

Amendment made :

Page 1, line 1,—
for "Eighteenth" substitute "Nineteenth".
(10)
(Shri Vidya Charan Shukla)

MR. DEPUTY-SPEAKER : The question is :

"That the Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to the Bill.

SHRI VIDYA CHARAN SHUKLA : I beg to move :

"That the Bill, as amended, be passed."

MR. DEPUTY-SPEAKER : The question is :

"That the Bill, as amended, be passed."

The motion was adopted.

— — —

16.03 hrs.

ESTATE DUTY (AMENDMENT) BILL

THE MINISTER OF STATE IN THE
MINISTRY OF FINANCE (SHRI K. C.
PANT) : Sir, I beg to move :

"That the Bill further to amend the Estate Duty Act, 1953, be taken into consideration."

Sir, this short Bill has the limited purpose of securing that the amendments made to Estate Duty Act by Parliament during the period of emergency continue to operate in respect of estate duty on agricultural lands situated in the States after the expiry of six months from the date of revocation of the proclamation of emergency. As hon. Members are aware the power to legislate for levy of estate duty in respect of agricultural land vests in the States. Parliament is authorised to legislate for levy of estate duty in respect of agricultural land only after the legislatures of two or more States have passed resolutions for

this purpose under article 252 (1) of the Constitution. The Estate Duty Act of 1953 was enacted after such resolutions were passed by the legislatures of Bombay, Madhya Pradesh and some other States.

Thereafter, the Act was adopted by certain other States by Resolutions passed by the respective Legislatures, and the Act at present applies to agricultural land in all the States except the States of West Bengal and Jammu and Kashmir.

Any amendment to the Estate Duty Act in relation to agricultural land can likewise be made by Parliament only after following the procedure adopted in respect of the parent Act, that is to say, after resolutions under article 252(1) are passed by two or more State Legislatures, authorising Parliament to make such amendments.

However, while a proclamation of emergency is in operation, Parliament is authorised under article 250 of the Constitution to legislate even in respect of matters which are ordinarily outside its legislative power. Accordingly, several amendments to the Estate Duty Act were made by Parliament by various enactments during the period of the emergency without resolutions under article 252(1) of the Constitution being passed by the Legislatures of States. These amendments, which naturally provide certain exemptions and concessions and increases the rate of estate duty apply, as also the estate duty in respect of agricultural land, in States other than West Bengal and Jammu and Kashmir. These amendments will, however, cease to have effect in relation to agricultural land on the expiration of six months after the termination of the emergency, that is to say, on July 9, 1968 and the pre-emergency law will be restored in respect of such land unless these amendments are continued through appropriate legislation by Parliament.

16 38 hrs.

[Shri R. D. Bhandare in the Chair]

I have circulated for information of hon. Members a note setting forth the gist of the important amendments made to the Estate Duty Act by Parliament during the period of emergency.

Some time back it was suggested to the

[Shri K. C. Pant]

Governments of the States which have adopted the Estate Duty Act in relation to agricultural land that they might move the State Legislatures to pass resolutions under article 252 (1) of the Constitution, authorising Parliament to legislate for the continued operation of these amendments in relations to estate duty on agricultural land in those States. So far, the State Legislatures of Gujarat, Madras, Maharashtra and Rajasthan have passed the requisite resolutions under article 252(1). The copies of these resolutions have been placed in the library of Parliament. It is now proposed to make a provision in the Estate Duty Act for the continued operation of these amendments in relation to agricultural land situated in the States of Gujarat, Madras, Maharashtra and Rajasthan. It is also propose to provide, as envisaged in article 252 of the Constitution, for the continued operation of these amendments in relation to estate duty on agricultural land in any of the other States, the legislatures of which hereafter pass the requisite resolutions. The names of such States will be notified by the Central Government in the Official Gazette.

Sir, I hope the provisions of this short Bill will receive the unanimous support of this House.

MR. CHAIRMAN : Motion moved :

"That the Bill further to amend the Estate Duty Act, 1953, be taken into consideration."

SHRI SRINIBAS MISRA (Cuttack) :

Mr. Chairman, there is no objection to the Bill as such. Still, I have to point out something. Please look at article 269. I am raising this matter and I am sure the Minister in his calmer mood will see the cogency of my contention. Article 269(1) (b) is :

"estate duty in respect of property other than agricultural land ;"

So, the Union Government will collect the estate duty in respect of any property except agricultural land and distribute it to the States. So, the States would now like to have one agency so that estate duty in respect of agricultural land could also be distributed to them. Perhaps all the States would now like that, But what does the

Act contemplate ? Clause (a) of section 2 says that it shall apply to the States of Gujarat, Madras, Maharashtra and Rajasthan, because they have already passed resolutions under article 252. Then the next clause says that it will apply to :

"any other States which the Central Government may, by notification in the Official Gazette, specify in this behalf after resolutions have been passed by the Legislatures of those States adopting the said amendments under clause (1) of article 252 of the Constitution."

It means that after the State Legislatures adopt the Resolutions it will not be operative it will be operative only when the Central Government notifies by a Gazette notification.

I think this Bill goes farther than the Constitution. The second part of article 252 says :—

"it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall apply"—

please mark the words "shall apply"—

"to such States and to any other State by which it is adopted afterwards by resolution passed".

The Constitution provides that after this Bill is passed, if any State Legislature passes a Resolution adopting it, it shall apply. It is not conditioned by any notification by the Central Government. But this Bill wants to make it conditional upon a notification by the Central Government.

Suppose, a State Legislature a Resolution and the Central Government does not think of notifying then it will not be applicable under the provisions of the Bill. But the Constitution gives that right to all States that as soon as they pass a Resolution, it shall apply. It is not conditional upon any notification by the Central Government.

I think, Minister will see reason and try to change it. He may get it done. There is no opposition to the Bill as such because all States want that they should get this money and it should be collected. But he should see reason and try to get it amended on his own motion.

SHRI RAMCHANDRA J. AMIN (Mehsana): Sir, I oppose this Bill on merits. Our country is deficit in agricultural products, mainly foodgrains, and we want to encourage the cultivators and give them every facility that the Government can grant. When the Congress was fighting against the British for independence, by resolution they promised that they would abolish land revenue when they come into power. Even after 20 years the Congress has not done it, but some States like Orissa and Madras have abolished land revenue so as to encourage cultivators to produce more foodgrains for the country so as to be self-sufficient in foodgrains and we may not have to import foodgrains from America and other countries.

Now, here instead of giving any facility or convenience to agriculturists, the Central Government has come forward to apply the Estate Duty Act to Agricultural land which is not applicable now.

SHRI K. C. PANT: May I correct my hon. friend? It is applicable even now. This does not make any difference so far as the applicability to agricultural land in States goes. It is only in respect of those amendments which have been passed during the period of the emergency which will lapse unless this is brought forward to enable the States to adopt them if they so like. That is the scope of this Bill.

SHRI RAMCHANDRA J. AMIN: It was an emergency measure, which allowed the President to declare by a Proclamation. But the Proclamation is not the law. It was only for the emergency period that it came into existence. Now we have got the power to oppose it and say that the Proclamation which had given the power of taxing should not be continued even after six months and it should not be made a law.

If the Gujarat Government has passed a Resolution to apply this Estate duty Bill to Gujarat, it is a pity that Gujarat instead of encouraging the cultivators is going to request the Central Government to have the Bill applied to Gujarat also. I oppose it because perhaps the Gujarat Government may not have considered the resolution of the Congress in the past years. They

might have considered to tax their agricultural land and collect money. But in the case of agriculturists, they should be given as many benefits as we can so that the country may be self-sufficient in foodgrains.

I oppose only on these grounds. If you want to encourage agriculture, if you want to encourage cultivators, it is to abolish land revenue which is the policy of the Congress and which is not put in practice in all the States. Some States have already put it in practice, just as, Orissa and Madras. Gujarat has not followed the example because there is the Congress Government there. They are still violating the Resolution of the Congress which was passed in the past.

I oppose it on the ground of merits. Instead of encouraging agriculture, we are going to tax cultivators more on agricultural lands by levying this duty. I think it is not desirable in the circumstances in which the country is suffering from the scarcity of foodgrains.

