That has come into force from that midnight, on the expiry of that day. Under this Bill, on the expiry of that very day, it was to be increased. There were some objections before the expiry taxes were levied.

But this declaration along with Clause 29 under which taxes can be levied immediately and the power that has been delegated, I think, is too big.

SHRI S. S. KOTHARI (Mandsaur): I was going to say that Shri Dandekar's suggestion would gladden the hearts of the hon. Members of Rajya Sabha

My objection to this Bill is this. I would draw the attention of Finance Minister or whoever deals with this to

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page 72 of the Finance Bill. In Clause 26 it has been stated that :

“In a case where the tax-payer is a partner in a firm or a member of an association of persons or a shareholder in a closely held company owning urban assets, the proportionate value of such urban assets will be taken into account in computing the value of urban assets falling within the scope of the additional wealth-tax in the hands of the individual or Hindu undivided family.”

According to lay, limited companies and individuals are distinct legal entities.

MR. DEPUTY-SPEAKER : What is your point ?

SHRI S. S. KOTHARI : My point is that this clause is unconstitutional and cannot be considered.

MR. DEPUTY-SPEAKER : This you can say when we take up the Bill for consideration. Now you are going into the merits of the Bill.

SHRI S. S. KOTHARI : Sir let me develop my point at least. I say that the limited company and the individual are a distinct legal entities. How can you provide that where shares are held in a limited company owning urban assets, the proportionate value of such urban assets will be taken as the individuals holdings and immovable property tax be levied on such shares ?

MR. DEPUTY-SPEAKER : I do not see that it is quite relevant here.

SHRI S. S. KOTHARI : I say that it is relevant. Of course I beg to differ from your goodself on this point. My second point is this. Kinds see List II of the Seventh Schedule to the constitution. This provides that a tax on agricultural income shall be levied by the States. On page 64 of the Finance Bill, 1970, it has been stated that:

“Clause 11 seeks to amend section 47 of the Income-tax Act relating to the charge of tax on capital gains. This amendment is proposed in the context of the amendment of the definition of “Capital asset”.

If any capital gain arises on transfer of agricultural land, then it shall be taxable to income-tax.

MR. DEPUTY SPEAKER : Will you kindly conclude ?

SHRI S. S. KOTHARI : I wanted to say that this will also be unconstitutional.

SHRI VIKRAM CHAND MAHAJAN (Chamba) : My learned friend Shri Dandekar has quoted the wrong article of of the Constitution. So far as Finance Bills are concerned, they are covered by Article 117 of the Constitution. What is a Finance Bill is dealt with in Article 119 of the Constitution.

MR. DEPUTY-SPEAKER : The hon. Members were making suggestions whereas you are giving replies to them.

SHRI VIKRAM CHAND MAHAJAN : Kindly give me a minute. Article 119 says:—

“Parliament may, for the Purpose of the timely completion of financial business, regulate by law the procedure of, and the conduct of business in, each House of parliament in relation to any financial matter or to any Bill for the appropriation of moneys”

Kindly also see the Rules of the House.

Rule 219 of the Rules of Procedure says as follows:—

“In this rule “Finance Bill” means the Bill ordinarily introduced in each year to give effect to the financial proposals of the Government of India for the next following financial year includes

a Bill to give effect to supplementary financial proposals for any period."

Sub-rule (5) says:—

"On a motion that the Finance Bill be taken into consideration, a member may discuss matters relating to general administration, local grievances."

What I am saying is that in the Finance Bill the taxes have to be regulated, and the authorities who are appointed to regulate the entire system of taxation, the Gift Tax Act, the Wealth Tax Act, everything, has to be included. The Constitution says so and the House has also made rules and members have been given the right to discuss matters relating to general administration. Therefore, the Bill is in order.

SHRI LOBO PRABHU : (Udipi) On a point of order.

