

The Lok Sabha re-assembled after Lunch at Forty-seven Minutes past Fourteen of the Clock

[MR. DEPUTY-SPEAKER in the Chair]

DIRECT TAXES (AMENDMENT)
BILL—Contd.

MR. DEPUTY-SPEAKER: Shri Vasant Sathe will continue his speech.

SHRI VASANT SATHE (Akola): Sir, as I was saying yesterday, the whole object of this Bill is to try to develop the backward areas of this country. It is with that object that we have tried to bring this amendment to the Income-tax Act. But this very object is likely to be defeated by the half-hearted manner in which this Bill is being brought. When we are talking in terms of socialist economy or, for that matter, even a planned economy, we cannot accept the contention of giving concessions to the monopoly capitalist class. In fact, this is against the very concept of planning. When we are talking in terms of a planned economy or balanced regional growth in the country, why should we say that the capitalist or monopolist or big industrial houses be given concessions to be up industries in the backward area in the form of tax relief? But the position is that we are not having a really planned economy, far less a socialist economy. Let us accept that we have got a mixed economy where we have to tolerate the capitalist class. If that is the position, let us accept the position and do it whole-heartedly. I do not understand why we should go step by step like a shy bride.

Then, kindly see proposed section 80HH. I am raising this point only with a view to encouraging industries to go to backward areas. Sub-section (1) of new section 80HH reads thus:

"Where the gross total income of an assessee includes any profits and gains derived from an industrial undertaking, or the business of a hotel, to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the

total income of the assessee, a deduction from such profits and gains of an amount equal to twenty per cent thereof."

So, all that is being done is to give a 20 per cent deduction from profits and gains.

Then, kindly see sub-section 2 of the same section. It reads thus:

"This section applies to any industrial undertaking which fulfils all the following conditions, namely:—

- (i) it has begun or begins to manufacture or produce articles after the 31st day of December, 1970 in any backward area specified in the list in the Eighth Schedule."

This means that this is being made applicable to new industries only. Later on, in the proviso, and in the Explanation, the basic object of this provision is watered down by saying that if the new industry arises by transfer of an old industry, this provision will not apply.

One of the basic principles of legislation is that when we are making a law, whatever we want to say must be said by us in the main section. An explanation is required, only when something is required to be explained in the main section. But one is not expected to take away what is provided in the main section, by inserting a proviso or an explanation. That would be a very bad method of legislation and a very bad method of drafting. But that is precisely what is sought to be done in this section. The result will be that you cannot have any transfer of an existing unit from a concentrated area. At present, industries are being concentrated in Bombay, Calcutta or other pockets in this country almost to the point of saturation. And there is talk in terms of expanding these cities further in the form of the twin city of Bombay and so on. Skyscrapers are going up in these towns, creating all sorts of modern problems of pollution etc.

which are plaguing these areas, a art from the social and hygienic and moral problems. In this section, it is not being provided that an existing unit in Bombay or Calcutta can go to a backward area. In fact, it can not go to a backward area, in the light of these provisions. That means that the very object of the Bill is being defeated. Are we trying to deceive the people by this? In the budget, the Finance Minister had stated that they were doing so much for the backward areas in the country, but in the proviso, he is taking away the entire object and he is saying that an existing unit can either expand or go to any old area but not to a backward area. Thereby, the very object of the Bill is being defeated. Therefore, I would submit that this Bill has not been well thought of and it has not been well conceived of.

Now, kindly consider another aspect. Kindly see the Eighth Schedule which lists the backward areas. The Finance Minister said yesterday that this list had been selected on the basis of what the Planning Commission had decided as backward areas.

I would submit that the criteria before the Planning Commission for giving certain facilities etc. for development of backward areas were altogether different. For example, when you decide to develop a backward area like Bastar, which is a jungle area or a tribal area, you will have altogether different considerations of development, because in that area, infrastructure facilities have still to be developed. But when we are talking in terms of industries go to backward areas, can we expect any industry to go to any area where even basic infrastructure facilities like transport, communication, power and water are not available? Therefore, to take these areas as backward areas in the light of what the Planning Commission has said and to deny to the rest of the developed areas where infrastructure is there, such facilities, would be highly ridiculous and absurd and will

defeat the very objective. Except for the industrially developed pockets, as I said earlier, concentrated pockets like Bombay, Calcutta, Madras or for that matter Bangalore or some few pockets like Delhi, the entire country is a backward area industrially. If we want balanced regional growth, then these areas cannot be ignored. Let me give an example from my own constituency, Akola. It has rail and road connections, and it has power and water facilities, but it is not included in this list. Similarly, Nagpur is not included in the list. Even, Sholapur, Kolhapur and Sangli are not included in this list. Similarly, there are many other places that one can think of, which have not found a place here.

श्री हुकम चन्व कछवाय(मुरेना): मुरेना भी ।

SHRI VASANT SATHE: I do not know whether there are roads etc. in Morena. The only test of advancement of Morena is that Mr. Kachwai comes from that place.

I would submit that this entire Eighth Schedule needs to be changed. How can we have industrial growth with this type of Schedule?

Then let us take the Ninth Schedule. The initial depreciation which Government are trying to provide is for all the industries which are actually monopoly industries. Now, let us see the industries listed in this schedule. They are iron and steel (metal), non-ferrous metals, ferro-alloys and special steels, steel castings and forgings, thermal and hydro-power generation equipment and so on. Are these industries going to be developed by small entrepreneurs? What encouragement are Government giving to the small entrepreneurs?

Therefore, I would submit that the entire list of industries in the Ninth Schedule needs to be changed. But

[Shri Vasant Sathe]

15.00 hrs.

where can these changes be made? Government have brought forward the Bill today and they want to rush it through and they want to have it passed also. That was why yesterday my hon. friend Shri N. K. P. Salve suggested the reference of this Bill to a Select Committee. He said that heavens would not fall if this Bill was referred to a Select Committee. After all, in this Bill itself there is a provision which says that this Bill would come into force, especially section 88HH from April, 1974. If that be so, why not refer this Bill to a Select Committee and ask them to report only on those portions of the Bill where changes are required, especially these two provisions? We can refer this Bill to a Select Committee with instructions to report by the first week of the budget session, so that we could have the Bill as reported by the Select Committee in March and pass it also if we want. That is possible. Apart from drafting errors, the basic things which are lacking in this Bill and the lacunae to which I have made a pointed reference could also be corrected fully. But today they cannot be corrected.

I would submit that let not the hon. Minister make it a prestige issue. Whose prestige is involved in this? As the hon. Minister of Finance himself has said, this is a revolutionary step that he wants to take industries to the backward areas in order to develop them. Let it be a real effort in content and not only an eye-wash. I have to use any strong words, but if Government were to insist on rushing through this Bill in the House, we would only be deceiving ourselves and the people.

This is not a party issue at all. I think that all reasonable persons in this House will agree that this Bill needs a thorough second look, and, therefore, it should be referred to a Select Committee.

SHRI SEZHIYAN (Kumbakonam): As far as I remember, during the past 21 years, of Parliament, this House had at no point of time been seized of this peculiar situation of being asked to consider two amending Bills on taxation laws in such a quick succession. One Bill had been introduced in the month of May and another Bill had come forward in the month of August. This is the state of affairs now. Yesterday, my hon. friend Shri Salve who is presiding eminently over the Selection Committee on the Taxation Laws (Amendment) Bill which is yet to submit its report, described in an expert and graphic way how baffling how confusing and how complex the tax laws are becoming, and how they were being tampered with at the slightest provocation. Since I am not an expert in taxation laws, I can only quote before the House the opinions of some experts to point out how the Indian Income-tax Act has been tampered with all these years. This is what the Law Commission had to say in their Twelfth Report when they were asked to give their report on the amendments to the Income-tax Act, 1922. In the very opening sentence of their report, they said:

"There is hardly any Act on the Indian statute-book which is so complicated, so illogical in its arrangement, and in some respects so obscure as the Indian Income-tax Act."

Then, they have said that:

"The hopeless confusion into which the Income-tax law has fallen is mainly due to precipitate and continuous tinkering with the Act by the legislature."