श्री तुलशी दास जाधव (वारामती) : चेरमैन साहब, यह जो एस्टेट ड्यूटी अमेन्डमेंट बिल, 1968 हाउस के सामने है, इस बारे में मैं अपने कुछ विचार प्रदर्शित करना चाहता हूँ। इस बिल के पढ़ने से एक बात स्थल में आती है और वह यह कि महाराष्ट्र, गुजरात, मद्रास और राजस्थान इन चार प्रान्तों की असम्बलियों ने रेजोल्यूशन पास किया है, उस को चालू करने के लिए यह बिल यहाँ पर लाया गया है। 1953 में लैंड पर एस्टेट ड्यूटी बँटाने के लिए जो एक्ट बना था, उसको बीच में एमरजेन्सो के वक्त कुछ अमेन्डमेंट करके चालू रखा गया, लेकिन अब चूकि एमरजेन्सी का वक्त नहीं है, इसलिए उन कानूनों के मन्जूरी देने के लिए यह बिल यहाँ पर पेश हुआ है।

मेरी दृष्टि में हिन्दुस्तान की आज की अवस्था को देखते हुए जमीन पर एस्टेट ड्यूटी बँटाना कहाँ तक सही है, यह समझ में नहीं आता है। मैंने इसके बारे में जहाँ तक मालूमात ली उससे यह मालूम होता है कि 50 हजार की इन्

[श्री तुलशीदास याधव]

के ऊपर यह एस्टेट ड्यूटी है, इसके अलावा यदि इस से कम हो, जैसे 30 हजार या 40 हजार या 45 हजार भी इन्कम हो और पाँच हजार जमीन का उत्पादन हो? तो उसके ऊपर भी एस्टेट ड्यूटी बँटाने का अभी नियम है। इसके मायने यह हुए कि जमीन की एस्टेट दूसरे में मिला कर यह एस्टेट ड्यूटी बँटाई गई है। मेरी दृष्टि से हिन्दुस्तान की जो मेन इण्डस्ट्री है, वह खेती है तथा खेती का उत्पादन बढ़ाना हमारा मेन इन्टेशन है, उद्देश्य है। लेकिन आज भी बहुत सी जगहों पर पचास-पचास साठ-साठ एकड़ जमीनें पड़ी हुई हैं, लेकिन उन के पास साधन नहीं है, इस वजह से उत्पादन नहीं हो पाता है। जहाँ छोटी जमीनें होती हैं, वहाँ दूसरे साधन न मिलने से जितना उत्पादन होना चाहिये, उतना नहीं होता है। इसीलिये हम एग्रीकल्चर प्रोडक्शन बढ़ाने के बारे में यहाँ से वहाँ तक इन्टेन्सिव प्रोपेगेन्डा करते हैं, लेकिन जब हम उनके ऊपर यह एस्टेट ड्यूटी बँटाते हैं, या बँटाने वाले हैं, तो इसका क्या प्रभाव पड़ेगा। इस वक्त सिर्फ चार प्रान्तों में एस्टेट ड्यूटी एग्रीकल्चर उत्पादन को मिलाकर बँटाई है—यदि देखा जाय तो कुल हिन्दुस्तान में एस्टेट ड्यूटी जो है वह साढ़े छः करोड़ है, उसमें से खाली जमीन का मिला कर आधा करोड़ है। यह ठीक है कि अगर प्रान्त स्टेट ड्यूटी लगाने के लिये तैयार हैं तो उसमें सेन्ट्रल गवर्नमेंट क्या कर सकती है क्योंकि जहाँ तक स्टेट ड्यूटी लगाने का सवाल है, यह स्टेट्स के अधिकार क्षेत्र में आता है। लेकिन देश के अन्दर अगर खेती के उत्पादन को बढ़ाना है, गर हम यह चाहते हैं कि काश्तकार खेती में अधिक से अधिक मेहनत करें, उनका जो मुनाफा वह कम न हो, अगर हम चाहते हैं कि उन कृषि के उत्पादन में अधिक से अधिक साहज मिले और वे भी अपना जीवन अच्छी-हसे व्यतीत कर सकें तो फिर मेरी राय में उनके ऊपर 50 लाख की स्टेट ड्यूटी लगाना

किसी प्रकार से भी उचित नहीं होगा। सरकार से मेरा निवेदन है कि वह इस पर विचार करे।

जहाँ तक उद्योग-धन्धों की बात है या जैसे शहरों में मकान होते हैं, उन पर अगर स्टेट ड्यूटी लगाई जाती है तो वह बात तो समझ में आती है। लेकिन जहाँ तक खेती की बात है, इसमें किसान अपने खून से और पसीने से उत्पादन करता है। जो दूसरे पेशे वाले हैं, जैसे वकील हैं या डाक्टर हैं उनके पास तो जो दूसरे श्रम करने वाले, मेहनत करने वाले लोग हैं उनके द्वारा पास पैसा आता है। उसमें हो सकता है कि वे, जो श्रमजीवी हैं या जो गरीब लोग हैं उनको एक्स्प्लायट करते हैं। इस प्रकार से जो उनके पास पैसा आता है उसको दूसरे लोग हीनता की दृष्टि से देखते हैं। लेकिन जहाँ तक काश्तकारों की बात है वह खुद अपनी मेहनत से एस्टेट बनाते हैं। जो शहरी इनकम है, जो शहरों की एस्टेट हैं उनके बारे में तो मेरा कोई विरोध नहीं है लेकिन खेती के ऊपर स्टेट ड्यूटी लगाना मेरी राय में किसी प्रकार से भी ठीक नहीं है। इसको नहीं लगाना चाहिये। जो प्रान्त हैं, जैसे महाराष्ट्र, गुजरात, मद्रास या राजस्थान जिन्होंने अपने यहाँ स्टेट ड्यूटी लगाई है, सेन्ट्रल गवर्नमेंट को उन प्रान्तों से भी कहना चाहिये कि यह ठीक नहीं है, इसको समाप्त करो।

अगर कोई फँकटरी एरिया हो, शहर फँकटरी का एरिया, जहाँ पर उचित रीति से गन्ने का उत्पादन होने से किसानों की स्थिति बहुत अच्छी हो गई हो और वहाँ स्टेट ड्यूटी लगाई जाये तो कुछ हद तक बात समझ में आ सकती है लेकिन अभी तक किसी स्थान पर ऐसी बात देखने में आई नहीं है। चाहे कोई फँकटरी का एरिया हो, पंजाब के गेहूँ का एरिया हो या दूसरे अनाज पैदा करने वाले काश्तकार हों, वहाँ पर पर-एकड़ उत्पादन भले ही बढ़

गया हो लेकिन जब हम तलाश करते हैं तो पता चलता है कि उनके ऊपर कर्ज का बोझ भी काफी बढ़ गया है। कर्ज के बोझ के नीचे वे दबे हुए हैं। अगर हम चाहते हैं कि वे ऊपर उठे, कृषि का अधिक उत्पादन हो तो फिर स्टेट ड्यूटी लगाकर हम उनको प्रोत्साहित नहीं कर सकेंगे।

यह भी बात साफ है कि पुराने तरीकों से खेती का उत्पादन नहीं बढ़ सकता है। नयी टेक्नालोजी, नयी साइंस, नये-नये औजार, इन सब के बगैर खेती का उत्पादन किसी प्रकार भी नहीं बढ़ सकता है। और इन सारी चीजों को हासिल करने के लिये अधिक से अधिक पैसा खर्च करना पड़ता है। फँटरी के दूसरों के भ्रम से चलती हैं लेकिन खेती में तो अपना पैसा और अपना सामान लगाना पड़ता है। अगर काश्तकार सरकार से पैसा उधार ले तो उसको व्याज देना पड़ता है। मैंने सुबह सवालों में कहा था कि काश्तकारों पर कर्जा बकाया है और उनमें बहुत से ऐसे हैं जो कि समय पर दे नहीं सकते हैं क्योंकि उनकी हालत बहुत खराब है। इस दृष्टि से देखा जाये तो हिन्दुस्तान में आज काश्तकार इस हालत में नहीं हैं जिसके पास, जो वह कर्ज लेता है उसको वापिस देकर, अपने लड़के की एजुकेशन, दवा-पानी करके, फिर भी कुछ पैसा बच जाये। मेरी समझ में कम से कम महाराष्ट्र में तो काश्तकारों की ऐसी हालत नहीं है। इसलिये मेरा निवेदन है कि खेती पर जो ड्यूटी लगाई गई है उसको हटाया जाये। इसके अलावा, जिन प्रान्तों ने ड्यूटी लगा रखी है, उनको भी सेन्ट्रल गवर्नमेंट निर्देश दे कि यह ठीक नहीं है इस ड्यूटी को हटाया जाये। कृषि उत्पादन की दृष्टि से इस ड्यूटी का कोई प्रीचित्य नहीं है।

(1) जब खेती में भी ज्यादा उत्पादन होने लगे और आप उसको दूसरी तमाम सहायितयें देने लग जाय तब अगर ड्यूटी लगायें तो समझ में आने वाली बात होगी। जैसे कोई बच्चा

बीमार हो जाये तो उसकी बीमारी के बाद दो-चार दिन तक उस पर कोई बोझ डालना ठीक नहीं होता है। उसी प्रकार से हमारे देश का काश्तकार भी अभी बीमार है। अब धीरे-धीरे वे अपने मकान बना रहे हैं, अपने लड़कों को पढ़ा रहे हैं। इस समय उनके ऊपर बोझ डाल देने पर वह ऊपर नहीं उठ पायेंगे। यह तो फिर जैसे पहले पयुडल सिस्टम था उसी प्रकार से ही हो जायेगा। हो सकता है कि कुछ एक-दो काश्तकार हों, जिन पर कि यह ड्यूटी लगाई जा सकती हो, लेकिन उनके साथ-साथ अगर आप सभी पर यह ड्यूटी लगा देंगे तो यह वाजिब बात नहीं होगी। इसलिए मेरा निवेदन है कि खेती के ऊपर स्टेट ड्यूटी लगाने का जहाँ तक सवाल है, इसको बिल्कुल नामंजूर करना चाहिये।

SHRI BENI SHANKER SHARMA (Banka) : So far as the amendments sought to be made in the present Bill are concerned, they are more or less of an innocent character and consequential to the lifting of the emergency. As such there is not much to be said in favour or against these amendments. But I will take this opportunity of making certain observations about the drawbacks in the administration of the Act itself and the institutions which administer it. By clause 2 of this Bill, a new subsection 2A to Section 5 has been sought to be added which says that the Central Boards of Revenue Act, 1963 shall apply to this Act. Before 1963 we had only one Central Board of Revenue which used to deal with these four direct taxes as well as excise and customs. After 1963 by the Central Board of Revenue Act, 1963, this Central Board of Revenue was bifurcated into two, namely, the Central Board of Direct Taxes and the Central Board of Excise and Customs.