SHRI SHANTILAL SHAH *rose*—

MR. DEPUTY-SPEAKER : have allowed Shri Dandekar to raise this under rule 377 because he has certain objections Shri Misra also had certain objections. We should not convert this into another debate. We should expect replies from Government to the objections raised by these hon. members. But if every member gets up and puts across his point of view, instead of our being able to hear Government's reply to the points raised, we will be having a debate.

SHRIMATI SUCHETA KRIPALANI : (Gonda) This is the main Opposition. We have to be heard.

MR. DEPUTY-SPEAKER : There should be a limit some where. I allowed two or three members.

Moreover, under the rules they should have written to me. We have some points of order. We have to do something about them. Under the guise of points of order, everything is being raised and the Chair has to listen to these points which

are very often not points of order, but to which we have all the same to listen.

SHRI PILOO MODY : I would request you to hear Shri Shantilal Shah.

MR. DEPUTY-SPEAKER : If I listen to Shri Shah, I will have to listen to many others for the same reason.

SHRI PILOO MODY : For every ten times you listen to others, I suggest you listen once to Shri Shah.

SHRI RANGA (Srikakulam) : Let me make this representation. If on a point of order any member representing any party here wishes to offer his observations the Speaker comes to his own final order, it is quite relevant and the Speaker should allow him to do so. You cannot go on delivering a speech and say I am going to allow only one or two members and afterwards I make my own order'. You have got to be enlightened by us. Then you come to your decision, whether wise or unwise, which we have got to accept.

MR. DEPUTY-SPEAKER : True. I am not making any speech. I am only trying to regulate the business of the House. If I allow too many members, it becomes a debate. Anyway, Shri Lobo Prabhu.

SHRI LOBO PRABHU : I am raising two broad constitutional points: The first, is in respect of tax on agricultural land. My hon. friend, Shri Kothari, has raised this. This subject is within the States' sphere of taxation. Although last year, the Finance Bill included agricultural land for wealth tax purposes, that mistake has been called to the attention of Government by various State Governments. I would like mistake not to be repeated in respect of agricultural income-tax.

Further, how can you distinguish between two types of agricultural land does agricultural land change its character because it goes into the urban area? Therefore, it is not within the jurisdiction of the Centre.

The second uniformity arises when the total of wealth and income-tax exceeds the

[Shri Lobo Prabhu]

income. That means it is a levy on property. You have no right to levy a tax on property, infringing the Constitution. You are going against article 19. Your Bill, to this extent, is therefore unconstitutional.

श्री शिव चन्द्र शा (मधुबनी) : उपाध्यक्ष महोदय, मुझे भी इस विधेयक के मुतालिक आपत्ति है पूर्व इस के कि मैं कुछ कहूँ, मैं एक शब्द कह देना चाहता हूँ। माननीय दाड़ेंकर जी ने कहा कि इस में एक्सट्रेनियस मेंट'स हैं जो संविधान के आर्टिकल 110 में यह बातें नहीं आतीं इसलिये यह फाइनेंस बिल नहीं है। कमिश्नर की डेफिनीशन, चैरिटेबिल ट्रस्ट की डेफिनीशन और दूसरी बातें इस में लायी गयी हैं जो संविधान की धारा में नहीं आतीं, इसलिये यह फाइनेंस बिल नहीं हुआ।

अनुच्छेद 110 (1) में बिलकुल साफ है, इसीडेंटल बातें लाजिमी हो जाती है। इस माने में वह बात आपत्तिजनक नहीं है।

दूसरी बात उन्होंने कही कि इस में एक बड़े चेन्ज की धारा आ रही है। लेकिन वह बड़ी धारा नहीं है, छोटी धारा है।

मेरी आपत्ति यह है कि जो वित्त विधेयक है इसमें जो स्टेटमेंट आफ् ब्राबजेक्ट्स एण्ड रीजन्स है वह कम्पलीट नहीं है। उससे सफाई नहीं होती है कि इस विधेयक से क्या होने जा रहा है और कौन से परिवर्तन आयेंगे इस में यह कमी रह गयी है।

