

[Mr. Chairman]

and he will try to persuade the State Government, as Mr. Fernandes has pleaded to grant interim relief to the Government employees of Maharashtra. Primarily, it is a matter for the State Government. I have also written to the Chief Minister of Punjab and Haryana to grant interim relief to the State Government employees, because, now that the Central Government has done it, it is very desirable that the State Governments must follow suit. I request Mr. Parthasarathy to bring it to the notice of the finance Minister. and also the points raised by Mr. Indrajit Gupta and Mr. Vikram Chand Mahajan, to ministers concerned so that if something can be done, that ought to be done.

Now, the House will take up further discussion of the Taxation laws (Amendment) Bill.

14.43 hrs.

#### TAXATION LAWS (AMENDMENT) BILL (Contd.)

**SHRI HIMATSINGKA (Godda) :** Mr. Chairman, Sir, the various Finance Ministers have promised from time to time that steps would be taken to rationalise the income-tax provisions and they will try to avoid the annual ritual of introducing changes and alterations in the Act. Now, every year, certain provisions are altered as a result of which the books that are purchased this year become absolutely useless next year, and the people do not know what the provisions of the law are which they have to follow, because there are so many changes sometimes twice in a year.

This Taxation Laws (Amendment) Bill is an attempt to rationalise some of the provisions and to some extent the provisions that have been recommended by the Select Committee go a long way to remove some of the difficulties that were being felt in the matter of taxation. The provision for amortization certainly will be a useful one, but I do not see any justification for categorisation of items which may be taken into account in fixing the amount; that should be left to the officers to decide in each particular case, depending on the kind of machinery or kind of industry or practice that is prevalent and all these things, it should be done. But if you categories

certain items, then they may not and they necessarily will not cover all the items in all the cases. Therefore, I feel instead of categorisation of the items, it should be left to the discretion of the Income-tax Officer.

About shifting of machinery from one State to another, there was a provision in the original Bill which has been now dropped on the assumption that the shifting is intended to avoid certain laws of a particular State. That is not so. In certain cases, a factory in a particular place becomes unprofitable and unproductive. In the case of some sugarmills in UP and Bihar, they are so closely placed that they do not get sufficient cane. They can shift themselves only with the permission of the State Government. They cannot do so if the State Governments do not agree. Therefore, that provision should have been allowed to remain. Even now an amendment, that has been given, should be accepted. In any event, if some party wants to shift from one place to another in the same State for reasons of safety, stability and other conveniences, they should certainly be permitted to be done.

Coming to penalty provisions, as a lawyer you know Sir, that various provisions in the Income, tax Act, Wealth-tax Act and Gift-tax Act provide for various penalties for committing this thing or that thing and what not. If a return is filed a few days late, there is a penalty. If the wealth-tax return is not filed in time, there is a penalty of half a per cent on the total wealth of the party per month. There are so many penalty provisions. I feel that some step should be taken to rationalise them, so that the Damocle's sword that hangs on the assessee and which is always available to corrupt officers to influence the parties to fall in line with their wishes, will go. Some steps should be taken to rationalise the penalty provisions in various tax laws.

I also find that in the provision for transfer of property by an individual to the Hindu Undivided Family, the HUF has not been treated properly. As a matter of fact, the various tax laws have the effect of breaking up the HUF to a very large extent. Practically, the Hindu Undivided Families are breaking up under the pressure of the tax laws. Now this provision has

been introduced about charging the transferor for the income in respect of the property transferred to the HUF in his hands. As was explained so ably by Mr. Dandekar, that should not be done so long as partition does not take place and an attempt is not made to transfer the income of that property again to the transferer. If that is done, that will meet the point and at the same time there would be no loss of revenue to the State.

Similarly, there are certain other provisions which need to be looked into so that the difficulties that are being experienced may be removed.

I also feel that it is quite good that non-corporate assesseees who want to take advantage of the provisions should file audited accounts. There is no difficulty in that. It is a necessary provision.

Then, in regard to technicians, the period has been reduced to 24 months but the maximum amount that is permissible to be paid to the technicians which is free of income-tax is Rs. 4,000 which will not be regarded as sufficient by any good technicians, real experts, who are expected to come here from a foreign country to be in this country for a period of two years. I feel that this sum should be increased to at least Rs. 7,000 if not more. With the present value of the rupee, I feel Rs. 4,000 will not be very attractive in their eyes. So, it should be increased.

Then the steps that have been taken in respect of certain provisions for rationalisation need to be taken in respect of other provisions also so that the assesseees and the department will know how the matter stands and there will be much less difficulty in complying with the provisions and revenue will also benefit because people will feel a little more secure than what they feel now.

SHRI N. K. SANGHI (Jodhpur): Mr. Chairman, Sir, we are discussing the Taxation laws (Amendment) Bill with a view to further amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act,

1958 and the Companies (Profits) Surtax Act, 1964. I had the privilege of being a member of the Select Committee. The Finance Minister then was the Prime Minister and the Minister of State was Shri P. C. Sethi. Thereafter, when the deliberations of the Committee concluded this portfolio had been taken over by Shri Chavan and the Minister of State Shri V. C. Shukla and the Deputy Minister is Shri K. R. Genesh. I feel it was all the more necessary that they should have been here today to hear the points that are made because they were not a party to the evidence and the formulation of proposals by the Select Committee on this Bill. However, I hope these points will have their consideration with a view to bringing certain amendments which are still required to be accepted before the passing of this Bill.

To take a proper stock of things we have to go back to the historical background of this taxation legislation. After 1860 we had the 1922 Act which continued for a period of more than 40 years. In 1961 when the present Income-tax Act, 1961 was passed; it was hailed as a piece of most wonderful legislation to solve all the difficulties of the assesseees in the country. But I am sorry to say that within a period of less than ten years more than 400 amendments were brought to this Act, many provisions were added, many amendments were brought in and many parts were omitted with the result that with the passing of every year the law has become more and more cumbersome. In 1961 when this Act was brought into being Government had given the assurance that whenever they being in any changes in the taxation law it would be by a separate legislation. The same assurance was reiterated by the Deputy Prime Minister and the Finance Minister, Shri Morarji Desai, during his speech on the Finance Bill 1968 when he said that any change in the taxation law would be brought in by separate legislation. But in the Finance Bill, 1970 many taxation laws were changed, but not through a separate Bill, and I am sure this is going to create many legislative difficulties. Here I would like to quote a very important saying. Mr. Justice J. C. Shah, a present Judge of the Supreme Court, in one of the

[Shri N. K. Sanghi]

seminars on taxation, had this to say on our income-tax law :

"I cannot resist the temptation of pointing to one major cause : ill-drafted, ill-conceived and slovenly acts, rules, regulations, orders, directions and circulars which are poured out in a continuous, and ever-increasing stream. Then, there is little appreciation of the true proportion of the problem, no conception of what is needed to meet it and the remedy thought of in a hurry and carried in the enthusiasm of a momentary stimulus,

"...has to a large degree added to the work of the Courts and the tribunals. Hardly a day passes when the courts are not confronted with problems which become difficult of a solution because of vagueness, inconsistency or sheer inaptitude in drafting."