Now, the responsibility of administering these direct taxes falls on the Board of Direct Taxes. As I observed earlier in this House we should have effected economies in our administration as had been also promised by our Finance Minister from time to time. But instead, we have

[Shri Beni Shanker Sharm]

been lavish in our expenditure in appointing more and more persons at higher posts, with a big staff.

Sir, formerly where there was only one Member who used to administer the direct taxes now we have four Members in this Board, who, I do not know, what they do. But at least my feeling is, that these members of the Board are merely a dog in the manger. They really do not make any contribution to the administration of the assessing machinery. The Board's object should be to make policies and issue directions on general lines, but what we see nowadays is that these four different Members do not issue any general directions, but, under the pretext of supervising the work of their subordinates, poke their nose in the day-to-day discharge of their duties, thus taking away from the initiative, dash and capacity to take decision on the spot, which seriously affects the quality, efficiency and progress of the work.

Sir, I must submit that there is no necessity of keeping so many Members on this Board which is practically becoming as burdensome as the Railway Board, which has no responsibilities or duties of its own, to discharge.

Sir, I will now make some submissions about the nomenclature of officers in the Estate Duty Act. Estate duty is one of the four direct taxes, and is inter-connected and inter-linked with income-tax, wealth-tax and gift-tax Acts. It is practically the same set of officials who administer all these Acts and there is no reason why we should have different names and designations for the Estate Duty Officers. But I think we have followed the U.K. model. I feel, we should not have done that after independence and shown our own imagination in the nomenclature of these officers. Instead of having the designations and nomenclatures as Controllers, Assistant Controllers, and Deputy Controllers I think the same designation of officers, Assistant Commissioners, and Commissioners would have equally served the purpose. I find that there is still confusion in the minds of the assesseees and no useful purpose is being served by calling these persons as controllers, assistant controllers and deputy controllers. I would suggest

in the interest of simplification that in as much as it is the same set of officers who administer income-tax wealth-tax and gift-tax Acts and are interchangeable, they should be named as Estate Duty Officers, Estate Duty Assistant Commissioners and Estate Duty Commissioners in the same manner as income-tax and wealth-tax officers, assistant commissioners, and commissioners.

So far as these four direct taxes are concerned there is some difference in the treatment of agricultural income and agricultural property. While agricultural income is exempted under the income-tax Act and agricultural lands do not come under the purview of the Wealth tax Act the do come under the purview of the Gift Tax and Estate Duty Acts which in my opinion, is inconsistent. To be consistent, I will submit that agricultural lands should also be exempted from the purview of the Estate duty and Gift Tax Acts. True, agriculture has started looking up but the bringing in of agricultural lands under the purview of Estate Duty alone will act as a damper on our agricultural production. You know, Sir, that the value of lands have appreciably risen recently but the value of the rupee has also gone down. However, I do not object if any businessman who is on the G. I. R. of the Department and has got agricultural lands besides other assets, is subjected to Estate duty on his death. But if a pure agriculturist who has no income taxable under the Income-tax Act is assessed on the value of the land, left by him that will adversely affect our agricultural production. Nowadays, Sir, the minimum limit dutiable is Rs. 50,000 and in places like U.P. and Maharashtra 10 bighas of land alone will be worth more than Rs. 50,000 and will attract Estate Duty. This will adversely operate against the agriculturists. If Estate Duty is levied on such persons they shall have to sell away a portion of their lands to pay the Estate Duty.

17.00 hrs.

As we have enough pending cases under the Income-tax Act, likewise we have great pendency under the Estate Duty Act also. There are enough pending cases for the

Income-tax cases, we have provided in the recent Finance Bill which we passed the other day, that all the pending assessments after 1968-69 shall have to be completed within two years, and those relating to the earlier years shall be completed within three years. I would request the hon. Minister to incorporate a similar provision in the Estate Duty Act as well so that the pendency of cases may not increase. I know that there are cases pending with the controllers and assistant controllers of estate duty since the last four/five and sometimes even seven or eight years, and there is no end to the suffering of the persons concerned. In certain cases, one man has died, and his successor has also died. But the duty to be assessed on the first man has not been determined. So, I would request that in order to reduce the pendency of cases, the hon. Minister should incorporate the same provisions as are contained in the Income-tax Act in the Estate Duty Act also.

Unfortunately, according to the new provisions in the last finance Bill we have given a different meaning to the word 'concealment' in the Wealth Tax Act. Though that definition has not been extended to the estate duty, I am afraid our estate duty officers who are in charge of administering this Act will take their clue from the amendment of the Wealth tax Act and give a different connotation to the word 'concealment'. As you know, estate duty is concerned only with valuation of assets, and there is always the likelihood of an honest difference of opinion between the assessee and the officers as to the value of these assets. If there is a difference of more than 25 per cent, the accountable person who is to render the accounts of the deceased to the Department, will be held responsible for concealment. As I had remarked at the time of the consideration of the Finance Bill, it is something very curious that we are giving a meaning to a word which naturally it does not connote. Therefore, I would suggest, that though the definition of concealment and the penalties etc. in the other Act have not been extended to the Estate Duty Act, the Finance Minister should categorically declare that the same would not apply to the Estate Duty Act.

Finally, I would say a word about the valuation of goodwill of firms. I find that

in the valuation of the assets of a deceased person, when he is a partner in a firm, the goodwill is also valued. In private firms, as they are not being sold or saleable there is no intrinsic market value of their own. The market value of the goodwill of firms is based on some formula depending on the profit of three, four or five years. They make some valuation and accordingly estate duty is charged on that. I submit that this causes great hardship to the assessee because they have got to pay for something against which they have got no liquid assets.

Therefore, I would request the Finance Minister to take this aspect into consideration as well.

SHRI VIKRAM CHAND MAHAJAN (Chamba) : I rise to support the Bill. The amendments sought to be made are very innocent and they should not have evoked any controversy. Some hon. Members have raised the point that no estate duty should have been levied on agricultural land. I would submit that if we did not levy estate duty on agricultural land, we would in fact be discriminating against lands which are urban lands. When urban lands have to pay estate duty there is no reason why agricultural lands also should not be subjected to estate duty.

We have levied estate duty on all urban property. Property below Rs. 50,000 has been exempted. Now, a certain percentage is levied as you go higher. There is no reason why agricultural lands above the value of, say, Rs. 50,000 should not pay estate duty. Estate duty is based on the principle that the rich should not continue growing richer and the poor should not be kept poor in perpetuity. The only way to reduce the gap is to levy estate duty on the rich, so that people who are rich do not by getting inheritance become richer and the capitalist system should not continue perpetually. This is the basic reason for levy of estate duty.

The second reason is that we have to usher in a welfare state where the economy has to be geared up to meet the requirements of such a state and for that financial resources are required. Estate duty has been levied on all urban property. We have seen many instances where urban property people invest in agricultural lands in many States. We have specialised firms running to several

[Shri Vikram ChandM ahajan]

hundred acres and for them the land laws do not apply, there is no ceiling applicable to them. No reason can be assigned as to why these lands above a certain value should be exempted from estate duty on inheritance. Either we should not levy estate duty at all—if that is the contention of members—or we should apply it to agricultural lands also above a certain limit. One cannot follow the argument that a man who owns urban property worth Rs. 50,000 should be subject to estate duty but a person who owns agricultural lands worth the same value should not be subjected to it.

My submission is that agricultural lands should be assessed to estate duty. We can raise the limit to Rs. 75,000 so far as pure agricultural lands are concerned, that is, in the case of those who do not have any urban property. But it cannot be contended that no estate duty should be levied at all on agricultural land.

Another point raised is that the States' concurrence should be after the Bill is enacted. The Constitution has given power to the States to levy estate duty in the manner legislated by the Parliament. An hon. Member has said that the legislation should be passed first and then the States should concur. When power has been given to the States to concur, there is no bar in their exercising it either before the Act or after the Act is passed. There cannot be any constitutional bar to their doing it either before or after, once the Constitution specifically empowers them with the right to concur. Therefore, the constitutional point raised has no meaning.

Another point raised was that goodwill should not be valued for purposes of estate duty. It is common experience that goodwill is sold in the market. In a sale, goodwill fetches a separate price. There is no reason why it should not be assessed, when it passes by inheritance. Either it has value or it has not. If it has, it must pay estate duty. Nobody can contend that goodwill has no marketable value. If today Lever Bros. sell their name only to another firm, it will fetch crores of rupees. So there is no reason why goodwill should not be assessed to estate duty.

There are certain shortcomings in the parent Act to which I want to draw attention of the hon. Minister. The Act lays down a cumbersome procedure for collection of duty.

The procedure should be simplified. One procedure is that the assistant controller makes the assessment and the appeal goes to the higher authorities, that is, the controller. Under the other Acts the appellate authority has the power to stay the recovery of tax when the appeal is filed. The estate duty Act has a procedure by which the appeal goes to higher authorities but the stay is given by the original authority that made the assessment. We have to file two applications, one before the assistant controller to stay the demand and the second before the appellate authority. It does not serve any purpose or help the department. On the contrary it increases their work without helping either the assessee or the department. Both powers can be given to the appellate authority to hear the appeal and also grant the stay. Another point is this. There is the assistant controller, appellate authority, then the tribunal and then the High Court. It would be easier if there is only one authority for appeal—assistant controller and then an appeal to the High Court or the Supreme Court. That is what we have in many other taxation laws. It will save the Government much of the expenditure on staff and help the assessee also in getting quick justice.