एग्रीकल्चर टैक्स की जो बात उठी, तो आप को याद होगा कि एडवोकेट जनरल को यहां बुलाया गया था इसी मामले पर सफाई देने के लिये। उन्होंने कहा था कि जो बातें लिस्ट 1 और 3 में नहीं हैं, लिस्ट नम्बर 1 के आइटम 97 के अधीन, केन्द्रीय सरकार को उस बात के बारे में हक हो जाता है। इसलिए एग्रीकल्चर भले ही स्टेट का हों, उस में

केन्द्रीय सरकार दखलंदाजी कर सकती है। आठ किलोमीटर से दूर की जो बात आती है, उस में दखल देने की बात है, उस एग्रीकल्चर प्रीपर्टी पर टैक्स लगाने की बात ठीक है।

कमी यही है कि इस के स्टेटमेंट आफ् ब्राबजेक्ट्स और रीजन्स से सफाई नहीं आती है कि सरकार क्या करने जा रही है।

SHRI SHANTILAL SHAH (Bombay North-West) ; Shri Dandekar has presented a point under rule 377 which says that it need not be a point of order, but what he mentioned with reference to the Rajya Sabha does amount to a point of order, and I propose to state how.

This Bill contains certain provisions, because of which, by no stretch of the imagination, can it be said to be a Money Bill. A Money Bills been defined in article 110. It refers to the imposition, abolition, remission, alteration or regulation of any tax. Has the appointment of a Commissioner anything to do with any of these items?

SHRI SRINIBAS MISRA (Cuttack) : Regulation.

SHRI SHANTILAL SHAH : The Commissioner does not regulate, the law regulates. Please do not be so clever.

Take another case. There are provisions here which seek to prevent accumulation of income by charitable trusts. Is it contended that this falls within this definition? In the Memorandum explaining the Provisions in the Finance Bill, at page 9 it is said :

"These tax concessions have facilitated accumulation of tax-exempt funds with charitable and religious trusts and such funds are often used for acquiring control over industry and business"

Again, according to the same paragraph, with a view to checking these abuses, i.e., with a view to checking the so-called abuse

of investing charitable funds to get control over industry and business, this amendment is being introduced. Has 'that anything to do with the money bill? if charitable funds are to be controlled it should be provided by a Public Trust Regulation Act, as is done in Gujarat, Maharashtra and I believe, in Madras and U. P. also. Is it the function of a taxation measure to say: we find charitable trust funds are being invested in a manner which we do not like; therefore we shall deal with it in a taxation measure and regulate the investment of trust funds. Is it to be regulated by the Finance Bill or by the other provisions of law which deal with investment of trust funds? Suppose the provision says: The trust fund must be invested in a particular way. Does it amount to imposition, abolition, remission, alteration or regulation of any tax? It has been stated in so many words that it is intended to check investment in industrial and business houses. Is that the purpose of a money Bill? Certainly not. Look at the consequence. If it is a money Bill it cannot be introduced in the Rajya Sabha and when it goes to the Rajya Sabha it can make only recommendations and not amend it. Suppose Rajya Sabha amends the definition of 'commissioner' is it an amendment dealing with a money Bill or is it outside a money Bill and which should not go into taxation law? If they make an amendment, how shall this House deal with it? If that amendment comes back to this House, if we agree, all right. If we do not agree, there will have to be a joint sitting. If it is a money Bill, they cannot amend it; they can only make a recommendation. If it comes here and if we do not accept the recommendation, the recommendation goes. If it is a non-money Bill the Rajya Sabha has a right to amend it and we have to consider and in case we differ there has to be a joint sitting. The result would be this. In trying to put into a money Bill items which are not strictly relevant to a money Bill, we are taking away the rights of the Rajya Sabha to amend it and have further discussion between the two Houses. If it is not a money Bill somebody in the Rajya Sabha could move an amendment and not a recommendation. I do not

know what the presiding officer of Rajya Sabha would do. If an amendment is passed, what then? I do not think all these consequences have been seriously considered. What Mr. Morarji Desai said last time was this and Mr. Dandekar mentioned it. He had given an undertaking that in the Finance Bill in future such provisions would not be included and only taxation proposals would be there. Now that these things have been done, how they propose to tackle it is for them to say.