Proceeding further, they say:

"Stability is most essential to the proper administration of a taxing statute, and if the tax structure of

this country is to be put on a sound footing, it is essential that a halt should be called to the making of ill-digested amendments in a frenzy of hurry which has characterised the history of income-tax law of the last few years".

I do not know whether Mr. Chavan will agree with me when I say this, because I am not an expert, but I feel that those persons were considered as competent in those days. Persons of the statute of Shri M. C. Setalvad, Shri M. C. Chagla, Shri K. N. Wanchoo, Shri P. Satyanarayana Rao, Shri V. K. T. Chari, Shri S. M. Sikri, Shri G. S. Pathak and Shri N. K. Palkhivala have prepared the model Bill, and that was adopted. After going through the Select Committee, that was adopted. The Bill was introduced in this House first and then the Report of the Select Committee was given in August or September, 1961. The then Finance Minister said that Government had then come to a stage where they had stabilised tax laws and for five years they would not have to amend any part of it. Such was the impression created when the Act of 1961 was passed. I can say that that Act has been taken as a model Act in some other countries. Specially in Malaysia, when I had been there, they told me that they had taken it as a model Act. But what has happened in our own country? By 1967, 400 amendments had come to be introduced. In 1970, when I was in the PAC, we had counted as many as 600 amendments. Yesterday, Shri Salve had said that 900 amendments had been introduced. I do not know how many more amendments are going to crowd the Act already bulging to cracking point. The entire Act has been tampered with beyond recognition. Take, for example, section 80. There was only one section in 1961. But now we find that sections 80A, 80B, 80C, 80D, and 80E, are there, and sometimes we have letters MM, QQ and so on until we exhaust all the 26 letters of the English alphabet; I think in section

280, we have exhausted all the letters of the alphabet from A to Z, and then we have ZA, ZB, ZC, ZD and ZE, and thus altogether 31 such amendments have been introduced. I think section 280 deals with annuity; those provisions might have been introduced as part of a separate Bill itself. All extraneous matters are being ploughed into the Income-tax Act, so much so that the Act has changed beyond all recognition.

So, even after ten years, we are still in the same old pitiable position that a complex law, even according to an expert like Mr. Salve, has become more complex and complicated that one could not make out what it means.

Yesterday, I had moved a motion to refer this Bill to a Select Committee. I wanted this Bill to be referred to the same Select Committee which is now considering the Taxation Laws (Amendment) Bill, but technically I could not do that. As a person who believes in party-discipline, I could not include the Members from the other side in the list of Members for the Select Committee, because I know that they have to take the permission of the Chief Whip first and I have to state in the notice of my motion also that I have taken their consent beforehand. That was why I could not mention the names of Members from the other side. So, the fact that I have not included their names does not mean that I wanted to exclude Members from the other side. As I said earlier, my preference will be to refer this Bill to the same Select Committee which is considering the Taxation Laws (Amendment) Bill.

Yesterday, an impression was given by the Finance Minister, Mr. Chavan, when he said even the provisions struck down by Supreme Court would have been approved by same Select Committee; his point is that a Select Committee does not alter the course of legislation and the Court's judgment in any way. As

[Shri Sezhiyan]

rightly said by Mr. Salve, we are not the presiding deities to give finality to anything. We can only help. If they have consciously gone through the deliberations of the Committees, if they feel that the Committees have not helped them to a certain extent to minimise the loopholes, I for one would request the Treasury Benches not to put any Select Committee in future. There is no pleasure to work in any Select Committee for a man like me who does not know anything about the Income-tax law nor pay income-tax to a huge order. We have taken much care to go through all clauses of the Bill to understand them and to help the Committee. If an unsympathetic impression is created on the Treasury Benches, I for one would request them, implore them, not to put any Select Committee in future. It is going to save much precious time of the Finance Minister and the precious time of the officials. Our time is not so precious, I concede. Even if the House wants, we can dispense with 3-hour discussion on the Bill. They have got a huge majority; they can put it to vote and pass it. If you want to work in that way, you can do it.

The basic question that has to be decided is whether they believe in sending the Bills to a Select Committee. In 3 hours, we cannot discuss all the points.

Now, I would like to invite your attention to the Report of the Administrative Reforms Commission. This is what the have given in thick letters. It says:

“When in future any amendment is proposed to the Income-Tax Act, it should be done only after a careful survey of the total effect of the amendment and after considering carefully the need for carrying out the amendment. No amendment should be proposed merely to get

round an adverse decision of the Supreme Court or a High Court. Further whenever amendment are considered necessary, they should not be proposed through the Finance Bill because the Finance Bill is not referred to the Select Committee and the Members of Parliament do not have adequate opportunity of studying the various provisions. All amendments, in future it is suggested should be carried only through a separate Direct Taxes Amending Bill.”

They themselves felt and gave some credence to the ability and the competence of the Members to function in a Select Committee and suggest some amendments here and there. I do not know why this has been a go-by. I do not know what is so important that they could not wait because most of the provisions are in the form of concessions. Can't they wait? Anyway, they are going to implement it from 1st April, 1974. Why not they wait till the first week of next session?

I wanted this Bill to go to the same Select Committee which is considering the Taxation Laws Amendment Bill—not that I am there; I am only an insignificant part there—because they are considering a Bill where most of the clauses of this Bill are being dealt by them. This Bill too might have been attended to by the same Select Committee. One peculiar thing about the present Direct Taxes (Amendment) Bill is that the objectives are individualised whereas in the Taxation Laws (Amendment) they are general. As rightly pointed out by Mr. Salve, out of seven objectives of the Bill, except the one where the Supreme Court judgment is referred, all the others could have been taken care of by the Taxation Laws Amendment Bill.

I concede that the Supreme Court judgment has, naturally, affected the penalties that are to be levied, because the Supreme Court judgment,

as already pointed out, took the tax liability occurring in a single case as distinct from the tax payable. The Finance Minister also rightly said that there will be many cases where the penalty has been levied on the basis of the interpretation of the Department.

I concede all these things. But my simple question is, when did the Supreme Court judgment come. It came on the 29th January, 1973. The Taxation Laws (Amendment) Bill was introduced in this House in May 1973. If the Department had felt so urgent, if they had been agitated over an issue that had been decided by the Supreme Court in the month of January, why did they not get it included in the Bill that was brought forward in the House in the month of May? Why did they wait till August? It is something which is beyond my comprehension.

I would point out another thing. Because of the hurry with which the Department is proceeding, they are creating confusion. Things are already complicated and they are making them still worse. The statement made by the Finance Minister was a written statement. It should have been very carefully prepared. There he has said:

“For this purpose, the expression ‘the tax’ has consistently been construed by the income-tax department to mean the tax determined on the basis of assessment as reduced by the tax, if any, deducted at source or paid in advance.”

This was not what was argued before the Supreme Court. I have got a copy of the Supreme Court judgment. There they have argued in a different way. He has read a statement which was wrongly prepared. In the Supreme Court judgement it has been said clearly:

“They further urged that, if the interpretation placed by the Revenue on section 271(1)(a)(i) is

accepted as correct, the result would be that the advance tax paid or taxes deducted at source cannot be taken into consideration in determining the penalty payable.”

Therefore, it has been argued before the Supreme Court in the other way. But a different interpretation has been given to the House. If anybody else had made that statement, I would have said that he was trying to mislead the House deliberately. Why I am pointing this out is because their trying to push through the legislation in a hurry is not correct.

It may be said that there is urgency as the advance tax has to be calculated and all that. According to section 210, which controls advance tax, the payment may be made in instalments on the 15th June, the second on the 15th September and the third on the 15th December and the demand notice should have been sent earlier to 15th June. Therefore, it is not going to alter the position if this is referred to the Select Committee now.

Regarding the development rebate, in section 33 of the income-tax Act it is defined. In his 1971 budget speech—it was presented by Mr. Chavan in the month of May—he had said:

“The practice of offering a development rebate in respect of new investment has had, I feel, a full play. I am accordingly serving the required notice that no developmental rebate will be allowed on ships acquired or machinery or plant installed after May 31, 1974. Whatever the revenue implications of this step—and they are sizeable—will be fully revealed only after 1974-75, i.e., from the Fifth Plan period onwards. But I shall consider myself amply rewarded if advance notice of this change quickens the pace of investment in the remaining period of the Fourth Plan.”