Another point is that estate duty was evaded through a system of gifts. If a gift is made five years earlier than the death of a person, then there is no estate duty. Gift tax has a limit. If you make a gift of less than Rs. 10,000 there is no gift tax. Therefore, you can make a gift of Rs. 10,000 this year, Rs. 10,000 next year and so on and evade estate duty. I think the total gift should be taken into consideration and then the estate duty should be levied so that this will avoid evasion.

Finally, I submit that there should not be a time-limit fixed for the final assessment e.g.—a year or two—because that would harm the assessee. A person normally does not know when he would die. Normally, he does not give the entire

picture to the legal representatives. Therefore, they have to get their information from various sources about the value of the assets and so forth. Similarly, the department has to verify. If this thing is rushed through, it will harm both the department and the assessee. With these words, I support the Bill.

SHRI TENNETI VISWANATHAM (Visakhapatnam): May I ask the hon. Minister to say something about the necessity or otherwise of the notification, as Mr. Misra pointed out. From a reading of the article it appears that no notification is necessary at all because it would be against the wording of the article if you want a further notification. If a resolution is passed by the States, this Bill which will be passed today will automatically become applicable. Therefore, Mr. Misra has raised a point whether a notification was necessary. On that point, has the Minister anything to say?

SHRI K. C. PANT: It is for you, Mr. Chairman, to conduct the debate or make it a dialogue. If you want me, I shall answer.

MR. CHAIRMAN: Your point will be replied to at the end of the debate.

SHRI TENNETI VISWANATHAM: I do not know the manners of this House. We do not normally reserve these small points to the very end. Since the Minister is not saying anything, I shall continue. This notification is unnecessary and is against the provisions of the articles of the Constitution. If the Government says that a notification is necessary it will be going beyond the terms of the Act.

The other point which I want to raise is, why this legislation is necessary at all at this stage. I do not know why the States should want this Government to pass this legislation, because the States have got the power to pass legislation in their own right. They have got the right to pass legislation on estate duty on agricultural land and they need not come here for it. There is one difficulty for the States in the resolution procedure. Today, the Act is passed with reference to four States giving certain rights and this Act, if adopted by

another State, can be adopted but it cannot be amended. Supposing that State does not want the same rate, it will be in a State of difficulty. Therefore, really it does not seem to be very convenient for the States to adopt this Act which is passed here today. The rate or the procedure in respect of this Bill may not exactly suit their own requirements, and therefore, these are the points on which we would like to have a clarification, notwithstanding the hon. Minister's remark that we do not want a dialogue.

SHRI G. VISWANATHAN (Wandiwash): Mr. Chairman, Sir, originally, the estate duty otherwise known as death duty was introduced as an instrument to bring about socialism in this country. Now, the Bill proposes to extend this estate duty to agricultural land also. This Bill was opposed for the reason that it will work for the disadvantage of the farmer. There cannot be two opinions in giving incentives to farmers or agriculturists, because they form the backbone of this country. At the same time, when the Central Government accepts that all incentives must be given to the agriculturists, are they coming forward to give all incentives to the farmers? Really in the last 20 years, this independent Government has done very little to the agriculturists.

For example, the then Congress government in Madras were assuring us for the last so many years that they would abolish land-tax. They said in so many words and they said it during the time of the election, but they did not fulfil the promise, and it was left to the DMK government, after the 1967 election, to come forward and abolish land-tax on dry lands. I am proud to say this here. This Government is not only not giving incentives to the farmers but is also not encouraging the government which helps the farmers. For example, we in Madras are now giving many loans to farmers for digging wells and installing pump-sets and other things. But the Central Government is not coming forward. We in Madras are very generous in helping the farmers by giving loans to them not only for pump-sets and other things but also for the supply of water for their irrigation. For this, the Central Government is not

[Shri G. Viswanathan]

coming forward to help us in the minor irrigation schemes. If really this Government is interested in helping the farmers, it must encourage the State Governments which are doing good things by helping the agriculturists.

I support the legal or the constitutional point raised by Shri Srinibas Misra, because the Constitution says that if the State legislature passes a resolution it is not necessary for the Central Government to notify it. Again, the Government themselves, in the Statement of Objects and Reasons, have said that this is purely a State subject. They have said :

“Although the power to legislate for estate duty in respect of agricultural land vests in the State Legislatures by virtue of Entry 48, List II of the Seventh Schedule to the Constitution, Parliament has power under article 250 of the Constitution to legislate in respect of agricultural land as well, which a Proclamation of Emergency is in operation”.

Only when there is a proclamation of emergency in operation we have powers to legislate on this subject. Now, there is no proclamation ; it has been lifted, and the power automatically goes to the States. I do not know why the Central Government should take this responsibility also, because already there are so many powers with the Centre, and this is a day of decentralisation. We must give more powers to the States because it is also well known that ours is a quasi-federal State and not a fully federal State, where most of the States want to have full federalism in this country.

The Central Government must see that more and more powers are given to the States because they are the people who deal with the situation.

About the duty as such, I have nothing to oppose, because it is not going to effect small land-owners. Only big landlord will be affected. I do not oppose it on that point. But the Central Government must see that the powers of the States are not taken away by the Centre.

SHRI D. C. SHARMA (Gurdaspur) :

1. Chairman, Joint Est. of All. I congratu-

late you on your being raised to the Chair, which you richly deserve.

Much has been said about the Estate Duty Act, the Wealth-tax Act and the Gifts Tax Act. I took very keen interest in these Acts when they were passed. I expected a great deal to happen in this country after they had come into operation. I thought they would equalise the fortunes of the poor and the rich, bridge the gap between the rich and the poor and it would be a very nice thing to see that the rich do not get richer, as the Mahalanobis Report has suggested and the poor do not get poorer. But I must say in all humility and with great sorrow and disappointment that all my expectations about these Acts have not been fulfilled. That Acts were diluted with the result that they had no teeth in them. They were just there to show that we believe in a socialistic pattern of society. But the ground under the socialistic pattern of society was a marshy ground like the ground in Kutch. It was a shaky ground.

As an hon. member said, these Acts must be properly administered. The net should be so firm and of such fine material that nobody who has to pay the duty can escape from it. The difficulty is, there are so many loopholes in the Act that people who must pay do not pay. A gentleman was saying that we should have quick justice. Quick justice is impossible in India. All over India, we believe in tardy, dilatory justice. Even if all those reforms to which the hon. member referred were put into operation, even if the Appellate Assistants were amalgamated with somebody else and the intervening members was disposed of, I think the situation will remain the same. In this country, we have made an art and science of giving justice which is not quick and swift. If they can think of some way of doing so, it will be better. What stands in the way of disposing of appeals quickly and swiftly? You know, Sir, we have got so many rungs in the ladder of bureaucracy.

There is the story of a gentleman who went to a sadhu and said : “I have a monkey and that at monkey is always giving me trouble”. The sadhu said to him : “Have a pole so that the monkey

would all the time the going up and down the pole". Our bureaucracy is going up, coming down, again going up and coming down. It never stays at one place. I would be very happy if it stays at the bottom or at the top. It does not do that. It is always in motion, always in transition.

Therefore, I would submit very respectfully that it is no use having this bill on the statute-book of our country unless we are able to administer the Acts in such a way that we get by means of them a very small and short glimpse at least of the socialist pattern of society. Unfortunately, that is not there.

My friends have been taking about agriculturists. There are agriculturists who own orchards and gardens. They have taken land in the name of orchards and gardens. One day all the agriculturists and landlords of Punjab went to the then Chief Minister, Sardar Pratap Singh Kairon of revered memory and told him that by means of the land reform he had taken away their land. He told them: "Tell me on oath whether any one of you has parted with even an inch of your land". The land that was there was given to sons, daughters, and other near relations. There has been no land reform worth the name in this country.

Therefore, this Estate Duty Act should apply to the agriculturists whose income is Rs. 50,000 and more. It will not be Rs. 50,000, it will be much more than that. Of course, there are some who are on the subsistence level, people who own five acres or even half-an-acre of land. We must do something for them and try to give them some relief. You should not talk about agriculturists in general. In India there are so many degrees and so many classes of agriculturists. Landless labourers must be helped. But agriculturists who own orchards and gardens, people who hoard their grains so that they can sell when the market improves and others like them will have to be brought under this. I think in their case the Estate Duty Act will be very very helpful.

I, therefore, welcome this Bill. I know when we were discussing this Bill his revered father who was a great legislator was there. I am glad the hon. Minister is there to pilot this Bill. He is the worthy son of a worthy father. He should

see to it that this Bill does not lead to the proliferation of bureaucracy and the direct tax administration and the indirect tax administration but both are subject to review by the Organisation and Methods Division. Unless that is done I think this Act will prove as useful as the previous Act has done. As I have said, I welcome this Bill because it will lead us in some way or other to the goal of socialist pattern of society.