SHRI BENI SHANKER SHARMA (Banka): While supporting my hon. friend Mr. Dandekar, I have got to draw your attention to the practical side of the thing.

We have already been discussing the Taxation Amendment Bill. Certain provisions in this Bill are analogous to the provisions which we are discussing there. I draw your attention to clause 3 of the Finance Bill where agricultural land has been defined.

MR. DEPUTY-SPEAKER : That has been mentioned by another Member.

SHRI BENI SHANKER SHARMA : In the Taxation Laws Amendment Bill also there is a provision relating to agricultural land. It is in the fitness of things that these clauses are considered together and not mark in isolation. There is a definition here; there is another definition in that Bill. What sort of a legislation we will be producing? The result of all this will be that a child will be born which will be neither an animal nor a human being. Substantive changes in the Income-tax Act should be taken out of this Bill and they should be introduced in the House by way of amendments which should be considered in the Select Committee which is discussing it.

I would like to draw your attention to the fact that the Government stands committed to a sort of procedure and not to use the Finance Bill as a medium for making substantive changes in the law,

15 hrs.

THE MINISTER OF LAW AND SOCIAL WELFARE (SHRI GOVINDA MENON) : Mr. Deputy-Speaker, Sir, I listened with great interest and attention to the points raised by Mr. Dandekar and supported in a very short statement made by Mr. Shah.

SHRI PILOO MODY : Not Bernard Shantilal.

SHRI GOVINDA MENON : The House was not having the benefit of the well-reasoned speeches of Mr. Dandekar during the last few days in this budget session; I always like to hear his speeches and our friendship lasted for several years when he was in active service.

Now, I am very glad that he read out from the proceedings of the Lok Sabha in 1956. Probably for want of time, he did not read the whole ruling given by the hon. Speaker, and what has been omitted by him I would read. This is how the hon. Speaker on that occasion concluded his statement :

“Discretion will be exercised by the hon. Finance Minister or his Ministry in bringing them separately unless they are so interconnected with the other provisions of the Bill that the finances for any particular year depend upon those provisions. In such a case, they can be added here.”

And the next sentence is the most important one.

“It is not so much a question of legality as a question of propriety.”

So, the Speaker on that occasion wanted to draw the attention of the then Finance Minister to the question of propriety

In order to consider whether there is any provision in the Finance Bill before us, it would be advisable to look into past precedents after 1956 which we had in this House. Mr. Dandekar knows the difficulty about all the past practices in this House and therefore he very cleverly added this was

going on for the last so many years. At least to correct it on the present occasion, he wanted to raise this.

SHRI BENI SHANKER SHARMA : It was a wrong practice all along.

SHRI GOVINDA MENON : It has been conceded that it has been the legislative practice in this House.

SHRI PILOO MODY : Propriety is at a discount.

SHRI GOVINDA MENON : It has been conceded that it has been the legislative practice in this House that in the Finance Bill there may be provisions which are connected, consistent and intended to enable the Finance Minister and the Government to collect the taxes for the coming year. He referred to that matter.

With respect to the other objections here I do not think I am called upon to answer now. Both from Shri Shantilal Shah's and Shri Dandekar's speeches, we understood that the most objectionable thing was the proposal to tax discretionary trusts. That is one of the most welcome measures in the budget proposals of the Prime Minister, and I have been able to understand that it was welcomed very widely in the country....

SHRI PILOO MODY : Cheap propaganda.