This is the real problem of the present income tax law. However, it is a matter of great satisfaction that the present Bill was brought to this House as a separate piece of legislation and sent to the Select Committee and more than 80 memoranda were presented to the Select Committee and hundreds of people came to give evidence and a voluminous work was done before the Bill was finalised. After so much of evidence and so much of hearing and discussion on this matter, what we find to-day is that the Bill brought before the House is a fundamentally changed Bill. Many of the clauses which the Ministry brought in originally have to be given up. For example, legislation to bring in a new scheme of recognition of firms instead of firms was completely given up by the Ministry and the Direct Taxes Board. This is after hearing the voluminous evidence of the people and their representatives because the whole idea of simplifying the legislation was completely lost by the new scheme of recognition of firms that it envisaged. This is how things have happened. Not only this, a lot of fundamental changes have been made in the Bill. For example, in the Hindu Undivided Family. This piece of legislation that is supposed to be brought is to tax the income

that an individual earns and throws into the hotchpot or into the 'oparceners' property in the hands of the transferor. This is really to say that it goes to the very root of the Hindu law. By providing such a legislation we are corroding the very basic idea of the Hindu Undivided Family. This system is continuing for centuries. In connection with this tax legislation, I might exemplify my point : for example, the law regarding giving permission to a person to adopt a son. You say 'you can adopt a son but we will not be able to give the benefit of a son to you.' This is the concept of the Hindu Undivided Family by which we want to tackle in this new piece of legislation. After what all had been said in the evidence, the Government was good enough to say that they will not bring it into effect from 1965 but would agree to 31st December 1969. When we have to bring such changes, I think we should really take the feelings and sentiments of the Hindu society as a whole. The system which is continuing for centuries to-day is being corroded by such legislative measures. I am sure that had it been from the point of revenue, the Government would agree that the amount of revenue is very little. There was a suggestion that if it is to get some more revenue, by a slight increase in the taxation rate of the Hindu Undivided Family the whole matter could have been solved. This is a suggestion which the Government should even consider now and drop this provision,

15 hrs.

Another point in this Bill is the amortisation of expenses that have been allowed. This is a very good suggestion. Then the whole suggestion has been completely lost by putting a ceiling of  $2\frac{1}{2}\%$ . Any amount of expenses beyond  $2\frac{1}{2}\%$  is to be disallowed. Anyhow the whole basic concept on which the taxation law is based was that expenses which are wholly and exclusively incurred for the business have to be allowed. That was lost sight of and this ceiling has been fixed which is not correct.

One of the most fundamental changes in this new Bill is to allow the Government to

do summary assessment particularly in cases where the assessee has small income. It was really a very good suggestion' The Govt. has also been continuing the procedure of making summary assessment on incomes of Rs. 15,000 and below but in this new piece of legislation it has been clarified that the Income Tax Officer should be allowed to make summary assessment but it also provided that he should be allowed to re-open the assessment any time after he has made the assessment and re-open the whole case. This was in fact giving the Income Tax Officer to do something first and apply his mind thereafter. He was asked on the one hand to complete the assessment and then re-open the case. I am so glad that in this new Bill it is provided that the officers would be allowed to do summary assessments but they would not be allowed to re-open these cases unless they find something materially defective and the present provisions for re-opening these cases under Sec. 147 and 148 amply provide scope to take them to task.

Regarding summary assessments, I have a strong feeling that in the present legislation we have gone a little too far. We have provided certain punishment of imprisonment to people who have not filed the return. Another thing is where the income-tax assessments have been completed where the assessments have been opened up we have provided 1 year RI in case they fail to produce the account books. This is really something which is not a worthwhile solution. To-day when you complete the assessment, the assessee is not pleading to the officer or the Government to make the summary assessment. When these summary assessments are made and thereafter the cases are re-opened, he has not been able to produce the books you punish him with rigorous imprisonment for one year which smacks of a police State. In revenue laws when you bring such penalties for smaller offences like nonfiling of income-tax return, it is not really going to bring any good relation between the tax-gatherer and the tax-payer. To-day time has come when we must really create a climate by which a person feels that he owes a duty to pay his taxes for the development of this country. To-day we are a developing

country. We have a greater responsibility of bringing social justice, economic justice and political justice to the people and it is for this reason that we have to collect these taxes and this very feeling has to be created among the people so that they may be able to pay their taxes legitimately, dutifully and without fear or favour. This is the climate which you have to create.

I would like to draw the attention of the Government to one particular point. For example we have provided for certain penalties. What are these penalties? In what cases these penalties are to be levied? Now we talk of imprisonment for non-filing of return, But what about a man who has concealed his income—Rs. 5 or 10 lakhs? To-day a person goes away with less penalties when he has concealed his income but he has filed his return of income. Where a person has filed his return of income but has not filed it correctly, there is less punishment. (*Interruptions*) We have provided certain penalties, e.g. 27 (1) (c) (3) and also the Wealth Tax Rules 18 sub-section (1) (c) sub-section (3). Now what is the penalty imposed on a person who has filed his wealth-tax return? He says his property is Rs. 1 lakh. The Department says that the property is not Rs. 1 lakh but Rs. 2 lakhs. So he comes to the conclusion that the concealment is Rs. 1 lakh and what is the penalty? The penalty is Rs. 2 lakhs. The maximum penalty available in such cases is Rs. 2 lakhs. The loss of tax to the Government if he had filed it for Rs. 2 lakhs is Rs. 500 to Rs. 2000. Sir, you have to seriously consider this. To-day people have properties in rural areas where it is very difficult to assess the real worth of the property. This is a matter of difference of opinion. To-day we find Princes who have big palaces and other property. Sir, it is humanly impossible to assess the correct market value of the property. They have declared that these are the properties and this is the marketable value. Sir, to provide for such penalties is something very serious. I am sure the Government should see that proper justice is done to them and see that they understand their responsibility. Such heavy penalties have to be done away with where difference in valuation is the bone of contention

[Shri N. K. Sanghi]

To-day in our growing complexities what we have seen from the past reports is that our tax collecting expenses in this country in the last 15 years have gone up from 1.3 paise per rupee to 2.2 paise per rupee. To day we find that Wanchoo Committee has been formed to report on how tax evasion can be checked. I am sure one of the points on which Wanchoo Committee is to make out a case for simplification of the present law so that the millions of people who are not educated and who are not conversant with the taxation laws are also able to deal with their taxation matters in a proper legitimate way. To-day we talk of tax evasion. There is no Committee which can give what tax evasion has been. To my mind one thing is very clear. We have an estimated non-agricultural income of Rs. 17,000 crores. It is also said that out of Rs. 17,000 crores the tax recovered is Rs. 780 crores. On the other side out of Rs. 15,000 crores of agricultural income the income-tax recovered is Rs. 11 crores only. This is the disparity we have to look into. I know we want to go ahead with the Green Revolution but if we really want to arrive at a proper conclusion on what is the amount of tax evaded in this country, then we should also bring some sort of tax on agricultural income. Then only we can determine whether what has been said in this country is true or not.