श्री क० मि० मधुकर (केसरिया) :
सभापति महोदय, मैं इस बिल का समर्थन करता हूँ, लेकिन इसलिए नहीं कि इस बिल से यह आशा की जा सकती है कि इसके जरिये देश में समाजवाद की स्थापना होगी या आर्थिक समता पैदा होगी या गरीबों और भ्रमियों के बीच का भेद खत्म होगा। जिस सरकार की ओर से यह बिल लाया गया है, वह पूंजीवाद का समर्थन करती है और इसलिए वह भ्रमियों का और इंग्लैंड से गले मिलने के लिए तैयार रहती है। उस सरकार के शासन-काल में मानोपजीव में वृद्धि हुई है और धनी अधिक धनी और गरीब अधिक गरीब हुए हैं। इस व्यवस्था में यह नहीं कहा जा सकता है कि इस बिल के द्वारा देश में गरीबी मिटने जा रही है। या गरीबों को कुछ राहत मिलने जा रही है। फिर भी अगर इस बिल के द्वारा इस देश के धनी लोगों पर चोट पड़ती है, चाहे वह जिस हद तक और जिस मात्रा में भी हो, चाहे वह एक पैसे की भी हो, तो उसका समर्थन करना हमारा फर्ज हो जाता है।

इसलिए हम चाहते हैं कि न केवल यह बिल, बल्कि और भी ऐसे बिल, पास किये जायें, जिनसे उन लक्ष्यों की पूर्ति की दिशा में कुछ प्रगति हो, जिनकी घोषणा यह सरकार करती रहती है। लेकिन सरकार से ऐसी आशा करने का कोई कारण नहीं है। फिर भी वृत्ति, कुछ हद तक ही सही, इस बिल से धनी और सम्पन्न वर्ग पर चोट पड़ने जा रही है, इसलिए मैं इस बिल का समर्थन करता हूँ।

कुछ माननीय सदस्यों से कहा है कि इस

[श्री क० मि० मधुकर]

बिल को पास करने से खेती में तरक्की नहीं होगी। मैं समझता हूँ कि खेती में तरक्की करने का उपाय यह उपाय नहीं है कि घनी लोगों पर टैक्स न लगाया जाये। उसका उपाय दूसरा है जिसको यह सरकार बिल्कुल भुला बैठी है और उसका रवैया और नीतियाँ उसके प्रतिकूल हैं। यह कहना कि खेती की तरक्की के लिए जरूरी है कि बड़े-बड़े काश्तकारों पर टैक्स न लगाये जायें, यह बात हिन्दुस्तान और दुनिया के तजुबों के विरुद्ध है। यह बात अमरीका और इंग्लैंड जैसे उन देशों के लिए ठीक हो सकती है, जहाँ पर पूंजीवाद अनियंत्रित और बेलगाम है। लेकिन इस देश में खेती की तरक्की के लिए यह जरूरी है कि बुनियादी भूमि-सुधार किये जायें और ऐसे अन्य उपाय किये जायें, जिससे खेती की तरक्की हो। इसलिये खेती की तरक्की के नाम पर इस बिल का विरोध करना बिल्कुल गलत और अमान्य है।

यह तर्क भी दिया गया है कि इस बिल के पास करने से लोगों में खेती की तरक्की करने के लिए कोई इनसेन्टिव नहीं रहेगा और यह कि घूँकि हमारे देश में खेती में इतनी तरक्की नहीं हो पाई है, इसलिए यह टैक्स नहीं लगाना चाहिये। मैं समझता हूँ कि यह दलील थोथी है। खेती की तरक्की के लिए कुछ और उपाय हो सकते हैं, लेकिन उसका उपाय यह नहीं है कि टैक्स बन्द कर दिये जायें। जो लोग चाहते हैं कि समाज की कोई नियंत्रण या नियामन न हो, वे तो ऐसी बात कह सकते हैं, जो विचार-शील लोग मानते हैं कि समाज एक नियंत्रित ढंग से चलना चाहिए, उनके द्वारा टैक्सों का विरोध नहीं होना चाहिए।

यह देखा गया है कि ऐसे बहुत से कानून पास किये जाते हैं, जिनके जरिये सम्पन्न, घनी और श्रीमन्त लोगों पर टैक्स लगाने और उन को नियंत्रित करने की व्यवस्था होती है, लेकिन अमल में उनमें ऐसे लूपहोल्ज और छिद्र छोड़ दिये जाते हैं कि वे तमाम कानून केवल कागज

तक ही सीमित रह जाते हैं और उन पर ठीक तरह से अमल नहीं होता है। इस बिल के बारे में भी यही आशंका है। इसलिए सरकार की ओर से ऐसी व्यवस्था और इन्तजाम होना चाहिए, जिससे ऐसे कानूनों पर एक प्रभावी और इफेक्टिव ढंग से अमल किया जाये। इस बात का विशेष ध्यान रखा जाना चाहिए कि जिन लोगों पर टैक्स लगाने की व्यवस्था की जाये, वे टैक्स से बच न जायें। आज स्थिति यह है कि हमारे देश में नीकरशाही का एक जाल बिछा हुआ है, जिसके साथ मिलकर पूंजीपति और जमींदार लोग तमाम कानूनों के उद्देश्य को विफल करके अपना उल्लू सीधा करते हैं और इस प्रकार उन कानूनों पर अमल नहीं हो पाता है और वे केवल किताबों और अल्मारियों में रखे रह जाते हैं। इसलिए सरकार को ऐसी खामियों को दूर करने का प्रयत्न करना चाहिए।

जैसा कि मैंने कहा है, घूँकि इस बिल के द्वारा शोधक वर्गों पर किसी हद तक चोट पड़ती है, इसलिए हम इस बिल का समर्थन करते हैं।

MR. CHAIRMAN: There is notice of an amendment given by Shri Misra. But it has not come in time; therefore I cannot accept it.

SHRI SRINIBAS MISRA: If the Minister agrees, it can be done.

SHRI K. C. PANT: Mr. Chairman, I have listened to this debate which has actually covered a wider ground than is strictly provided for under this Bill. I shall, first of all, attempt once again to indicate the exact scope of this Bill.

There is a feeling in the minds of many hon. Members, including my hon. friend, Shri Misra, that this particular enactment is going to have the effect of extending the imposition of estate duty on agricultural land. That is not a fact. As I sought to explain in my opening statement, in the first place, when the ori-

ginal Act of 1953, the Estate Duty Act, 1953, was adopted by Parliament, before its adoption some State Legislatures passed resolutions and this was adopted. According to the provisions of this original Act estate duty was extended to agricultural land before the proclamation of the emergency that come later.

That is what I indicated in the earlier argument the other day also. Even if this Bill is not adopted, it does not mean that estate duty will not be extended to agricultural land. That is there by virtue of the Act of 1953. But certain amendments were passed during the emergency period by Parliament at a time when Parliament was authorised to legislate on behalf of the States. Earlier it was not authorised to legislate on behalf of the States and it required the passing of Resolutions by the State Legislatures in order to make estate duty applicable to agricultural land in States.

Now, during the period of the emergency certain amendments were passed and these amendments were passed without the States adopting any resolutions to this effect. When the emergency came to an end, the question arose as to what will happen after six months to these amendments. After six months all these amendments lapse. So, the question arose as to whether we should not enable the States if they want to adopt these amendments. Since the amendments involved increase in the rates, it means higher revenues for the States.

I may make it clear that the net income from this estate duty goes to the States. We only take away some expenditure on administration etc. The rest of it goes to the States. Therefore it is for the House to consider whether the States should be enabled, if they want to, to take advantage of the increased rates and other things that took place through the amendments during the emergency period. This is the scope of this Bill. It is not for now extending estate duty to agricultural land. It is not to impose something on the States. It is for the States in their wisdom, if they want to, to make use of it. They can pass resolutions and take advantage of this.

SHRI RANGA (Srikakulam) : You make it so easy for them that instead of

passing separate Bills in their own Legislatures they get a resolution passed just by one day's discussion.

SHRI K. C. PANT : A resolution or a separate measure being passed involves almost the same amount of problem in the Legislatures.

SHRI RANGA : There is more detailed consideration than what is given to the resolution.

SHRI K. C. PANT : We are having a fairly detailed consideration here.

SHRI RANGA : For the whole of India.

SHRI K. C. PANT : This is where Professor Ranga sits. He does not sit in any of the State Legislatures. We have the benefit of Professor Ranga which is not available to any of the State Legislature.

SHRI RANGA : You have your majority all the time.

SHRI K. C. PANT : My hon. friend, Shri Viswanathan, seems to suggest that we are extending our powers by virtue of this enactment.

He advised us not to do anything to extend our powers *vis-a-vis* the States. He, perhaps, overlooked the fact that the Madras Legislature has already passed a resolution on the basis of which we have brought forward this Bill here.

SHRI G. VISWANATHAN : Which year ?

SHRI K. C. PANT : Recently, they have passed a resolution. It is for him to address the Madras Government. It is for him to advise them, not to advise us on this matter.

After the Emergency ended, this problem arose and we addressed all the State Governments asking them what they wanted to do. Four States have passed these resolutions. So, with all respect to him, I think, he has misunderstood our intentions as he so often does. Our intentions are not as bad as he thinks. It is because States want to make use of it that

[Shri K. C. Pant]

they have adopted these resolutions. We are only enabling them to take a share in what we levy.

The second impression that I want to remove is that this is somehow going to affect agriculturists. Sir, I am now going back to the earlier enactment. In fact, this discussion is outside the scope of the Bill. If you will permit me, in two minutes, I would like to go back to the rationale of the original enactment. The rationale of that enactment is that Estate Duty should apply to all States inclusive of agricultural land. There is no reason why agricultural land alone should be excluded from the purview of the Estate Duty. Now, this is to introduce a measure of uniformity in the application of Estate Duty. The Estate Duty becomes applicable only to estates valued at over Rs. 50,000 and the rates of Estate Duty mount up rather slowly. I shall read out the rates if you so like later.

17.48 hrs.