SHRI GOVINDA MENON : which would affect a few big people who, through the device of discretionary public trusts, have been keeping back large incomes from the clutches of the income-tax machinery. I want to put this question. If it is the desire of the Prime Minister and Finance Minister to see that this kind of tax evasion should be avoided, naturally certain things have to be stated in the Finance Bill itself. That is all what has been done. Some reference was made to agricultural income and about the constitutionality of the agricultural wealth tax, I do not know how it arises here. How many times shall we speak about it?

SHRI PILOO MODY : Do you want the Finance Bill to be struck down?

SHRI GOVINDA MENON : Last year at the request of the House, the Attorney General himself came here and addressed the House regarding the legality of tax on agricultural wealth. Strangely enough, agricultural income is defined in article 366 of the Constitution by saying that it will have the same meaning as in the Indian Income-tax Act. The Income-tax Act, therefore, has to refer to agricultural income on certain matters.

I would draw the attention of the House to some of the previous budgets in this respect, about which Mr. Dandeker has entered a caveat. This has happened before, but he wants to see that from today onwards there should be a new practice. All provisions for simplification, rationalisations tax incentives, checking tax evasion and avoidance, facility for collection etc. are connected with and incidental to the provisions of the Finance Bill. I will just read out certain provisions which were there in the Finance Bills in previous years. There were provisions for simplification and rationalisation of income-tax Act, merger of income-tax and super tax, elimination of calculation of rebate reliefs at the average rates by granting straight deductions in computing taxable income, rounding of incomes of banks, rationalisation of provisions relating to taxation of companies including definition of companies in which the public are substantially interested, diversification of development rebate, grant of export market development allowance, grant of agricultural development allowance, extension of tax holiday, development allowance for tea industry, amortisation of capital expenditure on acquisition of patent rights and copy rights, tax incentives for scientific research, tax concessions for the hotel industry catering to tourists, stepping up of the scale of penalties for defaults under the Income-tax Act and Wealth Tax Act, prescription of minimum imprisonment on prosecution for tax evasion, tightening the provision for levy of interest and also prosecution for failure to deduct tax at source and pay it to the Central Government, provisions for

distribution and allocation of work in the income-tax department on the functional basis, modifications of the provisions relating to advance tax payment under the income-tax Act—these are some of the provisions in the previous Finance Bills which I could collect during the one hour I had to look into the matter. The House will remember that provisions regarding compulsory deposits, annuity deposits, etc. were introduced in the Finance Bill. Last year, the Deputy Prime Minister and Finance Minister in his statement before the House, introduced the tax on agricultural wealth. That is how the Attorney General had to come here and defend it. If Mr. Dandeker's point is accepted, the Finance Bill will only contain modification of the schedules to the Income-tax Act, the Gift Tax Act and Wealth Tax Act.

SHRI M. R. MASANI (Rajkot) : That is what it should be.

SHRI GOVINDA MENON : When you get a chance, try to do it. But today we have been following a parliamentary practice....

SHRI M. R. MASANI : It is a malpractice.

SHRI GOVINDA MENON :a parliamentary practice under which the Finance Bill used to contain certain connected matters that have been referred to in the ruling just now mentioned. It is a matter of propriety. It is true that there is a Taxation Amendment Bill now being considered by the Select Committee. Nothing which is being considered there is being included here. Here we have got only provisions with respect to collection of income-tax, wealth tax, gift tax etc. for the coming year. It is not a permanent amendment to any of the statutes in our country. It is an amendment made for this year.

For example, take the provision regarding the gift tax. There was an exemption up to Rs. 10,000 from the levy of gift tax. The Prime Minister in her budget proposals has reduced it to Rs. 5,000.

SHRI N. DANDEKER : I do not object to it.