[Shri Sezhiyan]

I would like to know, since making this statement in 1971, what has happened to change the view of the Government. Why the development rebates which they announced will be withdrawn in 1974, why are they trying to introduce them in a surreptitious way?.....

MR. DEPUTY-SPEAKER: You have made the point that they should be more carefully looked into.

SHRI SEZHIYAN: If you see the Ninth Schedule, they have given various items without any rationale. With the point raised by Mr. Sathe, I fully agree, that the generalised way of the items mentioned there will open the floodgates for big industrialists to take undue and exorbitant exemptions not thought of or visualised by us. In the present Schedule, for example, they have put 'Industrial and agricultural machinery'. The term 'Industrial machinery' is a very wide one. It can include any type of industrial machinery. But if you look at the Fifth Schedule of the present Act you will find many of the things including 'the Industrial Machinery' defined in a very precise way. Further in the present Schedule they have put 'Commercial vehicles' whereas in the Fifth Schedule it was 'Trucks and buses'. Again, the Schedule includes 'Ships and Aircraft' whereas if you take clause 3 (a) of the Bill it has been given. In the case of a new ship or new aircraft acquired after the 31st day of May 1974. It has not been given out whether the acquired ship or the aircraft is to be built in India or abroad. In the case of the manufacture of a ship or aircraft in India, it will amount to giving initial depreciation to be available both to the manufacturer and the purchaser only for these two items. Very many loopholes and lacunae are there which I feel should be looked into in depth and earnestness. I think in framing other clauses also they have not given the same judgement and clarity with which they should have done them.

Therefore, my last plea is that even at this last stage, we should refer this to a Select Committee, otherwise, they have the majority and they can get it passed.

SHRI H. M. PATEL (Dhandhuka): I am grateful to you for having called me now.

I have only two observations to make and they relate to the points which have been made, made very forcefully and very comprehensively by the speaker who just sat down and Mr. Salve, yesterday, and that is that this Bill ought to have been referred to a Select Committee.

This is a Bill of considerable importance. It may contain only a few clauses, but their implications are grave and they do impinge upon the work that has been entrusted to the Select Committee on Taxation Laws Amendment Bill which, is supposed to be a comprehensive Bill, and therefore, to bypass the work of that Committee and to bring in a Bill now could be justified only if there were overwhelming grounds for saying that if this was not done, tremendous harm would ensue to the exchequer. There is absolutely no warrant for holding that view. I do not think that the Finance Minister would even endeavour to put forward that plea. Then, if they want the Select Committee to report on these particular provisions these particular clauses ahead of the rest of the Bill, that could easily be done by the Select Committee which is dealing with the law comprehensively. I think the arguments that have already been advanced by my friend, Mr. Sezhiyan which I do not wish to repeat, do show that in matters relating to taxation, it is better to take more time rather than less time to think, to give yourself time to ensure greater precision rather than less.

The implications of every section should be considered with great carefulness. Of course, the Finance

Minister would turn round—and I can see Mr. Ganesh there doing precisely that—and say, 'We have given plenty of time, and weeks of deliberations have preceded this Bill.' That may be. Nevertheless, there is always another point of view and in fact, the practice of referring important Bills and complicated matters to a Select Committee is a very sound procedure of this House. I do not agree with my friend, Mr. Sezhiyan when he says, "We have nothing to do with a Select Committee if you are not prepared to make proper use of them." He says that through a feeling of sheer frustration. I do not think that there should be any question of allowing frustration to have any weight with us. Such matters must be referred, must be invariably referred to Select Committees.

There is a growing tendency for the Government to avoid, to bypass Select Committees. By all means see to it that the Select Committees report promptly. Fix a time within which they may report, but reference to the Select Committee ensures that every point of view is given the fullest consideration, may be not by experts but by public servants who have learnt to weigh evidence. Evidence is led before them, and they are guided by the experts of the Ministry concerned, and, therefore, their recommendations always help in improving the Bill which is brought forward by Government. I do not think that experience would enable anybody to challenge this statement. Any Bill that emerges from a Select Committee is invariably an improved Bill.

The Finance Minister was a little unkind yesterday, unfair, I would say, rather than unkind, when he said 'Why did the Select Committee not draft the original Act properly?'. No one should know better than the Finance Minister himself that drafting is no business and no function of a Select Committee but it is someone

else's function. The function of the Select Committee is to see that the provisions of the Bill referred to them fulfil the objectives for which that Bill has been drawn and to advise the draftsman from the Law Ministry accordingly. This was the only major point that I wished to make. I could speak on other points also, but I do not wish to abuse your kindness. Otherwise, I would point out that the clauses themselves are also very defective. If these go through as they are, it can only mean that further amendments will be necessary, and almost in the immediate future, and some of them will have to be made by the Taxation Laws Amendment Bill Select Committee which has been appointed to consider that Bill. Shri Salve was quite right in saying that if the Finance Ministry could wait for 12 years for a decision on the basis of which they are now coming forward with this Bill, waiting for two months would not mean any excessive period of waiting, and the result would be undoubtedly advantageous not only for the Finance Ministry but also for the country at large.

SHRI BHAGWAT JHA AZAD: (Bhagalpur): As usual, this Bill has got laudable objects, but as usual, this Bill has also got the same old blunt tools with which it wants to achieve those laudable objects. After serving on a Select Committee on a taxation Bill, I am a little wiser. Before that, I used to think that in regard to taxation laws, it could be safely said that ignorance was bliss. So long as you do not know about it, you are very happy. But the moment you go deep into it, you realise how complex are the tax laws of this country. Taxation law is complexity, wrapped in complex at least in this country named India. After having served on that Select Committee and after seeing it, I am tempted not to speak anything at all and I wanted to refrain from speaking. But I feel that those who ought to be affected

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are not really the persons who would be affected, because they will get away somehow they know a hundred and one ways of getting away with assistance from retired officers, from the best known lawyers in this country, income-tax practitioners, and many other persons. But what about those persons on whom this will fall unknowingly? That is why I am tempted to comment on this Bill and say that whereas the objects are very laudable, the sections which are to be implemented will not achieve what they want to achieve and what we want to achieve.

Take, for example, clause 13. It took twelve years, almost one yuga, one might say, for the Income-tax Department to bring forward the amendment, and that too, after it was pointed out by the Supreme Court that the law was faulty. I do not know how the law could be so brazenly faulty. I am not an expert in legal language. The point is simple that one who submits a late return, if he gives his assessment or a provisional assessment, should be taxed on the whole. But the Supreme Court has said that due to the faulty law, if he has to pay tax on Rs. 1 lakh, he would have to pay only on Rs. 10,000 because he has already given Rs. 90,000 in his provisional or self-assessment. This is something wonderful. Actually, that person should have been punished and penalised on the whole of the one lakh of rupees, but as the law was drafted, he could be taxed only on Rs. 10,000. It took twelve years for the experts from the Department to understand this. After they realised the mistake, what has the Department done? They say that they would give retrospective effect from 1st April, 1962. But they say that those who went to the Supreme Court would not be under the purview of this. Why? Because they were poor persons? They had got a big bag to go to the Supreme Court,

and they could bamboozle the Department and the Government, and, therefore, in this Bill it has been said that they would be excluded. But for everybody else, the Bill would have retrospective effect, not for those poor persons, very poor persons, vegetable wallas, tel-wallas, oilwallas, etc. who went to the Supreme Court. I want to know from Mr. Ganesh who are those persons who will benefit by this exception. Why should they be given this exception? Does he mean to say that if I do not submit my return for four years and then I go to the Supreme Court because I have big money, I shall be excluded from the retrospective operation of this provision? Does he mean to say that the vegetable oilwallas, the oilwallas, and the cotton wallas and the commercial vehicle wallas will be excluded and they will be benefited? I want to know the rationale behind this provision. Are they really poor persons? Therefore, I would urge that this should be given retrospective effect in respect of all persons without any exclusion. I want to know who are the persons who are going to be benefited by this exclusion.