There are agriculturists who are doing all sorts of non-agricultural work also. To bring them to book is all the more important. It is just and proper that this aspect of the matter is looked into, so that such an income is brought to book and they are made to pay the taxes.

The Direct Taxes Board make out a law but they never give a decision to its interpretation. One has to go to court, one has to go to the A. C., to the Tribunal, to the High Court, and to the Supreme Court. It was very clear that jewellery is not to be included in the present Wealth Tax Act. But the officers working the law said, "No, jewellery is included". This matter had to be taken up to the judiciary and it was left to the Supreme Court to

declare that under the present legislation jewellery does not come under the Wealth Tax Act. These are small matters, but these are the matters which cause a great amount of hardship. We have to create a good climate, a good type of relationship between the tax-gatherer and the tax-payer and there are lot of things which have got to be done at the administrative level.

The Income-tax Department have got plots of land in many cities but they have not constructed their offices, they have not constructed residences of their staff. The department is faced with lack of buildings and proper housing for the staff. This is something which should be attended to.

I thank the Government for having brought this amendment in taxation law for discussion before the Select Committee and before the House. Government does the same thing whenever they want any change in the taxation laws so that proper deliberations can take place here, so that the sufferings of the people can be reduced. Thank you.

SHRI BENI SHANKER SHARMA : (Banka) : I agree with the Finance Minister when he said that the Bill as it has emerged from the Select Committee is a great improvement over the original. Really it is and I must thank the hon. Minister Mr. P.C. Sethi, who piloted the Bill at the Select Committee stage and also the officials of the Finance Ministry who were associated with it for their unflinching cooperation and understanding which they displayed in appreciating our points of view and assisting us in coming to our conclusions.

Sir, before I proceed to discuss the salient features of this Bill I would like to make a few general observations. I would endorse what Mr. Himasingka and Mr. Sanghi have said about the need to have a clear, unambiguous and simplified tax code. This is the pressing need of the times. Not only the tax payers but the tax administrators and the tax consultants have been very much worried about the haphazard growth of the Income-Tax Act. I do not think this is so much the case with Wealth Tax and

Gift Tax Act ; but this difficulty is very much more felt in regard to Income-tax Act.

Sir, right from the days of the Direct Taxes Administration Enquiry Committee down to the Administrative Reforms Commission, various committees and commissions including the much talked of *Bhoodan* lisation Committee were appointed for the purpose of recommending measures which would help the Government in enacting a clear, simple and rational taxation law. But in spite of their valuable suggestions this has not been possible, with the result that every year new amendments are added which go to complicate matters further. I would just quote from the report of the Administrative Reforms Commission, which says :

"A major factor in proper tax assessment is a clear and unambiguous code, the provisions of which are not altered too often by amendments. It was hoped that when the Income-tax Act was thoroughly overhauled and a new enactment namely the Income-tax Act, 1961 was passed replacing the Act of 1922, there would be stability in the income-tax law for some time. However, as pointed out by the working group, in the years that followed the passing of the Income-tax Act in 1961, more than 400 amendments have been made creating a confusion of the type which was sought to be removed by the Act of 1961."

I would humbly submit that in order to act according to the recommendations of these committees and commissions and the repeated assurances given by the successive Finance Ministers on the floor of the House right from Shri T. T. Krishnamahcari down to Shri Morarji Desai at the time of the introduction of the Finance Bill, 1969, Government should have evacted a well-defined, simplified and unambiguous income-tax law long ago. However, though belated, it was with this object that they introduced this Bill. The objects of the Bill have been stated in very clear terms in the Statement of Objects and Reasons as follows :

"The main objectives of the amendments proposed to be made in the Income-tax Act, 1961, are the rationalisation of certain provisions and the simplification of the procedure for assessments and collection of taxes ; ...".

But, Sir, I am constrained to say that these amendments which have now been sought to be introduced in this Bill do not even touch the fringe of the problem. Rather they have further complicated the law.

As is said in Hindi :

मर्ज बढ़ता गया ज्यों-ज्यों दवा की ।

As a result, we find that more complications have been created, in as much as has been taken from the US Act, something from the Australian Act, and something from the other Acts, with the result that instead of the image of a god, which we want to make we are faced with the image of a demon.

I am sure that after the Wanchoo Commission submits its report, Government would again come forward with a plethora of amendments. But then there should be some halt somewhere. Let the Government decide once for all at least for the next three years or five years, they are going to give this country only such an Act, and let them have an experiment with it. Of course, I cannot stop them from action according to the recommendations of the Wanchoo Committee, which would be very valuable. But, after that, I would request the Ministry to take into consideration all other aspects which they want to amend and stop coming forward with further amendments for some time at least, for God's sake, so that the tax-payers, the tax consultants and the tax administrators could all have a sigh of relief.

Coming to the provisions of the Bill, Shri Dandekar had started yesterday from the beginning, but I would like to start from the end, because those provisions which are in the end have practically been left out by him. "Sir, therefore, I would

[Shri Bani Shankar Sharma]

start with clause 52. I would submit that a new concept of inflicting corporal punishment for failure to file returns or produce documents has been introduced by this clause. It is very good to say that if one does not file one's return, in time, why one should not be punished with rigorous imprisonment. But in actual practice, when we have got Ministers of fifteen years standing and more who are forgetful in the matter of filing of returns, how can we expect the ordinary citizens to be more alert so as to be able to file their returns in time ?

Here we are not only forgetful but we are so much provoked by so many other things. Not only big businessmen but even ordinary people are sometimes unable to file their returns in time. For this they should not be punished. After all, corporal punishment, should be for mental aberration and not for socio-economic evils, as I call them. After all, we have got to learn to discharge our tax-paying obligation to the State. The general assessee in India is not so literate or educated as to understand this.

I understand this provision has been copied from the U.S.A. To compare the Americans with Indians is, I would say, something horrible. Their standard of education and living is very high as compared to India.

श्री शिव चन्द्र झा (मधुबनी) : वहाँ भी टैक्स इवेजन् होता है ।

SHRI BENI SHANKER SHARMA : I am not talking of tax evasion, but late filing of returns. For tax evasion, I admit punishment should be physical; they should even be hanged, I should say, because tax evasion is a serious crime. But so far as filing of late returns is concerned, I have my differences with the Ministry. In India it is only 0.5 per cent of the people who shoulder the responsibility of paying one-fifth of the total revenue of Government; in America, about 35 per cent of the people are in the list of income-tax payers. We

are good copyists, but I should say we should also copy the whole thing; copying a portion leaving out the rest will produce horrible results.

MR. CHAIRMAN : He need not spend all his time on America. His time is running short. His party has only 13 minutes.