SHRI GOVINDA MENON : That is a permanent measure if it is not amended next time. So, this distinction between permanent measures of taxation and provisions to be contained in the Finance Bill is not a rigid distinction. For the purpose of collecting taxes, the revenue estimated for this year, it is the duty of the Finance Minister to provide as many provisions as may be required to enable the government to collect the taxes. And if I say that this has become the practice in this Parliament for the last many years, it is not necessary to say that was a malpractice, that was not a good practice, that it was a wrong practice. There is no country in the world where the budget and Finance Bills are introduced in Parliament where the Finance Minister will simply change the schedules, will simply amend the rates. All that is required to enable the government to collect the amount of revenue assessed in the budget speech will have to come there in the Finance Bill.

SHRI M. R. MASANI : Then abolish the Income-tax Act. What nonsense !

SHRI GOVINDA MENON : The motion standing in the name of the Prime Minister is for the consideration of the Bill and the general principles can be discussed during the consideration stage. If I want to show that none of the 39 clauses in this Bill will come under the category referred to by Shri Dandeker we would have to postpone consideration of all these things for several hours. The clauses will have to be read one by one and the question has to be considered whether it is intended to collect tax for this year or intended to change the statutes in existence in the country. It would be open for Members discuss the general principles of the Bill and, later on, the clause by clause consideration will also come. If there is any provision which then can be demonstrated to be not in the interests of tax collection but intended for amending permanently the statute law of the country, it can be considered then, not now.

Then, the objection raised is particularly with reference to tax on discretionary public trusts, which is a political objection.

SHRI N. DANDEKER : Sir, this is gross misrepresentation. I have quoted several clauses. I did not refer only to the discretionary trusts. I may say for the information of the Law Minister that I agree with some of the amendments proposed to the discretionary trusts. So, it is not a question of my objecting to only one provision. I am deliberately being misquoted.

SHRI GOVINDA MENON : That is one proposal which is affecting large numbers of capitalists in the country. In these circumstances, your distinguished predecessor in 1956 having stated that this is not a matter of law but of propriety—I read out that passage—

SHRI RANGA : Is it propriety now ?

SHRI GOVINDA MENON : What has been done during the last several years in this House is proper. If suddenly on the 1st May, 1970, Shri, Dandeker and a few friends of his stand up and say, "Let us change the practice from today", I do not think, you will be inclined to accept that. I submit that there is absolutely no substance in the objections raised if you look into the provisions of Finance Bills during the last several years.

SHRI N. DANDEKER : May I briefly reply ?

MR. DEPUTY-SPEAKER : No reply, please.

SHRI SRINIBAS MISRA : Though I do not feel called upon to answer the points made in answer to the points that I raised, you are bound to decide and give a ruling on those points.

SHRI N. DANDEKER : I beg of you to give me an opportunity to reply briefly because the Law Minister has deliberately misled the House as to what I have said.

MR. DEPUTY-SPEAKER : We have to conduct the proceedings according to certain procedure. This is not a debate. It is not as if you have moved a motion, there is a debate, the Minister replies and

you have a right to reply. It is under rule 377 that you have made your submission.

SHRI N. DANDEKER : I am not claiming a right; I am asking for your indulgence.

MR. DEPUTY-SPEAKER : That is a dangerous thing because that indulgence may be overindulged.

SHRI N. DANDEKER : I seek your protection.

SHRI S. S. KOTHARI : Is the Minister to reply only to the Swatantra Member's objection?

MR. DEPUTY-SPEAKER : I cannot compel the Minister as to what to reply and what not to reply.....(Interruption)

SHRI S. S. KOTHARI : The Minister must meet our points. Why does he answer only the Swatantra Member's points? He feels that they are harmless.....(Interruption)

SHRIMATI SUCHETA KRIPALANI : You are showing disrespect to the House.

MR. DEPUTY-SPEAKER : Please do not get worked up.

SHRIMATI SUCHETA KRIPALANI : There is absolutely reason to be worked up.

SHRI PILOO MODY : It is normally the custom that the Speaker should show greater indulgence to soft-spoken Members.....(Interruption)

MR. DEPUTY-SPEAKER : Then you are the first casualty.