After 12 years, they have brought forward this amendment. Every year, they are bringing forward some Bill or the other, to justify their existence. We do not quite understand what the law is, because it is a jungle of tax laws in this country. Why should there not have been a comprehensive Bill? Why are Government bringing forward this piecemeal measure? I think Shri Patel was right in asking why a comprehensive Bill should not have been brought forward. Already, one Bill has been referred to the Select Committee, the Bill which sought to unearth black money and so on. I do not want to comment on that at this stage. After the report of the Select Committee is submitted, I shall have occasion to speak about it. But this legislation which has been brought forward is a wonderful piece

of legislation by the Government, by the Finance Minister, by Shri Ganesh and by the Finance Ministry.

I now come to clauses 3 and 4 dealing with initial depreciation allowance of 20 per cent. here, I would like to seek one clarification. It is provided here that if in the first year, the industry makes a loss but in the subsequent year it makes a profit, the depreciation allowance would be allowed. But suppose the industry makes a loss for two consecutive years, will the person have the benefit in the third year when he makes this profit and will he be entitled to deduct this 20 per cent from his profit during that third year. Would he be given this benefit of deduction in the third year, or is it the intention that he would be entitled to make this deduction of 20 per cent only during the first two years, whether he makes a profit or a loss. That is an important point which should be clarified.

Then, I come to another very important and wonderful piece of this legislation, namely the Ninth Schedule. Let us see the industries which have been listed in this Schedule. Are these really the industries which need this depreciation allowance? The industries listed are: iron and steel (metal), non-ferrous metals, ferro-alloys and special steels, steel castings and forgings etc. Then, we have soda ash, caustic soda, tyres and tubes, sugar, vegetable oils, cotton and jute textiles and cement. I shall read these names in another way; the names are: Jain, Bharat Ram, Tata, Lalchand Kilachand, Narang, Modi, Birla and Somani. I am only reading the list in that order.

Yesterday, my hon. friend Prof. Madhu Dandavate had put a question in this House regarding the fact that the Monopolies Commission by a majority judgment had allowed the soda ash case to be excluded from the restrictions under the MRTP Act and allowed monopoly expansion. But I congratulate that gentleman Mr. Paranjpe, who had given a dis-

senting judgment. I want to know from Mr. Ganesh whether soda ash, I mean Jain, caustic soda, I mean Bharat Ram, commercial vehicle. I mean Tatas, tyres and tubes by which I mean Lalchand Kilachand, sugar by which I mean Narangs, vegetable oils by which I mean Modis, cotton by which I mean Birlas and cement by which I mean Somanis are all very poor persons. They are very small industries, very poor fellows! They must have depreciation. They are not monopolistic! This is the Ninth Schedule. I want to know from my hon. friend, Shri Ganesh, what is the rationale behind this list. Why do you want to give the concession of depreciation to them? Are they poor? Are they not rich enough? Are they not monopolistic in this country? What is the rationale?

I want to ask Shri Ganesh. Coming from Andaman and Nicobar Islands, why has he forgotten his part of the country where he has only one industry, the wood industry, timber industry? Why does he forget the saw mills? Why not allow the small man to go there and if he does, why not give him depreciation allowance?

I am sure my district which is included in this list of backward districts, Bhagalpur and Santhal Parganas, will never have these big persons. Nor do I want them there. God save us from these people. Let them be in Jamshedpur. But give me small industries.

That is why I plead: scrap this Ninth Schedule, the Soda ash-wallas, the Birlas, Dalmias and Goenkas. Put into this list rationality, the rationality of the small entrepreneur, who will go to the backward areas, like Bhagalpur and Santhal Parganas and who will put up small industries there. Give them depreciation. We do not want the big sharks mentioned in this list. I want to understand what is the rationale behind this list.

Of course, there is benefit of doubt as regards the public sector. As regards the public sector, I have been

[Shri Bhagwat Jha Azad]

a blind supporter. But I am now revising my opinion on many aspects and policies.

As regards the clause concerning the backward areas, in the beginning I would say that the list given is faulty. I am referring to Bihar mentioned in the Eighth Schedule. In Bihar, there is now no district of Champaran. It is split into three parts. Then take the Darbhanga district or the Saran district. There is no Saran district. Darbhanga is split up. So you must amend it accordingly, because they do not exist as they have been listed because there are three more districts. Therefore, this is faulty. Please amend the whole list. These districts do not exist. There are new babies born out of the old ones. Therefore, kindly take note of that.

Then I would ask: do you really want the backward areas to be developed? Do you want industries to go there? If you do, then kindly overhaul the whole Ninth Schedule. I am sure the soda ash-wallas will never go to the backward areas. I am positive about that. Therefore, give me a saw mill, give me small entrepreneurs who will go there with infra-structure. The big people who will only travel by plane with their bags full of black money will never come to these areas. Therefore, I would request you to amend this Schedule and give the small entrepreneurs a chance.

Then I come to the deduction of 20 per cent in regard to profit. Initially, the Azad of old did not believe much in profit, but now I think I am a wiser man, a reactionary man, if you like....

MR. DEPUTY-SPEAKER: Is he a reactionary?

SHRI BHAGWAT JHA AZAD: There were many progressives on the left and right side. The Azad of 1952 was different from the Azad of today.

MR. DEPUTY-SPEAKER: I think your vocabulary is changing.

SHRI BHAGWAT JHA AZAD: That is a good thing. What you have said gives me consolation.

I want to understand this. You have given 20 per cent deduction out of profit. Okay. Now, I would not opposed it. Please make it 25 per cent or 50 per cent. But I want to understand this. After this Bill is enacted into law and after giving this deduction of 20 per cent, have you get any assessment, any project in your Ministry to tell us that there will be definitely an improvement of the backward areas? On what basis, have you decided on this 20 per cent deduction in profit for five years with a view to help them? You may make it ten years. If you give me that assurance, I will say 'all right', but before I give my assent to this, I would like to know that you have assessed that on the basis of 20 per cent to be given to my districts of Bhagalpur and Santhal Parganas or the district of Champaran or the district of Akola which is not there but may be there, the small man will be encouraged to go there, and put up industries in those backward areas. Or is it that just under pressure, you have come with this Bill? You have come with this 20 per cent after twelve years. You have become wiser about your tax laws after the Supreme Court gave its judgment. But you may find that none of those fools has gone there. Then we will know who will be the greater fool. Therefore, I want to know what is the assessment of Government on this.

Therefore, on these grounds it is very important that this Bill should go to the Select Committee. It should go to the Select Committee on these points. I am very sorry that the objectives laid down in the Bill will not be achieved by the clauses and the amendments that are there, and more so because, as I said, we have grown a little wiser after serving in

the several Select Committees, we felt that this piecemeal legislation by the Government on tax laws every year is not proper. Nobody knows what is the ABC or the XYZ of these laws, and all innocents who want really to pay are caught, and the big sharks who want to get away are getting away. Therefore, I suggest that while referring the Bill to the Select Committee, they should make one more good attempt, which you are promising to have, at bringing a comprehensive measure before the House and simplify the tax laws. I am prepared to concede that if you do not want to put the tax at 98 per cent it may be put at 75 per cent in the highest slab, but please do it and have the maximum tax arrears cleared.

SHRI S. R. DAMANI (Sholapur): Mr. Deputy-Speaker, Sir, after listening to so many hon. friends who are very much experienced in tax laws and the arguments and points they have made on this Bill,—that this Bill, if it is passed as it is, will be defective and will not serve the purpose and they have strongly recommended that this Bill should be referred to the Select Committee so that necessary amendments to the clauses can be made in order that the purpose which the Government have in mind may be served by this measure—I entirely agree with them. I request the Government and the Finance Minister to refer the Bill to the Select Committee. As I have said, I am also a Member of the Select Committee on the other Bill and I feel that we have worked hard, and we will submit our report in the first week of the budget session.

After having said this, I would like to say that the intention of the Finance Minister in introducing this Bill is to encourage the industries in selected sectors. Secondly, they intend to encourage industries in the backward areas and also to promote research and development in production in various fields. These are very

laudable objectives. Such concessions were being given since long. In this Bill, there is extra concession on depreciation, but previously, and up to now, this tax concession was available in the form of development rebate. This development rebate has helped in the setting up of industries in the country, and therefore, these concessions are all welcome.