SHRI BENI SHANKER SHARMA : Yesterday Shri Dandekar took about 25 minutes. The Jana Sangh should then get at least 20 minutes.

Therefore, I am against this provision. I would request the Minister to take the circumstances in India into account and not press this provision.

Coming to clause 30, which is the heart and soul of this Bill, I have myself been agitating, so to say, crying for such a procedure since we became free. I do not know whether the present Finance Minister has ever earned so much as to feel the pinch of income tax laws. In India at least no assessee can place his hand on his chest and say that he is an honest assessee. The greatest need of the time is to have a class of people who can say with a clear conscience that they are paying their income-tax properly. I may tell you from a little experience of the income tax department that those who have an income of Rs. 20,000 or 25,000 have no incentive to conceal their incomes and file false returns. They do file correct returns. But they know that the department will make an addition of Rs. 5,000 or Rs. 10,000. So they reduce their returned income to that extent. If they are assured that their return, will be accepted without any under additions, I am sure they will always file their returns correct to the pie. Under this provision, we shall be able to free this class of assessee from anxiety and I think about 50 per cent of the assesseees will be saved from the harassment of the income tax department.

I am sorry to find that Shri Dandekar totally misunderstood this provision. He was apprehensive that, by this procedure,

there would be very many appeals, and that the Appellate Assistant Commissioners would be saddled with the work of the income-tax officers. I may say in all humility that he has been out of the department for a long time, and he does not know the actual facts. In reality it would mitigate the hardship of these people because under this Clause the income-tax officer is not allowed to make any arbitrary additions in the manner that he likes, he can only correct certain arithmetical inaccuracies, make certain additions which cannot be refuted by the assessee, allow certain expenses which have not been claimed by the assessee and so on and so forth. Therefore, there is not much which the assesses have got to grumble about, and, therefore, in my opinion, there may be about five per cent but not 90 per cent appeals as Shri Dandekar has said.

Clause 16 strikes at the very root of the concept of Hindu society. I admit that the Clause as it originally stood was something horrible and would have been a headache not only to the assesses, but a permanent headache to the department as well. Thanks to the good sense which prevailed on the officials of the Ministry, we have been able to solve the problem, but then what is the object of this Clause? The only object is to plug the loophole by which those who have a high incidence of taxation try to save their tax. This is done by the process that an individual having a large income throws his property into the common hotch-pot and after that, divides it so as to make it available to his wife/husband and minor children. In such cases I am with the department, but then, there are genuine cases in which there is social necessity of throwing one's property into the common hotch-pot. As, pointed out by Shri Dandekar yesterday, the Hindu undivided family in India is a sort of socialistic institution in a small way. Here everybody gets according to his necessity and contributes according to his capacity. I do not understand why Government, which is crying hoarse about socialism, should destroy this sort of socialism. If anyone is so unscrupulous as to manage to pass only his assets and income through the Hindu undivided family,

he should do so only after partition, and when there is a partition, within a period of three or five years this could be made applicable. Therefore, I would suggest that the amendment that I have tabled on this point may be accepted, as that will alleviate the difficulties.

I may point out to the hon. Minister that it will be a source of permanent headache to the administrative officers to keep track of the share of income attributable to the minor or the wife, as this will be varying, because the Hindu undivided family is not a physical mixture but a chemical compound where the shares of the minor and the wife and the spouse would always be changing. Therefore, it will be difficult to keep track of the income. I submit that so far as the revenue side of it is concerned, it would be a worry to the department. I would therefore, request the Minister, through you, Sir, that this provision should be done away with.

SHRI VIKRAM CHAND MAHAJAN (Chamba): Government deserves our congratulations for making an attempt to rationalise the outmoded and primitive taxation law. I call it primitive because if you go through it you will find that it lacks humanitarian aspects, it lacks the effort to cause the minimum harassment to the assesses. Now an effort is made to rationalise it, though with no better results. The object of any taxation law should be to bring maximum revenue to the Government at minimum cost, that is, the cost of collection, overheads, expense on bureaucracy etc. It should cause minimum harassment to the tax payer, the law should be simple; people should be able to understand it. They should be elastic; with increasing affluence in society the receipts should go up.

Taking the first aspect, rationalisation and plugging the loopholes, we find there is an attempt to plug some loopholes. An attempt is made to tax properties or incomes thrown in the joint Hindu family stock. This provision had been criticised by the Opposition. Clause 16 would tax



[Shri Vikram Chand Mahajan]

in the hands of the transferor any income attributable to properties which being his separate property qua individual was thrown by him in the common hotchpot of his joint family, after 31 December 1969. What is being taxed now is this. I earn with my hands and throw it in the common hotchpot for the purpose of saving income-tax as the tax liability will go down; the rate of tax will go down. This is a mode of evasion adopted by most people with high incomes. The present amendment does not cover those cases where property comes from male linea descendant if ancestral property comes from father and grandfather. I submit that when an attempt has been made to plug some loopholes, there are left some other loopholes which also need to be plugged.

Secondly, an attempt has been made to rationalise registration of partnerships and to tax companies properly. There has been no attempt to reduce the overheads or the cost of collection of taxes. For example, when a case is decided by an income tax officer, the next higher authority is the appellate assistant commissioner who hears appeals. Then an appeal can go from him to the Tribunal. After the decision of the Tribunal, the assessee asks the tribunal to refer the question to High Court, if the tribunal refuses then the assessee has to go to the High Court and ask it to ask the tribunal to refer the question. If the High Court says that the tribunal should refer the question the case again goes back to the tribunal; it is referred back. After decision by the High Court, it can go to the Supreme Court. At times it needs seven stages to reach the final Court. No attempt has ever been made to rationalise this. One could easily eliminate the appellate assistant commissioner. Permission of the tribunal could also be eliminated; an appeal to the High Court to refer the question could be eliminated. One could appeal from ITO to the tribunal, tribunal to High Court, High Court to Supreme Court. Whether there is a question of law or not should be decided by the High Court as it happens in the normal cases, like the second appeal and so forth. But no effort has been made on these lines. I do

not blame the Government because, if you eliminate these two or three steps, possibly many promotions would stop, and many jobs would be curtailed and possibly the taxation department is not interested and therefore no such proposal comes in.

Again, I will give you another example. In the income-tax department, due to the amendment, there was a reduction of a lakh of cases, and a lakh assesses will no longer be taxed. Thus, the files went down in number, but at the same time, wealth-tax on agricultural land was introduced. The taxation department came out with the proposal that about 100 ITOs and a few Commissioners should be appointed because the workload had increased. They conveniently eliminated the aspect that due to raising the taxation limit, the number of cases had dropped down. Thus, in fact, what should have happened is that there should have been a reduction but on the contrary, the number of posts have been increased. This is how the overheads keep on increasing without a corresponding reduction. So, the amendments do not touch that aspect which I submit should have been touched.