SHRI PILOO MODY : I am not one of them and I do not need your indulgence. But soft-spoken Members who want to pursue the point constitutionally have been attacked by the Minister most un-sportingly and you must give them an opportunity to correct the Minister on all the false assumptions that he has made.

This is not charity I am asking you for; it is humanity that I am asking you for, that you allow Shri Dandeker a couple of minutes in order to answer the Minister just because the poor fellow cannot shout.

MR. DEPUTY-SPEAKER : You have done it for Shri Dandeker more than he needs do it.

SHRI N. DANDEKER : He has made completely false....(Interruption)

MR. DEPUTY-SPEAKER : You have objected to that. It is on the record.

SHRI N. DANDEKER : He has said that I have contested only the propriety of it. I do submit that it is not a point of propriety merely that I have raised but I have raised a very important legal issue. Tomorrow there will be a fight between this House and the other House.

MR. DEPUTY-SPEAKER : All this is on the record.

SHRI N. DANDEKER : In order that Members may have an opportunity of hearing me in answer to all those points....(Interruption)

MR. DEPUTY-SPEAKER : You have made your points; I have allowed you and heard you from beginning to end. I do not think anybody interrupted....(Interruption)

SHRI PILOO MODY : Why do you not allow him to reply?

SHRIMATI SUCHETA KRIPALANI : May I have a categorical reply about one point? Did Mr. Morarji Desai last year make a commitment or give an assurance on the floor of the House or not? Say, yes or no. We want a categorical reply to that. (Interruption)

MR. SPEAKER : Order, please.

SHRI N. DANDEKER : Will you not allow me an opportunity to put the records straight? (Interruptions)

MR. DEPUTY-SPEAKER : I have to conduct the House according to the procedures laid down. I would request you to kindly cooperate with me. (*Interruptions*) Order, please.

SHRI SHEO NARAIN : If this is the way, the whole Opposition will walk out. (*Interruptions*)

MR. DEPUTY-SPEAKER : Mr. Dandeker, you are the spokesman of your party on the Bill. Kindly utilise that opportunity also.

SHRI N. DANDEKER : This stage is the most important. I must put the things straight....(*Interruptions*)

SHRI YOGENDRA SHARMA (Begu-sarai) : On a point of order, Sir.

MR. DEPUTY-SPEAKER : There is no order now. What point of order?

SHRI YOGENDRA SHARMA : That is what I am going to submit. Is it a bilateral discussion between Mr. Dandeker and the Law Minister? Both of them have submitted their views. We have heard them. Either you decide or let the House decide.

SHRI SHEO NARAIN : You go there. You are giving us a lecture?

SHRI RANGA : It is for the Chair to decide, not the House. (*Interruptions*)

SHRI YOGENDRA SHARMA : This is not the way to deal with the Finance Bill.

SHRI PILOO MODY : It is not a Finance Bill.

MR. DEPUTY-SPEAKER : Now, if I have followed Mr. Dandeker correctly, the crux of his submission was that certain provisions that are sought to be put into the Finance Bill would effect fundamental structural changes of certain Acts. He also mentions that proposals for changes are in the Taxation Law Bill that is before a Select Committee. The Government thinks that these are not fundamental structural changes and that they are incidental. I leave it to the wisdom of the

House. The hon. Members will bear this in mind when they make their observations on the Bill and also at the time when they exercise their right to vote.

SHRI SHEO NARAIN : We expect a ruling from you....(*Interruptions*)

MR. DEPUTY-SPEAKER : About Shri Srinibas Misra's point that the Bill exceeds the scope of delegated legislation, I think, that is also a matter for consideration of the House.

SHRI SRINIBAS MISRA : Sir, kindly see clause 29. It must find a place in the Memorandum of Delegated Legislation that the power is delegated. That is a simple question of rules. That does not find a place there.

MR. DEPUTY-SPEAKER : On that limited issue, I would ask the Minister whether clause 29 involves any delegated legislation and whether it is mentioned in the Memorandum of Delegated Legislation.