Unfortunately, since the last five to six years, industrial activity has slackened. Our industrial production is not going up. Very few new industries have come up; what to talk about the backward areas, even in the established industrial areas, industries are not coming up. The result is that our industrial production has remained stagnant, and there is a shortage in many items. (Interruptions) I am coming to the point as to what are needed in the backward areas for setting up industries.

What are the difficulties? Why are not industries coming up in backward areas especially? It should be seen. I say that this Bill should go to the Select Committee so that suitable amendments might be made in the clauses. I want to know whether the hon. Finance Minister thinks that these concessions will by themselves improve or create new industrial activity. These concessions are in force for the last so many years and yet industries had not moved to backward areas. What is the finding of the Finance Ministry on this point? What are important are not only the tax concessions; facilities are also equally important. In fact the advantage of tax concession can only count after the industry is established. There are small and big towns in our vast country. But there are no proper communication or transport facilities. Take for instance the constituency of Sholapur, 250 miles from Bombay. If anybody wants to book a trunk call, it will not materialise for 24 hours. Without proper communication facilities, how can industries move to backward areas? And whose responsibility it is to create

[Shri S. R. Daman]

this infrastructure? Till then concessions will remain on paper, and backward areas will not get the benefit. There are many instances, but I shall not take your time in narrating them. Tax Concession is only a consolation for us. I shall cite one example.

There are our financial institutions such as IFC, IDBI, ICICI, etc. which are set up for rapid industrialisation of the country. But they are so rigid in their rules governing the grant of loans that it takes a long time for the scrutiny of any application. It is difficult for an ordinary entrepreneur to get any loan from them. When these institutions were established, the representatives of all the big business houses were on the board of directors and it was those boards which framed the rigid rules in such a way that an ordinary entrepreneur cannot give the guarantee or security and hence cannot get financial assistance also. The rules worked only in favour of big houses. Those rules and conditions still remain and unless they are relaxed it is difficult to get a loan from them for an ordinary or medium size entrepreneur whom Government actually wants to encourage whether the industry is located in a backward area or some other area. This rigidity should be removed and the rules should be so framed that the purpose of the Government, namely to set up industries, is fulfilled.

In many cases, they have taken so much time in examining the proposals that in that time the industry could have come up and started production? Therefore, my submission is, apart from transport and communications, the procedures and rules should be modified and relaxed so that advantage can be taken of the financial institutions for the development of industries by all sections of entrepreneurs.

SHRI R. N. GOENKA (Vidisha): Sir, I rise to oppose this Bill. There is no justification for this Bill. The history of the matter is, under section 271 of the Income-tax Act, they could levy a penalty on the amount of money which remained unpaid. But under the present Bill, they are making it payable on the complete assessed amount. For instance, if I am taxed for Rs. 10 lakhs and I have already paid Rs. 10 lakhs but I have failed to submit my return, I will be penalised on Rs. 10 lakhs.

SHRI N. K. P. SALVE (Betul): If you have paid a certain tax by way of provisional assessment or self-assessment, that would come in for deduction and only on the balance, the penalty would be leviable. This is the declaration of the Supreme Court.

SHRI R. N. GOENKA: The Supreme Court has laid down that the penalty can be levied only on the amount payable and not on the assessed amount. But this Bill lays down that the penalty will be on the assessed amount and not the amount payable. The result will be that anybody who pays the amount and fails to submit the return will be penalised on the whole assessed amount. They are not only trying to levy penalty on the entire amount but also making it have retrospective effect from 1962 onwards. The clause says "shall be deemed always to have been substituted". That means, this section is supposed to have been substituted by the new section from the time the enactment was made in 1962. What is the justification for this?

Firstly, there is no reason why penalty should be levied on the assessed amount. Secondly, there is no justification for making the amount payable with retrospective effect from 1962. Thirdly, clause 22 says that this will not apply to a person who has gone before the court, because the Supreme Court has laid down the principle that wherever the assessee

gets a relief from the Supreme Court, he will not be called upon to pay the money even if the legislation is changed. Therefore, to save that, clause 22 has been introduced here. In many matters when a particular point of law comes before the Supreme Court, many persons who are affected by that particular decision come in as interveners and they are as good as appellants before the Supreme Court. There is no relief for them but only for the person who goes before the Supreme Court as assessee. I would say that they should expand the definition of the word "assessee" so that it will include interveners before the Supreme Court. I do not see any justification for excluding them.

Then, if the intention of the Government is that the amount should be paid, then they should not worry about the return. People may pay the amount and still sometimes they may make a mistake in not submitting the return. A person should not be penalised for not submitting a return if he has already paid the amount. He should not be treated on par with a person who has not paid the full amount.

I do not want to go into the whole matter of the Income-tax Act and the difficulties experienced by the people in the administration of the income-tax law. I want to restrict my remarks to the provisions of the Bill before the House. I would say that the Finance Minister should reconsider the matter and see to it that it does not have retrospective effect and, secondly, the interveners who come before the court should not be penalised.

श्री मधु लियये (बांका) : अध्यक्ष महोदय, वित्त मंत्री ने जो विधेयक हम लोगों के सामने रखा है उसका कोई सीमित उद्देश्य नहीं है। यह एक आमनिवम विन है। पञ्जाबों किम्ब की बातें इस में

आई है। इसलिए मैं इस राय से सहमत हूँ कि इस पर जल्दबाजी में कोई निर्णय लेने की जरूरत नहीं है। पूरे टैक्सेज का मामला जब ज्वाइंट पार्लियामेंटी कमेटी के सामने है तो इस विधेयक को भी संयुक्त समिति के सामने भेजें।

सिद्धान्त के तौर पर मैं एक बात कहना चाहता हूँ कि अब से बैंक नेशनलाइजेशन का आर्डिनंस हुआ है यहाँ एक ऐसी हवा और फिजा बन गई है कि सेलेक्ट कमेटी में किसी बात को न भेजना यह प्रगतिशीलता और क्रान्तिकारिता का द्योतक है। उस समय भी हम लोगों ने विरोध किया था आप को याद होगा। तो इस में मैं कोई क्रान्तिकारिता नहीं समझता और इस में मैं किसी से होड़ भी नहीं करना चाहता। संयुक्त समितियाँ अपना काम समय से करें इस में तो मैं सहमत हूँ। लेकिन हर मामला, हर विधेयक वहाँ जाना चाहिए यह मेरी राय है। बिलकुल मामूली कोई विधेयक हो तो बात दूसरी है। यह कई बार मैं कह चुका हूँ। लेकिन बार बार विधेयकों के बारे में प्रस्ताव आते हैं। इसलिए मुझ को दोहराना पड़ा है।

इस विधेयक का जो प्रमुख उद्देश्य है कि पिछड़े हुए इलाकों की आर्थिक तरक्की हो और उन इलाकों का औद्योगीकरण हो उस से तो मेरा ख्याल है यहाँ कोई भी अग्रहमति व्यक्त नहीं करेगा। लेकिन मुझे लगता है कि इस उद्देश्य के पीछे इस विधेयक में एक बड़ा राज छिपा हुआ है। मैं केवल एक उदाहरण देना चाहता हूँ। कुछ बार्नें तो आजाद जी ने बहुत अच्छे ढंग से कही हैं। मैं इस में जो जिलों की सूची दी गई है उस की और आप का ध्यान दिलाना चाहता हूँ। महाराष्ट्र की जो सूची आपन श्री है उस में कोलाबा जिले का समावेश बड़ी खूबी से किया गया है।

[श्री मधु लिमये]