The main object of an amendment to a taxation law should be that it should cause minimum harassment to the assessee. After all, they have to pay the taxes. Collect them, but give them respectability. Do not harass them. What happens is that once you are in the grip of the taxation department, then you have it, in the sense that no effort is made to give them a treatment which a citizen is entitled to receive.

I will give you a few examples. What happened before the Independence of the country was, normally, to the old assessee, the income-tax department would send you a form along with the advance tax notice for filing the return to the department. But after Independence, the taxation department says, "No, we are not your servants. You come and collect your forms from us." When the assessee goes to collect the forms for filing the return, they would say, "The forms are out of stock. We have no forms now. Come later on." It is

amazing that before Independence, the income-tax department tried to serve the assessee by sending the forms. But after Independence, they say that not only the people should collect their forms but that even the forms are out of stock.

Then, in the case of new assesseees, they do not know the laws. Most of the people are illiterate. They do not know the laws. You must give them enough time. Let them file their returns in a year or so. Do not impose any penalty, as Shri Beni Shanker Sharma suggested. Give a latitude to the new assesseees at least for filing the returns. For evasion of tax, impose heavy penalties, but not for late filing of returns.

I would next submit that the taxation law is more difficult to understand than any other law, and with every amendment, you find that the law is becoming more and more difficult to understand. I used to get a journal which gave the new amendments and one had to add those leaves and take out the old ones. After the end of the year, I found that the volume of the new amendments which had to be inserted was much more than what I had to take out. That is, there were so many amendments to the same section and rule that it was difficult for even a lawyer to keep track of them, not to talk of an ordinary individual. Therefore, I submit that a taxation law should be much simpler, which does not change so often and is easy to understand.

Lastly, I would like to add that a taxation law should be such that it should bring in more revenue and it should be elastic. Not that it should be rigid. It should not kill the goose that lays the egg. There are a few taxation laws which need modification. For example, there is the estate duty which is considered by all the jurists as a tax which can be easily recovered and which pinches the least. But in India, we find that the income-tax is at a much higher level and the estate duty, that is, death duty, is at a lower level. The estate duty is higher even in Great Britain as compared to India. If we are interested in a socialistic pattern, that is the right stage where you can impose a higher level of taxation. But we con-

veniently forget that and try to beat about the bush.

Similarly, I come to agricultural income-tax. If you give Rs. 6,000 as exemption in non-agricultural income, you can give some more exemption for agricultural income, say, upto Rs. 10,000. But what is the justification for completely eliminating that sector? If a man has both agricultural and non-agricultural income, on the non-agricultural income, you tax him if he gets more than Rs. 6,000. But even if he gets Rs. 30,000 as agricultural income, he is not liable to pay tax on that. There is no justification for eliminating that sector completely. Therefore, the time has come when you should completely review the taxation laws so that they are made more simple and more revenue is brought to the exchequer.

SHRI TENNETI VISWANATHAM (Visakhapatnam) : Sir, luckily I am not one of those who are personally bothered by income-tax laws. I belong to the category outside the 27 lakhs of assesseees. At present—I am not talking of the past—income-tax is deducted at source and the Government have been good enough to say that I need not file a return, because I have no other income excepting what I get as salary, but which is not recognised as salary. We got an order that we need not file any return. It is a very good order. I am only submitting that this must be extended to all Government servants also whose tax is deducted at the source and who give a first declaration that they have no other source of income.

The next point is about the Hindu joint family. The provision here is not good, because the Bill wants to treat,—not treat but “deem”, what has been thrown into the common stock as separate property. Deeming is the function of courts of law, not of the legislature or Government. They want to “deem” it like that not only in the year in which it is thrown into the common stock but from year to year. We do not know how they can calculate what impact it would have on the income of others and what impact the income of other members of the joint family would have on this transferred

[Shri Tenneti Viswanatham]

amount. How they are going to calculate that is a matter far beyond the comprehension of anybody. We tried to impress this upon the minister and the departmental officials who were there during the Select Committee sittings but they said, "we have got the power ; therefore, whatever we say will be law." That is the kind of law we have. The compliment which I was going to pay to the department on other aspects, is somewhat dimmed on account of his particular thing. However, I would join others in paying a tribute to the minister, who was very liberal-minded, who saw the other man's point of view and made many alterations in the original Bill. The present Bill is certainly a very great improvement. The reason why this controversy about throwing of the property into the common stock has been raised was that this was said to be a loophole and this provision was meant to plug it. When we asked the department to produce statistics, the sentence written there under the statistics, is "These do not justify us to make a statement that this device has been used in any appreciable manner." That is the statement made by the departmental official who gave the statistics to the Select Committee. Therefore, I still feel that in spite of the improvement that was made in clause 16, it is really an unnecessary clause.

I also thought that at least house property the value of which is less than Rs. 1 lakh need not be brought under the mischief of this new clause.

But the biggest loophole is the loophole about write-off. The Department has a right to write-off when the tax is not recoverable. But that has been given an extended meaning in two big cases which came on the floor of the House. I think the demand was for about Rs. 10 lakhs or so. The man would agree to pay Rs. 1 lakh and finally it was compounded for Rs. 2 lakhs or 3 lakhs and when the write-off was questioned in the Parliament the answer given by the Finance Minister was that if he did not agree to this, he would not be able to recover anything. This is going far beyond the language of the Act. I can certainly understand the writing

off of anything which is not "recoverable," be it even Rs. 1 crore, because the man has no property. But here is a case where if you do not agree to the payment of Rs. 2 lakhs or 3 lakhs we are told that you would not be able to recover even that which is admitted by the assessee. This is the biggest loophole and it will vary from division to division and officer to officer. But this liberal mindedness is not displayed by the income-tax officer when it comes to the case of a small assessee. His house is sold and when he is practically in the street if he happens to have a small cottage, that cottage is also aimed at. At the same time in the case of the rich man, his lakhs are written off in a very liberal way. This is a matter to which the minister must give some thought.

Then the question of imprisonment is bothering our minds. The department always takes the stand that if you do not have imprisonment the man will not pay. That is the conclusion the Indian income-tax officers have arrived at after the experience of so many years. I submit this is a wrong way of reasoning. Why is it that people have taken to evasion which involves inviting trouble and penalty ? Why do they take all these risks ? Because, the taxation is high.

The Minister has given comparative figures of taxation in India and in other affluent countries. But in other countries what is left after the tax is taken away, be it 5, 7 or 10 per cent, in terms of quantity is 10 or 15 times more in value than what is left in the hands of the assesseees in India. Therefore, the comparison is misleading. Generally, the Ministers are misled by these comparisons.

I believe that the idea of imprisonment is not at all good. But if you do have it, have it as a last resort. Otherwise, you will be making criminals of the whole lot of assesseees with the result that the finer sentiments of the nation will be lost and we would become a nation of accused on one side and prosecutors on the other and there will be practically no civilised life.