SHRI N. DANDEKER : What about a ruling on my case? I argued the case in order that you may give a ruling on that.

SHRI GOVINDA MENON : No delegation of power is there.

MR. DEPUTY-SPEAKER : The Government says that there is no delegation of power.

SHRI SRINIBAS MISRA : Are we all blind? Kindly look at it.

MR. DEPUTY-SPEAKER : It is a matter of argument whether it involves delegation or not. (*Interruptions*) I would ask you to prove it to the House.

AN HON. MEMBER : You have to decide it.

MR. DEPUTY-SPEAKER : I would leave it to the House to prove that this involves delegated legislation.

SHRI PILOO MODY : You have to decide. You cannot delegate your powers like that.

MR. DEPUTY-SPEAKER : The Point raised by Mr. Shantilal Shah relates to interpretation of the Constitution. It is not for the Chair to pronounce on the constitutionality or unconstitutionality of the Bill.

15.26 hrs.

FINANCE BILL, 1970

THE PRIME MINISTER, MINISTER OF FINANCE, MINISTER OF ATOMIC ENERGY AND MINISTER OF PLANNING (SHRIMATI INDIRA GANDHI) :
Sir. I move *

"That the Bill to give effect to the financial proposals of the Central Government, for the financial year 1970-71, be taken into consideration."

I had outlined the main features of the proposals contained in the Bill in my Budget speech. The details of the specific provisions in the Bill have also been set forth in the Explanatory Memorandum circulated to hon. Members, along with the Budget papers. Hence, it is hardly necessary to go over the ground again. On the present occasion, I should like merely to explain the principal changes that are proposed to be introduced in the provisions of the Bill. In deciding on these changes, the valuable suggestions made by hon. Members and others, during the past eight weeks have been taken into account.

The central objective of the Budget proposals has been widely appreciated both in this House and outside. There is little reason, therefore, to disturb the general structure of the fiscal proposals in the Bill. The Bill gives concrete shape to the task of reconciling the need for augmented revenues for developmental purposes, with that of using the fiscal device for furthering distributive justice. Through these amendments, I propose to suggest a few changes which would make the fiscal proposals in certain instances more rational, and, in certain other cases, more purposive to achieve the stated goals.

I shall start with direct taxes. The rele-

vant proposals in the Bill, while aiming to reduce the more extreme forms of income inequalities and to plug loopholes in the law leading to tax avoidance, also take care to provide greater incentives to savings and investments. The Bill makes provision to exempt from tax income upto Rs. 3000 in a year, derived from investments in certain specified categories of financial assets: investments in such assets up to Rs. 1.5 lakhs are also being exempted from wealth tax. It is now proposed to include into those categories of investments also the deposits with State Financial Corporations and other approved long-term financial institutions, this is being done to enable these equally worthy institutions also to attract deposits from members of the public for nation-building purposes.

The tax on the interest payable by banks to their constituents is at present deductible at source. In the context of the Government's policy to extend significantly the coverage of banking to rural areas, it would be justifiable to alter this arrangement on administrative grounds. I propose to amend the relevant provision in the income tax Act so as to exempt, from deduction of tax at source, the interest earned from deposits with banking companies, including co-operative banks.

In regard to charitable and religious trusts, the Bill makes certain changes in the existing law so as to check abuses which have come to light, and reduce the scope for the use of these trust funds to acquire control of industry and business in which author and his relatives are interested. These provisions in the Bill have been widely acclaimed, and there is no reason to make any major changes in the proposals. At the same time, while replying to the general discussion on the Budget, I did indicate that we would try to remove any genuine difficulties, which may be faced by the affected parties in complying with some of the conditions introduced in the Bill. Under the Bill, the facility enjoyed earlier by a charitable or religious trust to accumulate 25 per cent of its current income has been withdrawn. However, as Honourable Members are aware, there is already a provision in the existing law

* Moved with recommendation of the President.