[Mr. Deputy-Speaker in the Chair]

Sir, the intention is to treat wealth as wealth in the matter of Estate Duty. After all, as some hon. friends said, ultimately, the intention is to levy Estate Duty and to see that inheritance of wealth is not encouraged in this country. As the wealth increases, as the size of the wealth increase, more and more of it is taken away so that the next generation people do not depend on the wealth of the previous generation. This kind of attitude we definitely want to encourage. In doing this, we have to keep in mind the fact that land is one form of capital, whether it is urban land or agricultural land. I do not think that the House will be in favour of having laws which distinguish between various kinds of estates, various kinds of lands, and encourage diversion of capital from one form to another merely to escape the rigours of Estate Duty. I do not think that can be the intention of the Members of this House particularly at a time when we have got the ceilings on land holdings in various States and so on. The limit of Rs. 50,000 is a reasonable limit in my view and on the State of Rs. 50,000 over the initial Rs. 50,000 the rate is only 4 per cent and then it slowly rises. Therefore,

the apprehension of my hon. friend, Shri Sharma, that agriculturists will have to sell off land in order to pay Estate Duty, if I may say so, is a little far-fetched. Between Rs. 50,000 and Rs. 1 lakh, an estate attracts Estate Duty of 4 per cent, that is, Rs. 2,000. Is it suggested that for Rs. 2,000, he is going to sell off a part of his land?

SHRI RANGA : Is there any exemption limit?

SHRI K. C. PANT : Rs. 50,000. That is the base. Below Rs. 50,000, there is no Estate Duty. Therefore, I do not think, in good faith, anybody can object to this.

No, so far as other points go, I would only say that agriculturists may well be helped by this measure to the extent the States which get revenue from Estate Duty utilise for the sake of agriculturists. To that extent, it might very well help him and it might enable the richer agriculturists to contribute to the well-being of the smaller agriculturists which is a means of using a part of their estates for the benefit of the smaller agriculturists in the States.

SHRI RANGA : Is this the purpose?

SHRI K. C. PANT : That is one of the ideas.

SHRI RANGA : It will be merged in your General Revenues.

SHRI K. C. PANT : It will not merge in our General Revenues; it will go to the States; States look after agriculture .. (Interruptions).

SHRI RANGA : In the case of U. P., it has been swallowed by the General Revenues.

SHRI K. C. PANT : In order to avoid a dialogue, I was rude enough to suggest to Shri Viswanathan that I would not engage in a dialogue, but Prof. Ranga is far more persuasive and so, I could not help entering into a dialogue with him.

I do not want to take the other points in detail. These were the points raised earlier.

A Constitutional point was raised by Shri Mishri. I would only like to point out to him that he was under some misunderstanding in respect of the point I made earlier that this Bill, for the first time, is making Estate Duty applicable to agricultural lands and that the provisions of this Bill in respect of the notifications are something new. They are not; they are a part of the original enactment. He was good enough to come to me just now and I have shown him that in 1953 Act itself this is already provided for.

श्री भीमा लाल शीना (सवाई माधोपुर) :
उपाध्यक्ष महोदय, वह बड़े किसानों पर अग्रर सम्पत्ति कर लेंगे तो क्या उसके बदले में छोटे किसानों की लगान माफ कर देंगे ? क्या यह उनको कोई सुविधा देने के लिये तैयार है।

MR. DEPUTY-SPEAKER : At State level it is being considered and not here.

The question is :

"That the Bill further to amend the Estate Duty Act, 1953, be taken into consideration."

Let the Lobby be cleared.

MR. DEPUTY-SPEAKER : Now, the Lobby has been cleared. I shall put the motion to vote ..

SHRI RANGA : We are not pressing for division.

The motion was adopted.

MR. DEPUTY-SPEAKER : Now, we shall take up the clauses.

Clause 2—(Amendment of section 5A)

SHRI TENNETI VISWANATHAM : On clause 2, the question was raised earlier whether the words 'by notification' could rightly be there. There is a provision to the effect that if the other States pass a resolution they can also have the advantage of this Act, but by notification in the official Gazette afterwards the Central Government may extend this Act to those States. The Constitution says that if they pass a resolution it shall be appli-

When the point was raised by Shri Srinibas Misra in the first instance, the hon. Minister pointed out to him that it was not an innovation but it was there in the 1953 Act itself. But even then it was wrong. The Constitution was passed prior to 1953. The Constitution did not give them the power to take this into their hands and extend it only by their notification. Article 252 says that if the other States pass a resolution, this Act shall be applicable to them automatically. It does not require the assistance of a notification by the Centre.

SHRI RANGA : The present clause is much better. It will act as an additional brake on those people.

SHRI TENNETI VISWANATHAM : But on the other hand, supposing he and I are there in the State and we want to impose the Estate Duty ourselves, and supposing the Central Government is constituted of a different party, and they object to it, then what would happen ? It is a question of the autonomy of the States. The autonomy of the States is protected under article 252. Supposing the State Government and the Central Government are of different political complexions, then there may be conflicting views held by both; for example, my hon. friend Shri G. Viswanathan's State may want it, but supposing here it is not the Congress Government but some other Government and they are against Estate Duty, then they would not notify. In other words, the power given to the States under the Constitution would be throttled by the Centre.

Therefore, the words 'by notification in the Official Gazette' are not Constitutional, and even if they were there in the 1953 Act, they must go now. We are slightly wiser now than in 1953.

SHRI SRINIBAS MISRA : This is the only crucial point in this. The other things would not evoke much controversy.

SHRI RANGA : I am sorry I am not able to agree with the Constitutional experts that we have on our side for this reason namely that I am not looking at it from the Constitutional point of view

[Shri Ranga]

Already, it is bad enough to give this power to the State Government to impose this additional taxation on the agriculturists there that merely by passing a resolution in the State legislature, instead of having to get a Bill introduced, discussed and passed there, they could impose this tax. If a taxation Bill is introduced there, then it would necessarily attract a lot of press comments and then it would be discussed among the public; there would also be discussion in the legislature. That will be a much grater safeguard for the people concerned than the mere discussion of a resolution which may be discussed for a day or half a day and then passed after which this imposition could be placed on the heads of those people. Therefore, the provision as it stands is bad enough, that the power is given to the State Government to take it upon themselves to have a resolution passed instead of a Bill and then impose this tax upon the people.

If on top of it, this Constitutional facility is also provided for them that they need not attract the attention of the Union Government at all at any stage, it will become much more oppressive. As it is now, it is for the courts later on to dismiss it, if they are so minded. But the whole point raised that it is unconstitutional, that it is derogatory to the State Governments and encroaches on their autonomy and so on is not tenable. So long as this Government has got this much of wisdom of allowing the 1953 precedent to continue, I would rather that that precedent should be accepted by the House, with the Union Government having the power to insist upon the passage of a resolution being notified from their side in a conscious manner. They will also have an opportunity to apply their mind as to the advisability, timeliness and quantum and all the rest of it. Therefore, I am not inclined to support the amendment but oppose it, and would prefer the clause as it is.

18.00 hrs.

SHRI SRINIBAS MISRA : Prof. Ranga has come in to support the Government. I have to say that he is not pro-

perly instructed. His party is a partner in a coalition government functioning in Orissa. It is the desire of that Government...

SHRI RANGA : Which Government?

SHRI SRINIBAS MISRA : If he does not recognise that Government, that is another matter.

SHRI RANGA : I am here to protect the taxpayers, particularly the peasants.

SHRI SRINIBAS MISRA : If he is pleading for anything, he is pleading for the protection of the people who are high up, who are rich.

SHRI RANGA : What about those who are below the ceilings you have imposed ?

SHRI SRINIBAS MISRA : These people who have property over Rs. 50,000 will pay the duty. That means also the co-parcenaries will pay. There are co-parcenaries owning Rs. 3—4 lakhs property. On them this duty will be levied. That is another matter.

What was happening in 1953 ? This Act was there. If the States passed a resolution, this was made applicable to them. The statement supplied by the Ministry says 'Firstly, by the Finance Act of 1964 this Act was extended to the State of Orissa'. That means, previous to that, it was not extended to that State. In Orissa, agricultural land was not liable to pay Estate Duty. But when emergency came, under their emergency powers the Central Government extended it to Orissa.

Now the Act is being passed at the request of four States. What do we want ? As soon as there is a resolution under the Constitution, it shall apply to that State. The Constitution gives the State legislature the right to pass a resolution, may be after one hour discussion or five days' discussion. As soon as the State legislature by a majority pass a resolution, this will apply. Where does the Union Government come in ? But the Union Government now wants to take power in its hands to

say that even if the State legislature expresses itself by a resolution in favour of this amendment, it will come into force only when we notify; unless we notify, it will not be applicable. This is an encroachment on the right of a State legislature; if Prof. Ranga had understood this, he would not have supported Government on this.

SHRI RANGA : Let us leave it to the Supreme Court.

SHRI SRINIBAS MISRA : In a federation, the Union is a party and the States are parties. How can the Union Government say that unless we notify, this will not be applicable? The Constitution has conferred on the State legislature the power to pass a resolution and once that provision is complied, it should *ipso facto* apply to the State concerned. The Union Government should not come in between. That was my objection.

The hon. Minister would say it is in the 1953 Act. So far as Orissa is concerned, it was not 1953, but 1964. So his explanation in so far as Orissa is concerned is wrong.

SHRI M. N. REDDY (Nizamabad) : It is not a question of exercise of any power by the Union Government or the desirability of exercising it.

It is a question of legal and Constitutional matter. This provision especially (b) is inconsistent with article 252. There is absolutely no room for ambiguity or doubt. If both the houses of the legislature of a State pass the resolution, it follows *ipso facto* that the Act would be applicable without any further action by the Central or the State Government. We have to implement the provisions of the Constitution. If we retain the provision in the Act in the present form, it would offend article 252, irrespective of whether Mr. Ranga wants it or Mr. Viswanatham does not want it. It is a simple matter.

MR. DEPUTY-SPEAKER : The mere provision for the issue of a notification—how will it be an encroachment on the rights of States?