हालांकि मैं एसा मानता हूँ कि कोलाबा एक पिछड़ा हुआ इलाका है। लेकिन कोलाबा का एक हिस्सा ट्रिवन सिटी प्रोजेक्ट के तहत आता है यह वित्त मंत्री अच्छी तरह से जानते हैं। तो कम से कम उस को तो वह हटा देते, वरना तरीका यह होगा कि इस पूरे बिल का मतलब होगा कि ट्रिवन सिटी इलाके में जो हिस्सा आता है उसी में सारे उद्योग लगेंगे। उसके तहत 50 हजार एकड़ किसानों की जमीन आप ले रहे हैं। महाराष्ट्र की सरकार ने कहा है कि 30 करोड़ का कम्पेन्सेशन वह देंगे और साढ़ पांच सौ करोड़ में यह जमीन उद्योग-पतियों को देंगे। यह साढ़ पांच सौ करोड़ तो कागज पर दिखाया जायेगा, चाह्वाण साहब अच्छी तरह से जानते हैं महाराष्ट्र के मुख्य मंत्री को और उन के तरीके को, साढ़ पांच सौ करोड़ रुपया अंडर दि टेबल लिया जायेगा। कोई एक्वायरी वगैरह होगी तो इस को मैं मानित भी करा दूंगा। इसलिए कोलाबा का नाम इस में देख कर और ट्रिवन सिटी का उस में जो इलाका आता है उस को देख कर पूरे विधेयक के प्रति मेरे मन में सन्देह उत्पन्न हुआ है कि सारी जितनी इंडस्ट्रीज हैं वह इंडस्ट्रीज ट्रिवन सिटी इलाके में लग सकती हैं। आप भागलपुर का नाम ले रहे हैं, भागलपुर में भी कोई चीज आने वाली नहीं है.....

श्री एम० रामगोपाल रेड्डी : (निजामा-वाद) : क्यों ?

श्री मधु लिमये : वह नहीं चाहते हैं, उन के लिए तो इस को बनाया ही नहीं गया है। न बांका में कुछ आनेवाला है—यह तो सिर्फ ट्रिवन-सिटीज में लूट करने के लिए, किसानों को लूटने के लिए बनाया गया है। इसलिए जिलों की जो सूची बनाई गई है संयुक्त समिति को उसे बहुत सावधानी से देखना चाहिए। मैंने अभी एक

ही उदाहरण कोलाबा का आप को दिया है। आप को पता चलेगा कि इन सारी इण्डस्ट्रीज की सूची, जिलों की सूची, 20 परसेन्ट डेवप्लेमेन्ट रिबेट की बात, 20 परसेन्ट दूसरी किस्म की मुनाफे पर छूट—इन का सारा मतलब यह है—यह केवल बड़ी इण्डस्ट्रीज की मदद करने के लिए ही नहीं, बल्कि बम्बई-पूना का जो इण्डस्ट्रीयल इलाका है उस का विस्तार करने के लिये यह सारा नाटक रचा गया है। आज देश में कुछ इण्डस्ट्रीयल एरियाज ऐसे हैं जिन का बहुत अधिक विकास हो रहा है, इसलिए केवल जिले के आधार पर इस की भौगोलिक सीमा नहीं होनी चाहिए—यह सुझाव मैं आप को देना चाहता हूँ।

अभी राम नाथ जी ने जो बात कही है, मैं उस में एक तथ्य देख रहा हूँ.....

श्री नरेन्द्र कुमार साल्वे : वह गलत है। आप एक्सेन्सेशन पढ़िये। पेज 8 पर दिये गये एक्सेन्सेशन में लिखा है

“Explanation—In this clause “assessed tax” means tax as reduced by the sum, if any, deducted at source under Chapter XVII-B or paid in advance under Chapter XVII-C.”

जो एडवांस टैक्स पे करेंगे वह इस में से काट दिया जायेगा।.....

श्री मधु लिमये : मेरी समझ में यह बात नहीं आ रही है फिर भी मैं इन की राय को मान कर चलता हूँ। आप इस मामले के विशेषज्ञ हैं, यह मैं जानता हूँ, इसलिए आप की बात को मानता हूँ और इस विषय को अभी छोड़ देता हूँ

उपाध्यक्ष महोदय, अब आप क्लॉज की ओर आइये। मुझे पता नहीं वित्त मंत्री जी ने इस पर विचार किया है या नहीं। 13वें क्लॉज में इस पार्लियामेंट के द्वारा आप रिट्रांसपेक्टिवली कानून बनाना चाहते हैं, लेकिन 14वें क्लॉज में आप क्या कर रहे हैं—बोर्ड को पावर दे रहे हैं—नियम बनाने का और यह नया कानून जब से अमल में आयेगा उस तारीख से नहीं क्योंकि आप 295 में अमेण्डमेंट कर रहे हैं। इस का मतलब है कि इन्कम-टैक्स एक्ट जिसे साल से अस्तित्व में आया अर्थात् 1962 में, उसी समय से लागू होने वाले रिट्रांसपेक्टिव नियम बनाने का अधिकार दे रहे हैं। इस में आप कहते हैं कि किसी असेंबली के खिलाफ वह बात नहीं जायेगी, लेकिन जो नियम बनायेंगे वह तो खिलाफ जायेगा ही इसलिए इस का मतलब मेरी समझ में नहीं आ रहा है, इस तरह का क्लॉज बिलकुल ही नहीं होना चाहिए।

इस के बारे में डेलीगेटेड लेजिस्लेशन सम्बन्धी जापन में जो कहा गया है, उस को भी देख लीजिए। ये खुद मानते हैं कि 13 का प्रावधान भी रिट्रांसपेक्टिव है, लेकिन यह पार्लियामेंट कर रहा है वह ठीक है। लेकिन इस में देखिए—कुछ एडमिनिस्ट्रिव डिटेल्स के बारे में आप अधिकार देते हैं, उस पर मेरा आक्षेप नहीं है लेकिन क्लॉज 14 का अधिकार तो बिलकुल असाधारण है और असाधारण होने के बाद भी आप कहते हैं—

“This delegation is of a normal character.”

इस तरह से तो शब्दों का कोई मतलब ही नहीं रहा। प्रगतिशील प्रतिक्रियावादी हो जाता है और प्रतिक्रियावादी प्रगतिशील हो जाता है, साधारण से असाधारण हो जाता है और असाधारण से साधारण बन जाता है। इसलिए डेलीगेटेड लेजिस्लेशन के बारे में संयुक्त समिति में जब

मामला जायेगा तो उस को गम्भीरतापूर्वक इस बारे में सोचना चाहिए।

16.00 hrs.

आज हम लोगों की यह हालत है कि बिना क्रेडिट और फिस्कल मेजर्स के काम नहीं चलता है। यह एक परम्परागत बात हो गई है और आप इसी के द्वारा औद्योगीकरण को एक दिशा देने का प्रयास कर रहे हैं। लेकिन जब कि हमारे देश की अर्थ व्यवस्था का मीनिटाइजेशन बहुत सीमित मात्रा में हुआ है तो केवल फिस्कल और क्रेडिट मेजर्स के द्वारा औद्योगीकरण की दिशा को बदलने का काम नहीं किया जा सकता; वैसे विकसित देशों में भी फिस्कल और क्रेडिट मेजर्स से काम नहीं चलता है। जब कि आप के यहाँ तो सरकार के पास इतने अधिकार हैं। तो उनका इस्तेमाल करो। इसलिए मैं आप से यही कहना चाहता हूँ—सरकार के मंत्रालय की एक नीति होती है, कानून में एक उद्देश्य रखा जाता है, उसी मंत्रालय के द्वारा दूसरा कानून आता है जो पहले उद्देश्य को असफल बना देता है। एक मंत्रालय जो काम करता है, दूसरा मंत्रालय उस के विपरीत करता है। इसलिए मेरा बिलकुल विश्वास नहीं है कि केवल वित्तीय और क्रेडिट सम्बन्धी निर्णय लेकर औद्योगीकरण की दिशा को बदलने में सरकार को सफलता मिलेगी। आप को सम्मान दृष्टि रखनी चाहिए। सम्यक दृष्टि रख कर विकसित इलाकों में इन्फ्रान्स्ट्रक्चर बना कर उस के बाद फिस्कल मेजर्स और क्रेडिट के मामले में कोई मुझाव लेकर यदि आप आते हैं, तो उसका फायदा मिल सकता है।

कोलाबा की बात मैंने आप के सामने रखी है, ऐसा मामला रत्नागिरी में तो नहीं है, फिर भी इन सारी चीजों पर पुनर्विचार

[श्री मधु लिमये]

होना चाहिए। मंत्री महोदय से प्रार्थना है कि वे इस पर पुनर्विचार करें। इस बात की मुझे खुशी है कि इस विवाद में सभी कांग्रेसी सदस्यों ने भी, हम लोग जो बात कह रहे हैं, उन्हीं को कहा है, साठ साहब ने, जालवे साहब ने, आजाद साहब ने, सब ने वही कहा है और हम तो एक अर्थ से कह रहे हैं। मुझे खुशी है कि इस पर सदन की एक राय है, इसलिए वित्त मंत्री जी इस बात को मानें।

SHRI VAYALAR RAVI (Chirayinkil). Mr. Deputy-Speaker, Sir, I will not take much time of the House. I would only appeal to the good sense of the Finance Minister to refer this Bill to the Select Committee.