With these few remarks, I would like to commend this Bill with certain amendments

which, if passed, will make it better for the acceptance of the House. We know the Government and the officers were co-operative and the Minister was fairly generous. The present Bill is certainly much better, though not as good as Shri Dandekar wants it to be, it is certainly much better than what was originally presented and we must be thankful for the small mercies.

SHRI N. K. P. SALVE (Betul) :  
Mr. Chairman, as I rise to support the Taxation Laws (Amendment) Bill, I am reminded of what Lord Somerset said in one of his famous judgments. The learned Law Lord said :—

“The way of tax-payers is hard and the Legislature does not go out of its way to make it easier.”

I do not for a moment consider that the comments of the learned Law Lord were very uncharitable. Seeing our passion for amendments in the preceding eight years to the tax laws when amendments far exceeded the entire aggregate of amendments in the preceding 40 years to the Income-tax Act, 1922, may be, the very learned Law Lord might have stated that the way of tax-payers is hard and the Legislature goes out of its way, in season and out of season, not only to make it harder but that of the tax-gatherer so difficult that it really becomes more difficult than that of the tax-payer.

As Shri Mahajan pointed out, tax laws are so difficult that no one can understand them. That is one submission which I can endorse 100 per cent. In fact, it is a landmark of erudition and scholarship and one's knowledge of the tax laws. If a lawyer was to say that he did not know anything of the tax laws. If someone were to say that he knew the tax laws, you can take it that he is a hoax. This is the story of the tax law but the administration sometimes really makes it extremely disastrous.

There are two aspects of the matter. This type of tinkering and meddling with the tax law that we go about, this frequent change that we make in our tax laws has the effect stultifying the very growth of tax

laws as such apart from divesting the tax laws of the stability which is very necessary.

Secondly, it creates an attitude of irreverence and contempt on the part of the tax-payers. That is why I have so far very vehemently opposed the idea of light-heartedly enacting and amending our tax laws. We have already had far too many amendments.

So far as this Taxation (Amendment) Bill is concerned, I must submit immediately that the story is very much different. This Bill has been a magnificent and commendable effort. From all sections of the House the Ministry, the Ministers and the officers have received commendations for their very laudable work. This is the first time after eight years that an honest endeavour has been made to streamline and rationalise our tax laws.

After all, eight years is quite a duration and it is necessary to have a good look at our tax laws and see and determine whether or not by our tax laws we are achieving our objectives and whether the administration needs to be streamlined in the light of our experience. After all, our fiscal objectives and our philosophy are now fairly clear. We want economic growth with social justice and I do not see any reason, if we are so sure about our objective and our basic socio-economic philosophy, why we should have continuous amendments. This I am saying on—the assumption that after we have gone through the enacting of this Bill into law we will see a change in the attitude of Government so far as the amendment of the tax laws is concerned.

I have seen criticism of various clauses of the Bill. It is impossible for anyone to devise a tax law which is going to please everyone. The controversy is bound to exist. I do appreciate the difficulty of the Minister in having an Amendment Bill which will be without criticism of all sections of the House. In fact, though I belong to the same ruling party, I could not find myself in agreement with all the recommendations of the Committee and I was impelled to append a minute of dissent. But such

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differences of opinion are inevitable. As some one has said about the tax laws, it is as difficult to love and be wise as it is to tax and please. I am sure, the Minister will at least accept the earlier part of the proposition.

I shall now make certain comments on the specific clauses of the Bill. I shall not deal with those clauses on which I, as a humble Member of the Committee, have been in respectful agreement with the Select Committee. Quite a bit has been said on the clauses and the technical aspects have been looked into. I should like to make a few comments in respect of such clauses where I could not see, very very respectfully, eye to eye with the Committee.

You will forgive me if in making these comments I talk slightly technical. The first thing on which I wish to offer my comments is clause 8. This Cl. 8 seeks to insert two new sections in the Income Tax Act—Sec. 35 (d) and 35 (e). In terms of these clauses amortisation of certain expenses is contemplated. Now the entire innovation, the entire concept of amortisation is entirely novel to the law of taxation in India. It is a concession. This is an added facility which is now being provided in our law to our assesseees specially business assesseees. This is an extremely welcome measure which has been applauded throughout the country.

However, there are certain aspects of this amortisation which have caused me very great anxiety. I am not in the least worried about the quantum. There has been a very serious criticism that if you are going to allow amortisation of expenses and if you are going to allow expenses to be spread over 10 years and written off, then there should be no ceiling. I am unable to subscribe to this view at all. Why should there be no ceiling? There must be a ceiling if, for no other reason, for reason of economy and for the reason of ensuring that this facility which is being afforded is not abused. Therefore, to the extent the attitude shows a cautious approach, I wholeheartedly endorse the clause and the amendment and the insertions of new

sections as reported by the Committee. What I am unable to understand, however, is that while preliminary expenses as such are sought to be amortised, over a period of ten years, certain expenses viz., lump sum payment for technical know-how or payment in the expenditure of amalgamation or merger of companies. You are aware amalgamation or merger of companies is brought about with a view to effecting certain economies, economies of scale, to take full advantage of economies of scale and various other aspects... (*Interruptions*) If it is to curb monopoly, there is another Bill. If there is a merger, even if there is no merger, my learned friend will do well to read the Monopolies and Restrictive Trade Practices Act. If there is inter-connection, they will be all treated one. Merger is not necessary. I have great respect for my friend, Mr. Jha. He would do well to study that Act before he interrupts me on what point he is trying to interrupt me. I am as much interested in curbing monopolies as my learned friend is. What I am submitting is that this has reference to instances of merger and amalgamation. If you are allowing preliminary expenses to be amortised, then the expenses on merger and amalgamation which partake of the same colour and character of the same nature should also be allowed to be amortised and I do not understand why they have been left out. Likewise free incorporation and forced incorporation expenses which are at any point of time preliminary business expenses are sought to be inserted. One thing I am unable to understand is that those expenses were included by the Committee as the Committee felt convinced. Still the recommendation is something I am not very happy about. Now the Select Committee says :

“While considering the amendments given notice of by members to the clause for inclusion of further items of qualifying expenditure for the purpose of this provision, the Committee was informed that the case for inclusion of items such as lumpsum payment for technical know-how and expenditure incurred

in connection with amalgamation or merger of two or more companies, would be examined while prescribing further items of qualifying expenditure in the Income-tax Rules, for which the necessary power is being granted to the Central Board of Direct Taxes."

What has the Central Board of Direct Taxes got to do with this? In this matter it is the Parliament to decide. I only hope my amendment in this respect will be accepted by the hon. Minister.