SHRI M. N. REDDY : I will show how. Immediately a State legislature

adopts a resolution, it becomes operative and comes into effect immediately. There is no scope for any notification. The notification may be issued by the Central Government after sometime. The inter-rognum between the adoption of the resolution and the issue of the notification cannot be a vacuum. The Act would be implemented, would come into effect the moment the resolution is passed. The issue of a notification becomes superfluous and we should not have a superfluous clause in the amended Act especially when it has been brought to the notice of the House. It is not only superfluous; it is also an encroachment on the autonomy of the State as enshrined in our Constitution and would be struck down as such by any Court. With open eyes, we cannot pass such a law and so this clause may be dropped without further ado.

SHRI E. K. NAYANAR (Palghat) : I support the Bill generally. The Minister said that this was according to the Act passed in 1953. But 1953 is not 1968 nor is the same party ruling in all the States. Shri Misra also pointed out that it was an encroachment on the powers of the States.

MR. DEPUTY-SPEAKER : He gave a partial answer to my question—how it will be an encroachment on the autonomy of the States merely to issue a notification from the Centre. Do you emphasise the same point?

SHRI TENNETI VISWANATHAM : It appears that the resolution passed by the State shall have no effect unless it is notified by the Central Government. As regards the objection of Mr. Ranga if a State does not want to do all these things, it is for that State not to pass that resolution. It can have its own Act if it chose. If they pass a resolution, this Act shall come into effect immediately; it should not wait for a notification. As my friend here has said, there cannot be a vacuum. If the Centre insists on its power to issue a notification, it means encroachment.

MR. DEPUTY-SPEAKER : Even if a resolution is passed, it will have to be ultimately published in the State Gazette. Sometime is taken for this even if it is done at the State level.

SHRI TENNETI VISWANATHAM : No. It comes into effect as soon as it is signed by the Governor unless the State Act provides for a subsequent date. The objection is not merely technical. The composition of State Governments being different, what happens if the Centre does not issue a notification? The resolution will remain useless.

MR. DEPUTY-SPEAKER : Do you share this view?

SHRI E. K. NAYANAR : Yes I say that it is an encroachment on the powers of the States.

श्री विभूति मिश्र (मोतीहारी) : उपाध्यक्ष महोदय, जब एस्टेट ड्यूटी बिल आया था, उस समय पंडित जी जीवित थे। उस अवसर पर भी किसानों की जमीन पर एस्टेट ड्यूटी लगाने की बात चली थी। वृत्त में उसका विरोध किया गया, इसलिए किसानों की जमीन को छोड़कर और चीजों पर एस्टेट ड्यूटी लगा दी गई।

आज हर एक स्टेट में सीलिंग एक लागू कर दिया गया है। कहीं पर एक परिवार के लिए बीस एकड़, कहीं पर पच्चीस एकड़ और कहीं पर तीस एकड़ निश्चित किया गया है। सीलिंग एकट के अनुसार एक परिवार के लिए अपना जीवन-पोषण करना मुश्किल हो गया है। इसके अलावा किसान जमीन की मालगुजारी देता है। बिहार स्टेट में एग्रीकल्चरल इनकम टैक्स लागू है। सेस भी बढ़ा दिया गया है। इस स्थिति में मैं समझता हूँ कि केन्द्रीय सरकार को, और जिस पार्टी का मैं सदस्य हूँ, उसको यह जिम्मेदारी नहीं लेनी चाहिए। अगर किसी स्टेट की आमदनी कम है, तो वह अपनी इच्छानुसार एग्रीकल्चरल रेन्ट, सेस या एग्रीकल्चरल इनकम टैक्स बढ़ा देती। लेकिन स्टेट ने यह जिम्मेदारी अपने ऊपर नहीं ली है, बल्कि यह जिम्मेदारी सेंटर पर डाल दी है।

मैं समझता हूँ कि सेंटर को बुद्धिमत्ता से काम लेना चाहिए और एस्टेट ड्यूटी लगाकर स्टेट्स को पैसा देने का काम नहीं करना

चाहिए। सेंटर में जो थोड़ी बहुत कांग्रेस दल की पावर रह गई है, इस कानून के पास करने से वह कमजोर हो जायेगी। मैं श्री पन्त को कहना चाहता हूँ कि वह इस बिल का होल्ड अवर करें और इस बारे में फिर से विचार करें। अगर वह इस बिल को पास करते हैं, तो जो भी जमीन जोतने वाला किसान आज कांग्रेस सरकार का साथ देता है, कल वह उसके खिलाफ हो जायेगा।

श्री शशि भूषण वाजपेयी (खारमोन) : नहीं। फिर भी साथ देगा।

श्री विभूति मिश्र : माननीय सदस्य तो पहली बार यहां आए हैं हम लोग चार-चार चुनाव लड़कर यहां आ चुके हैं।

श्री शशि भूषण वाजपेयी : माननीय सदस्य अपनी बात कहें, सबकी बात न कहें।

श्री विभूति मिश्र : एस्टेट ड्यूटी लगाने के बाद जमीन की कीमत चढ़ जायेगी। हर चीज की कीमत चढ़ गई है। आज जमीन से किसान की परवरिश नहीं होती है। बहुत से किसान दूसरी जगह जाकर नौकरी करते हैं, साइड बिजनेस करते हैं, तब उनका जीवन-पोषण होता है। एस्टेट ड्यूटी लगाने से किसान की हालत खराब हो जायेगी। इस बिल की क्लॉज 2 के अनुसार अगर कोई स्टेट रेजोल्यूशन पास कर देगी, तो वहां पर किसान की जमीन पर एस्टेट ड्यूटी लग जायेगी। यह किसानों के हित के खिलाफ है और मैं समझता हूँ कि यह हमारी पार्टी के हित के भी खिलाफ है। इस बिल से किसानों का नुकसान होगा। इसलिए मैं इसका विरोध करता हूँ।

MR. DEPUTY-SPEAKER : Shri Tulshidas Jadhav. The question is simple and limited to this issue now—whether the power to issue notification should remain with the Centre and if so would it be a sort of an infringement of the provisions of the Constitution and an encroachment? Please be very brief.

श्री तुलशीदास जाधव (बारामती): उपाध्यक्ष महोदय, इस बिल की क्लॉज 2 में कहा गया है:

"...shall apply, and shall be deemed to have applied, on and from the dates on which the amendments made by each of the Acts aforesaid respectively took effect to estate duty in respect of agricultural lands situated in the territories comprised in :—

(a) the States of Gujarat, Madras, Maharashtra and Rajasthan ; and

(b) any other States which the Central Government may, by notification in the Official Gazette, specify in this behalf after resolutions have been passed by the Legislatures of those States adopting the said amendments under clause (1) of article 252 of the Constitution."

कांस्टीट्यूशन के इस आर्टिकल के बारे में सब स्टेट्स को मालूम है। जैसा कि मैंने फर्स्ट रोलिंग के समय कहा था, यह होते हुए भी लैंड पर एस्टेट ड्यूटी लगाना कहां तक ठीक है। यह ठीक है कि गुजरात, मद्रास, महाराष्ट्र और राजस्थान ने इस बारे में रेजोल्यूशन पास किये और आर्टिकल 252 के अनुसार सेंट्रल गवर्नमेंट उनको अपनी सम्मति प्रदान करती है। जिन स्टेट्स ने एस्टेट ड्यूटी लगाई है, उनको मंजूरी देने की बात तो मैं समझ सकता हूँ, लेकिन मेरी समझ में नहीं आता कि उसके बाद यह प्राविजन क्यों जोड़ दिया गया है कि जिन स्टेट्स ने अभी तक काश्तकारों की जमीन पर एस्टेट ड्यूटी नहीं लगाई, अगर वे भी एस्टेट ड्यूटी लगा दें, तो केन्द्रीय सरकार उनकी मंजूरी देने के लिए तैयार हैं। इन चार स्टेट्स को यह कहने के बजाय कि वे लैंड पर एस्टेट ड्यूटी न लगायें, क्योंकि काश्तकार पर कर्ज का बोझ ज्यादा है, केन्द्रीय सरकार दूसरी स्टेट्स को भी कहती है कि अगर वे रेजोल्यूशन पास करें, तो वह उन्हें भी मंजूरी देने के लिये तैयार हैं।

मुझसे पहले माननीय सदस्य, श्री विभूति मिश्र, ने भी इसका विरोध किया है। हम

काश्तकारों के लिये बोलते तो बहुत कुछ हैं, लेकिन उनके लिये कुछ करने के लिये तैयार नहीं हैं।

MR. DEPUTY-SPEAKER: You have not followed the last clause: it has to be taken up at the State level if they pass a resolution. First of all it is not this Parliament which is going to enact any measure regarding estate duty. Once they adopt a resolution the only question of notification is reserved here, and that only is in dispute. If you want to pass estate duty as such, you will have to canvass support at the State level. This House is not going to pass it.

श्री तुलशीदास जाधव: मेरा कहना यह है कि अगर स्टेट्स कोई गलत काम करें, तो उनको गाइड करना सेंट्रल गवर्नमेंट का काम है।

साहू तथा कृषि मंत्री (श्री जगजीवन राम): वहां पर किसानों के प्रतिनिधि भी हैं।

श्री विभूति मिश्र: अगर स्टेट्स स्वयं कुछ नहीं करती हैं, तो आप इस जिम्मेदारी को क्यों ले रहे हैं? आप अपनी ग्रेव खोद रहे हैं।

श्री तुलशीदास जाधव: स्टेट्स में काश्तकारों के रिप्रेजेंटेटिव हों, तब भी हमारा फर्ज है कि अगर कोई एसम्बली ऐसा कानून या रेजोल्यूशन पास करे, तो हम उसको गाइड करें।

MR. DEPUTY-SPEAKER: You have misunderstood it. The contention is, "Who are you to say?" Because this little power of issuing notification is being challenged since this is an encroachment. If tomorrow the Centre were to show some incination, they will consider that it is further encroachment. That is not permissible. I have followed what you have said.