There is a talk of more production and under the pretext of production this Bill is giving an open invitation not only to the Indian monopolists for expansion but also. I am afraid, to foreign multi-national corporations because Clause 2, sub-clause (1), Chapter II, section 10, provides a big concession to foreign technicians followed by big concessions to foreign collaborations even. Sub-clause (e) also provides a big concession in respect of 'capital plant and machinery or for the purpose of importing any goods.'. In a sense, big concessions and facilities are being given to people coming from abroad or already employed in foreign companies here or those who are coming with foreign capital here. I am afraid, it is an open invitation to big foreign companies.

Moreover, I fail to understand how starting a hotel—I can understand backward areas—is going to help. Hotel is not employment-oriented. It is meant for converting the black money into white and to enable rich people to spend their holidays. In the name of tourism, in the country today 5-star hotels are being opened and 90

per cent of the people who stay there are Indians.

Coming to production, what do we produce? Is there any aircraft or ship? I can understand your producing fertilisers; I can understand your generating power or supplying water. Mere production alone will not contain inflationary tendencies. In the western countries today, the pound and the Dollar are floating. Price increase has forced the British Government to declare Emergency. The Finance Minister will agree with me that it is not because of lack of production. Mere production alone will not save us from price rise or inflationary tendencies. It needs something more—a scientific planning and approach to the problems.

Unfortunately, we are lacking that here. As Mr. Sathe has pointed out, take the Ninth Schedule. I do not want to go into it in any elaborate detail. For example, with regard to ships, for purchasing a second-hand ship, the hon. Minister knows it very well, the Government is financing to the extent of about 80 per cent of the value of the ship, even in regard to the foreign exchange. So, the Government itself is financing those who want to purchase the ships, even in the matter of foreign exchange. I can understand the logic in including this. Then, take the tyre companies. 80 per cent of the automobile tyre production is controlled by foreign companies and the foreign technicians. Here you want to give more facilities to the foreign companies. Other things are here. But, unfortunately, we are missing a very important sector, the fertiliser sector. There is no mention about fertiliser. I can understand if you include fertiliser also.

I will say that there is every reason to believe that under the pretext of more production, more investment and also in the name of development of the backward areas, this is an open invitation to the foreign monopolies as well as a clean hit to the monopoly houses

to expand. So, I appeal to the hon. Minister to kindly refer the whole Bill to a Joint Select Committee.

SHRI R. V. SWAMINATHAN (Madurai): I also associate myself with many of my friends and would urge upon the hon. Finance Minister that this is a Bill which should be referred to a Select Committee. It appears strange that when a Bill on Taxation Amendment of a comprehensive nature, containing most of the clauses which are here in this Bill is being considered now by a Select Committee which has received many representations and also evidence has been recorded and it has received many valuable suggestions which are being considered now by that committee, the Finance Minister should rush through a Bill like this. From the Exchequer point of view, if they so desire, they can have a clause giving retrospective effect. I would say that even the 8th Schedule should be reconsidered. The new clauses 13 and 22 which are in this Bill require careful consideration. In the Ninth Schedule, definitely we have to add much more and very important industries which will benefit the poor people of our country. Therefore, I request and appeal to the hon. Minister to accept the request made in this House on both sides that the Bill be referred to a Select Committee.

With these words, I once again request the Minister to refer the Bill to a Select Committee.

SHRI P. G. MAVALANKAR (Ahmedabad): Most of the things which needed to be said about this particular Bill have been already said in this debate and I am glad they have been said very well by various Members belonging to the various Parties. But, even at the cost of repetition, I wish to suggest that not only this Bill should be sent to a Select Committee, but the whole purpose of taxation which is before the Government of India should be looked into more carefully and in a thorough ex-

amination. The best thing would have been for this particular measure also to be linked with the Taxation Laws (Amendment) Bill which is already before the Select Committee.

I do not know as to what was the rationale behind having this Bill taken out from the main body of the Taxation Laws (Amendment) Bill and why the Finance Minister is bringing before this House a separate measure. Perhaps, he will explain again why he has done so. If the only reason is that he wants certain industrialists to come and set up industries in the backward areas, then I do not think that is a point which needs so much urgent attention, because these backward areas have remained backward so long that even if the Government had taken some more time and clubbed this particular measure with the overall comprehensive Taxation Laws (Amendment) Bill, no harm would have been done. In fact, it is amusing and somewhat interesting to see that some people at least think while reporting on this particular measure that there is no difference between the Direct Taxes (Amendment) Bill, 1973 which we are now discussing and the Taxation Laws (Amendment) Bill, 1973 which is now before a Select Committee.

At least one newspaper, an esteemed national daily 'The Times of India' in to-day's issue has mixed up the two Bills.

SHRI N. K. P. SALVE: It is a wrong-reporting.

SHRI P. G. MAVALANKAR: Yes, it is. The earlier paragraph speaks about the taxation laws amendment bill and the objectives laid down by the Wanchoo Commission. Any way, my point is that the two could have been very well-grouped. I understand that the Wanchoo Committee has very ably dealt with this thing. If you want to deal with a complex situation and the socio-economic matters, then you cannot hope to have a very simplified

[Shri P. G. Mavalankar]

taxation law. You are bound to go through the various *pros and cons* and various aspects which might lead you to all kinds of difficult situations including the complexities which my hon. friends—lawyers and other experts—mentioned. The Wanchoo Committee, in their report, on page 109 have said and I quote:

“Most of the exemptions are based on sound rationale and are intended to achieve clear-cut economic or social goals”.

My objection against this Bill is this that these provisions are not based on what the Wanchoo Committee said, namely, ‘sound rationale’. They certainly did not tell us what are the clear-cut economic or social goals which the Government wants to promote. Therefore, it is no use merely saying that we want to achieve economic and social objectives by this Bill—a very complex law, indeed, it is. This Bill wants to achieve a certain economic and social justice. How can this be achieved when this is a bill with all its complexities? It is complex for everybody—for the tax payer, collector and all the rest of it. Therefore, I feel that such an important measure which goes into fundamental questions and which goes into details of the taxation laws, the technicalities, economic and social matters, etc. should not be disposed of summarily in a short debate here.

Secondly, I feel that with regard to the problems of backward districts, my friend, Shri Limaye had already made a mention about that. I too wonder as to how and in what manner this list was drawn. Perhaps the Minister may say that the list was given by the Planning Commission. My question would be: how would the Planning Commission make such a list? When I looked at the various districts, particularly, of some of the States about which I happen to know something, I

suspect that the list that is made cannot necessarily be on the basis of economic backwardness but on pure political considerations and considerations of constituency interests. Indeed, I feel that if a second chance were given, especially after some States having got the Congress Ministries toppled and they have already got new Congress ministries, or it may be that some other parties come in power in some States, and if the Planning Commission or the Government of India were to ask the new Ministries to send a list, probably, they will remove certain districts from this list and add some new districts!

Therefore also, I want to tell the Finance Minister that when he talks about backward districts and when he wants this hon. House to believe that they are really backward, I also want him to tell us whether they are backward economically or they are backward in terms of certain political considerations.

There are many districts that are not selected on the economic and social basis. I am here talking in a general way. I am not going into details of it. All I want to tell Government is that the lists are not drawn on the basis of pure economic or social considerations but on political considerations.