To come next to clause 16, this is referring to Hindu Undivided Family. I just now had the benefit of listening to the extremely scholarly speech of Shri Tanneti Viswanatham. I have the greatest regard for his scholarship in this matter. I believe Shri Dandekar also in his very usual fluent speech to which we are used to in this House also did not approve of this clause. He stated that either with the insertion or deletion of this clause shall either swim or sink the institution of Hindu Undivided Family. I do not agree with this aspect of the matter. Though in part I disagree with the clause as recommended by the Committee, I do not, for a moment, believe that if this clause, as amended, is brought on the statute book, it is going to determine the fate of Hindu Undivided Family. If for no other reason but for the reason that if it is used as a device to make over monies to your minor son or daughter or to your spouse which, otherwise, for a person in terms of 64 attracts the liability of tax so far as the transferor is subject to tax in respect of such properties which are transferred to his spouse or to his minor children. If he does so, Sir, under the HUF, before the enactment of this law, the Income tax Officer can seek such income in the hands of the transferor. If 'A' puts his self-acquired property in the hotch pot of the Joint Hindu Family and partitions the same, how does the argument of Mr. Viswanatham and Mr. Dandekar stand? The Joint Family is disrupted and it is a certain device. Therefore, my submission is this. I think the objective has been slightly overlooked and I think in the process of finding a

method to plug this loophole we have overdone the thing. We have over-refined the matter. What happens is, according to the existing law, it is the minor son or spouse whose income should have been taxed in the hands of the transferer. We have now gone one step further. Even if he does not partition, the interest of the minor and the spouse will have to be taxed in the hands of the transferer. I would like to know what the Government wants to do. In terms of Section 64 do you want to add to the list of such assesseees where the income of the beneficial owner would not be taxed in the hands of the beneficial owner, but would be taxed vicariously in the hands of someone else?

Therefore, Sir, my submission is this. Don't expand the scope of Section 64. Certainly make Section 64 applicable to such cases where as a result of the decision of the Supreme Court in the case of Keshavlal Lalubhai, you can prohibit the Department from reaching the income of the minor or spouse in the hands of the transfer itself.

More than anything else, there is one very important aspect on which I think the HUF if unpartitioned, should not be subjected to the rigours of Section 64 and it is this. Those who are large assesseees, big assesseees, have the reverse process. They have the ancestral property. So that the tax liability might be less, they partition the property. But it is only in the case of smaller assesseees, small employees who toil for 10 or 15 or 20 years that this is done. He is looking up his children and his wife; he puts his self-acquired property into the hotch pot of the Joint Hindu Family. He does not partition the same. He is able to pay the tax that would be attracted by the Joint Family which is on par with that of an individual. Why should a small assessee be penalised, apart from the other objections which I already referred to?

Then I come to Clause 34 which seeks to entirely re-write Sub-section 1 of Section 143 which is the section dealing with assessments. The difficulty arose after the

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Supreme Court decision in the Jaipur Udyog Limited that according to existing provisions of law in terms of Section 141 of the Income-tax Act which entitles the Income-tax Officer to make provisional assessment, it has to be an assessment on admission. I am filing a return. If I do not show in that return my proper total income, I can only do so at the peril of getting a heavy penalty and prosecution and being sent to jail. If I file a return it has to be given the sanctity that it deserves. The ITO has no business to correct my figure and substitute my figure at my back, without giving an opportunity to me to be heard. This is the second aspect of the matter that liability passes on to the assessee; he has to go on appeal for the first time before the Appellate Assistant Commissioner of Income-tax and then he goes to the Appellate Assistant Commissioner. It is a liability in law on his hand on a disputed item on which he has had no opportunity of being heard. Sir, apart from anything else I very much doubt whether constitutionally such a provision would ever be tenable. There is the Supreme Court decision in the case of Achal Singh Dwarkadass, referred to in 41 ITR. They were considering the scheme of Sec. 34 (c) proviso which contemplates that any finding given by appeal for reassessment will enable the ITO to make reassessment not only of the assessee who was party to the appeal but also to the third party limitation. The Supreme Court struck down those provisions partly and stated that to the extent that such provision applies to the third party who is not a party to the appeal, no adverse findings can be given against him. Here, a strange position comes in, namely that I am a party to the proceeding and still at my back, the liability is fastened on to my head. Apart from anything else, what an amount of unnecessary litigation this would cause! I understand that the hon. Minister is going to give due thought to this aspect of the matter. I must say that the attitude of the Ministry has been extremely responsive, responsible and co-operative, and I believe the hon. Minister himself has said that he is going to give due thought to these

aspects of the matter and is going to accept suitable amendments as might be suggested by the House.

16 hrs.

I cannot conclude without mentioning a word about clause 63 which seeks to change the law and provide for prosecution for failure of the assessee to file voluntary. I entirely agree that if there is the slightest element of trying to defraud revenue or to cheat revenue or to conceal the income or to delay the payment of advance tax, you may send the person to jail and give him a minimum punishment of five years. But the tax laws are so difficult, and they are so utterly cumbersome and so onerous that it is impossible for anyone to comply with the provisions. For example, I come from a constituency which consists of a tribal area. It may be that there is some tribal whose income may probably exceed Rs. 5000. If he does not file a return, then is he going to be sent to jail? Surely, our tax laws must have some nexus with the realities of life. The laws being what they are, they are so complicated and so very difficult, and it can never be the intention of the Government to penalise unsuspecting people but they only want to bring the contumacious and recalcitrant assessee who wilfully do not file returns with a view to defraud revenue and with a view to gain time for payment of taxes, to book. Therefore, I would suggest that the hon. Minister may very sympathetically consider this aspect of the matter rather than bring within the scope of this provision innocent people; let him bring within the scope of this provision those people who deserve to be punished and sent to jail; but let him not bring within it unsuspecting people, people who are really innocent, without *mens era* without any criminal intent on their part; let not these unsuspecting people be sent to jail. If we retain the provision as it is, then the position will be that we shall have more innocent people going to jail and more criminals remaining out as tax-payers.

SHRI RANGA (Srikkaulam) : Shri Jagjivan Ram had forgotten to file his return for ten years.

**SHRI N.K.P SALVE :** My hon. friend may do well to remember that it was concluded according to the law as it exists today. It is very unfortunate that every time reference should be made to that case. This law will apply hereafter, and this is what it will be hereafter.

Lastly, I would say a word in respect of clause 43 which seeks to amend section 185 of the Income-tax Act. Here, I must congratulate the hon. Minister on having willingly agreed that the procedure for granting registration to firms should not be altered. But one change is made, namely that in case there is a benamidar in partnership with one partner, or if one partner is a benamidar of another partner, then registration is to be denied. According to the law of the land, the institution of benamidar is a valid institution. Suppose there is an honest benamidar; suppose B is the benamidar of A, and A discloses in his own return that B is his benamidar and includes his income in his own return, then where is the fraud in that? The person who is not going to disclose this will not come within the mischief of the law, but only honest people who are going to disclose the facts are going to come into trouble. Again, how unrealistic are the laws that we are seeking to make! I would beg of the hon. Minister to consider this. This provision will not hit a person who conceals the fact successfully that he is the benamidar of another. But it will only hit those honest persons who disclose that so-and-so is their benamidar and registration is denied only in those cases. I do hope that Government will give due consideration to this aspect of the matter.