श्री तुलशीदास जाधव: उपाध्यक्ष महोदय, आप का कहना मैंने मान लिया कि यह एग््रीकल्चर के बारे में सारे स्टेट्स के कानून होते हैं लेकिन फिर सेंट्रल

गवर्नमेंट में यह एग्जीक्यूटिव डिपार्टमेंट रखने का क्या तात्पर्य है यह मेरी समझ में नहीं आता है।

SHRI K. C. PANT : Firstly, I would like to assure Mr. Bibhuti Misra—he is not here now—that this Bill is not to extend the application of the estate duty to agricultural land, but to enable the States to take advantage of the amendments that were passed by Parliament during the period of emergency. I want everybody to understand the scope of the Bill and not to attack the 1953 measure today which is not under discussion.

Prof. Ranga has already expressed certain views which are not quite on all fours with the views expressed by some other hon. members. They have to sort out this thing between themselves. But he made a very relevant remark, viz., it is for the courts to decide the constitutionality of the measure. That is correct.

There is some impression that the centre is encroaching on the powers of the States. May I make it clear that it is for the States to pass a resolution? If the States feel we are encroaching on their powers, they will not pass the resolution. We do not want to force anything on them. It is only at the request of the States that this measure is going to be extended to them.

SHRI K. N. PANDEY (Padrauna) : If the resolution is to be passed by the States why is the centre so much worried about issuing the notification?

SHRI K. C. PANT : It is very simple, The public must know that this legislature has passed a resolution. How does the public get to know of it? How do we intimate to the public what we have done? It is through the official gazette. That is the official way. That is the funnel through which the public is informed. That is why a notification is necessary. I thought it was obvious.

SHRI TENNETI VISWANATHAM : It is a resolution of the State. It will be discussed in every newspaper of the State.

SHRI K. C. PANT : Newspaper does not replace a gazette notification.

SHRI TENNETI VISWANATHAM : Why should there be a central notification?

SHRI K. C. PANT : If the enactment is of the Central Government, how can the State Government issue the notification?

Then, there is a misunderstanding in the mind of Mr. Misra. I sought to dispel it, but he said, I was wrong; I wish he would not use such strong words. He said, the 1953 Act was extended to Orissa only after the proclamation of the emergency. That is not correct, because it was extended before the emergency. This particular amendment certainly came after the emergency was proclaimed.

SHRI SRINIBAS MISRA : Kindly look at the page 1.

SHRI K. C. PANT : I have seen it. All these amendments—Central Board of Revenue Act, Finance Act, etc.—are all after 1963, after the emergency was proclaimed and Parliament could enact on behalf of the States. It is precisely because we want the States to take advantage of this, if they feel like it, that we are bringing this measure. The 1953 measure which originally extended the application of estate duty to agricultural land was applied to all the States who passed resolutions in that respect. All States passed resolutions except two—Bengal and Jammu and Kashmir. Therefore, it is for States. Even today if one of those States does not want this enactment and prefers to have the old rates it is open to it to do so. There is no compulsion on the States.

Shri Nayanar said that 1953 is not 1968, the pattern has changed and so many Governments have changed. But the Constitution has not changed and it is purely a constitutional point which is being raised here. I do not agree with the interpretation of my hon. friends. It is not at all inconsistent with the provisions of the Constitution. As a matter of fact, the Law Minister has specifically looked into this point and come to this particular conclusion.

My hon. friends smuggled in the word 'automatically' into this particular provision of the Constitution.

SHRI M. N. REDDY : Sir, this is highly objectionable. In regard to the Constitution we do not use the word "smuggled". I think by force of habit the Finance Minister is using the word.

SHRI K. C. PANT : The word "automatically" is not there in this article 252. Therefore, I have explained this aspect of the matter.

There is another aspect of the matter which has some validity, and that is that there is an interregnum between the passing of the resolution and the notification. I accept the validity of that and I am going to provide for it. In the notification itself we shall provide that it will be from the date of the resolution. This will be done.

SHRI M. N. REDDY : Sir, kindly see the Bill. After the (;) in clause (a) there is the article 'and' and (b) reads like this:

"(b) any other States which the Central Government may, by notification in the Official Gazette, specify in this behalf after resolutions have been passed by the legislature of those States adopting the said amendments under clause (1) of article 252 of the Constitution."

Sir, you are a lawyer of repute. Does it make any sense? The whole phraseology is wrong. The entire day appears to be a day of errors and confusion.

SHRI K. C. PANT : May I suggest that in future my hon. friend would read the Bill before hand and table amendments so that we can take advantage of them.

SHRI TENNETI VISWANATHAM : Sir, we must have a better understanding between the Government and Members. After all we are not here trying to make points or win points. All of us are anxious to see that, because we like to have estate duty also on agricultural lands, the Bill is properly worded. There is an objection raised against estate duty itself. He said that it should be raised in the State itself because it is there that they have to pass the resolution. We are only anxious to see whether this wording is all right or not. The first objection he disposed of by saying that the courts will decide. Here

he says "any other States". They cannot issue notification with regard to other States. Assuming they have power to notify they can only notify in respect of those States which have passed the resolution. How can they notify in respect of other States also ?

SHRI SRINIBAS MISRA : If the hon. Minister is going to provide for any changes, let him put it down here.

SHRI K. C. PANT : I am surprised that this point is raised. I think my hon. friend, Shri Viswanatham, has not read it earlier. Otherwise, he would not have raised it. Because, I have too much of respect for his intelligence. May I read it again ?

"any other States which the Central Government may, by notification in the Official Gazette, specify in this behalf after resolutions have been passed by the Legislatures of those States adopting the said amendments under clause (1) of article 252 of the Constitution"

Where is the ambiguity ?

MR. DEPUTY-SPEAKER : Two objections were raised. One was about encroachment because there might be a little time lag between the passing of the resolution and the issue of the notification and it is conceivable that there is difference of opinion between the Centre and the States. That point has been answered by the Minister.

SHRI TENNETI VISWANATHAM : About my second point about the wording I do not press it. I think his explanation is quite all right.

MR. DEPUTY-SPEAKER : Then, if you find that lucidity or clarity is lacking in any of the clauses, I also feel like the Minister that this is not the stage to bring that point. It should have been brought forward at an earlier stage by way of amendments. Thirdly, if it is considered that it is beyond the scope of article 252, firstly it was not challenged when it was passed first, and secondly, this House cannot take upon itself that function. It is for the courts to decide. So, let us proceed with it.

[Mr. Deputy-Speaker]

The question is :

"That clause 2 stand part of the Bill"

The motion was adopted.

Clause 2 was added to the Bill

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

SHRI K. C. PANT : I beg to move :

"That the Bill be passed"

MR. DEPUTY-SPEAKER : The question is :

"That the Bill be passed"

The motion was adopted.

18.32 hrs.

DETENTION OF MEMBER

(Shri George Fernandes)

MR. DEPUTY-SPEAKER : I have to inform the House that the Speaker has received the following telegram dated the 9th May, 1968 from the Judicial Magistrate, First Class, Khavda, Kutch :

"Shri George Fernandes, Member Lok Sabha, having been produced by police for the offence under sections 143, 145 and 188 of the Indian Penal Code, detained under custody by me under the powers under section 344 Criminal Procedure Code."

18.33 hrs.

MOTION RE. AMENDMENT TO PARADIP PORT TRUST (PROCEDURE AT BOARD MEETINGS) RULES

MR. DEPUTY-SPEAKER : The House will now take up the motion to be moved by Shri Srinibas Misra regarding Paradip Port.

SHRI SRINIBAS MISRA (Cuttack) : I beg to move :

"This House recommends that the following amendment be made in the

Paradip Port Trust (Procedure at Board Meetings) Rules, 1967, published in the Gazette of India by Notification No. GSR 1669, dated the 31st October, 1967 and laid on the Table on the Table on the 22nd November, 1967, namely :

to rule 5, the following proviso be added, namely :

Provided that the decision taken on the items so added shall be subject to confirmation by the next meeting of the Board which shall consider the matter and may confirm, rescind, alter or vary the decisions taken and may also provide for ancillary matters arising therefrom."

This refers to the Paradip Port, which is a called a major port, although it is still a minor port ; and I do not know how long it will continue to remain a minor port. It is a port where the cargo is nil ; there is no road ; an express highway was to be constructed, but it has not been taken up ; there is no connection between the railway line on the east coast of India and the Paradip port, although there is a plan that this railway line will be constructed. Though the State Government spent Rs. 1.8 crores on this port, it is not yet paid back to the State Government.

Now a Board has been constituted under the Major port Trusts Act, 1963. In order to appreciate the scope of the amendment suggested by me, I would briefly describe the powers of this Board, what this Board will do.

The Board consists of a chairman and representatives of various interests in the State. The Board and delegate powers to the Chairman. The Board can, under sections-66 and 75, borrow money on securities of the property of the Port. Then, the Board can make regulations and the Board can also execute works and allow private contractors to construct berths. The Chairman is empowered to direct this and then report to the Board. I will specially refer you to section 94 of the Act, which says :

"Notwithstanding anything contained in section 93 the Chairman may direct the execution of any work the cost of which does not exceed such maximum