Now, Sir, look at the 9th schedule and the list of articles or things which are mentioned here. The list there is terrible. I do not know who are the industrialists who will accept it and will go to these backward areas. For example, the Bill has mentioned Iron and steel, thermal and hydro-electric power generation equipment, machine tools, aircraft, tyres and tubes. How are the ships and aircraft industries in backward districts relevant here? These are all given in the list. Are we to gulp down whatever comes merely because it comes from Government?

Then, we have cotton and jute textiles and cement. I would particularly

like to refer to item 8 which is industrial and agricultural machinery. That item is almost like a wide umbrella which might cover anything and everything. On the one hand, Government say that they want to give this benefit only to selected sectors of industry, but on the other, by putting in item 8, namely industrial and agricultural machinery, they are putting in such a wide thing that it can cover almost anything and everything.

Therefore, I feel that on account of bad drafting of this Bill, on account of the wrong economic considerations put into it, on account of the unnecessary complexities of drafting that have entered into this measure, and also in view of the fact that a larger and more comprehensive Bill, namely, the Taxation Laws (Amendment) Bill is already before a Select Committee, I hope the Finance Minister will accept the suggestion which has come practically from all sections of the House to send this Bill to a Select Committee, and after having the report of the Select Committee, we shall have a better chance of assessing whether the things which Government want to propose and implement are the things which really will bring in economic and social justice.

If Government want that economic and social justice be accelerated, let them be clear about their goals and about the machinery with which they want to achieve those goals.

I have been finding that my esteemed friends, Shri Bhagwat Jha Azad, Mr. Salve, Mr. Sathe, Mr. Sezhiyan, Shri H. M. Patel and some of us who have been Members of the other Select Committee feel that although some of the changes are very laudable and very necessary and very desirable, the manner in which the Government are approaching the whole problem and trying to adopt certain legislative measures is far from desirable and certainly far from satisfactory. In other words, they will not promote

the very objectives on which I am sure most sections of this House are agreed.

Therefore, I hope that the Select Committee which will go into these matters,—in case, of course, the Finance Minister agrees to the proposal to refer this Bill to a Select Committee,—will make this measure as less complex as possible, so that the simple goals of economic justice, regional balanced development of the economy and accelerated growth of our economy will be achieved in no time.

MR. DEPUTY-SPEAKER: Before I call the Finance Minister to reply to the debate, I would like to say that I have received notice of a motion seeking to adjourn the discussion on this Bill to next week. I think that this is independence to the wishes expressed by many Members.

THE MINISTER OF FINANCE
(SHRI YESHWANTRAO CHAVAN):
Shall I move the motion?

MR. DEPUTY-SPEAKER: He can reply and choose his own time.

SHRI YESHWANTRAO CHAVAN:
I do not propose to give any very detailed reply to the debate, because I am going to accept the suggestion made by hon. Members that it should be referred to a Select Committee. But, for that matter, I shall have to consider the composition of the Select Committee, whether I should refer it to the same Select Committee or another Select Committee, and I shall have to go into many other matters. Therefore, I am making a motion:

"That the further debate on the Direct Taxes (Amendment) Bill, 1973, be adjourned to next week."

My main point in insisting on the passing of this Bill during this session was that some of the provisions which we had included in the Bill needed to be brought into operation on the 1st April, 1974. Therefore, it is necessary to get this Bill through before that

[Shri Yeshwantrao Chavan]

date. As you know, Sir, the timetable for the budget session is so tight; I need not tell you about it because you are quite aware of it. The timetable of the budget session is so tight and fixed and it becomes very difficult to have any time allotted for the legislative business.

Therefore, I am presuming that the House will agree now that we shall get this Bill passed sometime in the first week of the next session, by finding a day or two for this purpose, and I am also going on the presumption that the House will ask the Select Committee not to prolong the deliberations by inviting people for evidence etc. but to submit the report before the beginning of the next session.

Some criticism has been made, but I must say that I am agreeing to refer this Bill to a Select Committee, not because I accept most of the criticism. But if it is the wish of the House that they should have another opportunity to have a very thorough look at the Bill, I certainly agree; I have no objection.

There was a criticism levelled that this is only meant for the monopoly houses. Whether an industry should be allowed to be started by A, B or C is ultimately done by Government on the basis of the advice of the Monopolies Commission. It is a question of giving some incentives. Once an industry is allowed to start, it should qualify to get these incentives. Therefore, we are not by this Bill giving some special facility for any body to start an industry. The advantages under this Bill are attracted only when one is allowed to start an industry. Whether it is a monopoly or non-monopoly is a completely different matter. That is not the question in this Bill at all. So possibly that point of criticism was rather misconceived and is misapplied here.

Secondly, there is the question of backward areas.

PROF. MADHU DANDAVATE (Rajapur): The point is that the Monopolies Commission takes a final decision.

SHRI YESHWANTRAO CHAVAN: They make only recommendations; they do not take decisions.

PROF. MADHU DANDAVATE: The decision to refer a matter to the Monopolies Commission is always taken on a number of considerations.

SHRI YESHWANTRAO CHAVAN: That is a completely different aspect. Those considerations are applicable even now. By passing this now, we are not affecting that.

I was about to refer to the backward areas. Certainly a very valid criticism was made. Shri Limaye made a point. I think he is right in the sense if a part of what is done for the Kolaba district serves as a further incentive to the twin city, it is certainly misapplied. Therefore, it needs to be looked into. I can very well understand it.

But these criteria of backward districts have been accepted on the basis of what is accepted by the Planning Commission. The Planning Commission has identified the areas which are the backward areas. Even now we allow some concessional credit facilities and other things from the financial institutions on this very ground.

SHRI VASANT SATHE: This is a much wider consideration for agricultural growth and other things. Here we are specifically thinking of industrial growth. Unless infrastructural facilities are there, how will industries grow? Does he appreciate the point?

SHRI YESHWANTRAO CHAVAN: I appreciate everything he said.

Now, for example, for agricultural development, agricultural progress,

there is no question of advanced and backward areas. Really speaking, the concept of backward areas has been evolved to see that certain special concessions and facilities can be made available to help industrial development to those areas. That is the main object. I have no doubt the House will go into it, but you will have to evolve some sort of common criteria for this matter because once we accept the concept for the purpose of planning, then it must be applicable for all purposes. You cannot say that for the purpose of income-tax facilities, one area is a backward area and for agricultural and other development some other area is a backward area. We cannot have that distinction.

I know the backward area concept has been evolved by the Planning Commission taking into consideration many criteria, such as, what is the urbanisation of the area, what is the spread of industry in the area, what are the infra-structure facilities available there, communications and other things. These matters have been taken into consideration. Certainly the Select Committee can call some one from the Planning Commission to advise it on this matter.

These are some of the things I wanted to say. When I say I am agreeable to reference to a Select Committee, I do not mean to say that I have accepted many of the criticisms levelled against the Bill. It is on the basis that I say that certainly the Select Committee can consider this Bill.

AN HON. MEMBER: You have an open mind.

SHRI YESHWANTRAO CHAVAN: I have normally an open mind, but not open at both ends and therefore

there is nothing in the mind at all. I am prepared to listen to all points of view. Therefore, I hope the House will accept my Motion.

MR. DEPUTY-SPEAKER: The question is:

“That the further debate on the Direct Taxes (Amendment) Bill, 1973 be adjourned to next week”.

The motion was adopted.

16. 26 hrs.

[SHRI K. N. TIWARY in the Chair]
FOREIGN AWARDS (RECOGNITION AND ENFORCEMENT) AMENDMENT BILL

THE MINISTER OF COMMERCE (PROF. D. P. CHATTOPADHYAYA): Sir, I beg to move:

“That the Bill to amend the Foreign Awards (Recognition and Enforcement) Act, 1961, as passed by the Rajya Sabha, be taken into consideration.”

Sir, this Bill seeks to amend section 3 of the Act so as to bring it out clearly that it is intended to implement fully Article II of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958.

The Foreign Awards (Recognition and Enforcement) Act, 1961 was enacted by Parliament in order to give effect to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on the 10th June, 1958. Its object was speedy settlement of disputes arising in the course of international trade through arbitration. Article II of the Convention reads as follows:

“1. Each Contracting State shall recognise an agreement in writing under which the parties undertake