It was my privilege to have been associated with the deliberations of the Select Committee, and I must pay the warmest tribute to the extremely helpful, extremely responsive and responsible and sympathetic attitude shown by the Ministry throughout the deliberations of the committee. I only hope that that attitude will continue while the Bill is taken up for clause-by-clause consideration also.

**श्री शिंदरे (पंजिम) :** सभापति जी, मुझे इस बिल के बारे में विशेष कुछ नहीं कहना है, मैं इस विधेयक का स्वागत करता हूँ। लेकिन मुझे एक बात कहनी है। मैं भी इस बिल के सम्बन्ध में जो प्रवर समिति बनी थी, उसका सदस्य था और वहाँ पर मेरे बहुत से सुझाव स्वीकृत हुए, लेकिन एक ऐसा सुझाव, जिसे श्री दाण्डेकर जी ने वहाँ रखा था, स्वीकृत नहीं हुआ जो कि मेरे राज्य के लिए बहुत ही आवश्यक था और उसके सम्बन्ध में मंत्रालय और कानूनी सलाहकारों ने यह कहा कि यह इस सिलेक्ट कमेटी के स्कोप के बाहर है। श्री दाण्डेकर जी ने यह सुझाव रखा था—

पंक्ति 31 के पश्चात् निम्नलिखित अन्तः-स्थापित किया जाये :—

“(ख) खण्ड (23) के पश्चात् निम्नलिखित खण्ड अन्तःस्थापित किया जायेगा और इसे पहले से ही अन्तःस्थापित हुआ समझा जायेगा, अर्थात्—

“(23क) हिन्दू अविभक्त कुटुम्ब में गोश्रा, दमन और देव के भूतपूर्व पुर्तगाली राज्य क्षेत्रों की तत्कालीन सरकार द्वारा 16 दिसम्बर, 1880 को प्रख्यापित तथा गोश्रा, दमन और देव के संघ राज्य क्षेत्र में 20 दिसम्बर, 1961 से तुरन्त पूर्व प्रवृत्त बिक्री की धारा 16 के अधीन संयुक्त कुटुम्ब के रूप में समझा गया हिन्दुओं का समूह शामिल है।”

यदि इस संशोधन को स्वीकार कर लिया जाय तो इस विधेयक का उपयोग हमारे क्षेत्र में बहुत अच्छा हो सकेगा और गोश्रा के लोगों को इस विधेयक के लागू होने के बाद फिर कोई आपत्ति नहीं रहेगी। इसलिए मैं मंत्री जी से प्रार्थना करना चाहता हूँ कि वे श्री दाण्डेकर जी



[श्री शिकरे]

के इस सुझाव पर फिर से विचार करें और और चूंकि यह पार्लियामेंट 'आउट ऑफ स्कोप' बात को मान्य कर सकती है, इसलिए इस सुझाव को स्वीकार कर लें।

श्री योगेन्द्र शर्मा (बेगूसराय) : सभापति महोदय, कर-कानून को सुधारने के लिए प्रवर समिति से निकल कर जो विधेयक हमारे सामने आया है, उसमें व्यावहारिक और सतही किस्म के सुधार किये गये हैं, इसलिए जिस हद तक व्यावहारिक और सतही किस्म के सुधार किए गए हैं, उनका समर्थन होना चाहिए। लेकिन हमारी शिकायत यह है कि हमारी कर-व्यवस्था की जो बुनियादी समस्याएँ हैं, वे बुनियादी समस्याएँ इन सुधारों के बावजूद जहाँ की तहाँ रह जाती हैं।

हमारी समस्या से हमारी कर-व्यवस्था की तीन बुनियादी समस्याएँ हैं। पहली बुनियादी समस्या यह है कि परिश्रम से जो आमदनी होती है, उसके मुकाबले में सम्पत्ति से जो आमदनी है, उसको अधिक सुविधायें दी जाती हैं। यह हमारी कर-व्यवस्था की एक प्रति-क्रियावादी और बुनियादी समस्या है। दूसरी बुनियादी समस्या यह है कि जहाँ एक तरफ हम टैक्स रेट को बढ़ाते जाते हैं, पिछले बजट सेशन में भी हम ने कुछ मदों में बढ़ाया, वहाँ दूसरी तरफ जो "टैक्स-बेस" है, उसको घटाया जा रहा है। इसलिए टैक्स रेट को बढ़ाने का जो उद्देश्य होता है, वह निष्फल हो जाता है, क्योंकि टैक्स रेट को हम संकीर्ण करते जाते हैं। और टैक्स रेट को जो हम कटौती देते हैं उसके विभिन्न सूरत हमारे पुराने कर कानूनों में और हमारा ख्याल है इस संशोधन विधेयक में भी भरे हैं। इन दोनों चीजों का जो नतीजा होता है वह यह है जिसको हम आज टैक्स इन्वेन्शन कहते हैं या करवंचना कहते हैं। यह एक भारी समस्या के रूप में आज हमारे सामने

खड़ी हुई है। बहुत सारे विशेषज्ञों के अनुसार करीब पाँच सौ करोड़ से लेकर 6 सौ करोड़ रुपए की करवंचना प्रतिवर्ष हमारे देश में होती है। यदि पाँच या 6 सौ करोड़ की करवंचना प्रति वर्ष हो तो सिर्फ यही एक बात हमारी पूरी कर व्यवस्था को कलंकित करके छोड़ती है। यह इतनी बड़ी समस्या हो गई है कि आज हमारा पूरा सामाजिक जीवन भ्रष्ट हो रहा है। पूरा अर्थ-तंत्र और पूरा राज-तंत्र भ्रष्ट हो रहा है। हमारी शिकायत है कि इस समस्या को काबू में करने के लिए कोई विशेष प्रयास नहीं किया गया है जो कुछ हलके प्रयास किए भी गए हैं, हमको अफसोस के साथ कहना पड़ता है कि जो विभिन्न विमति टिप्पणियाँ हैं वे स्वयं उसको खत्म कर देना चाहती हैं। आज आवश्यकता इस बात की थी हम अपने कर कानूनों में ऐसे संशोधन करें जो इन तीन समस्याओं का समाधान करने की दिशा में देश को आगे ले जायें। जिस चीज की आवश्यकता की पूर्ति इस विधेयक से नहीं होती है वहाँ हमारी शिकायत विमति टिप्पणियों में व्यक्त जो विचार हैं उनसे यह है कि वे उनको उलटी दिशा में ले जाती हैं। इस सिलसिले में मैं तीन प्रश्नों को लेता हूँ जिनको ले करके अधिकतर विमति टिप्पणियों में विचार व्यक्त किए गए हैं। एक तो शारीरिक दण्ड यानी जेल की सजा। दूसरे हिन्दू संयुक्त परिवार और तीसरे बेनामी और फिर चौथा जिसको कहते हैं एमार्टाइजेशन।

हम एमार्टाइजेशन से शुरू करेंगे। एमार्टाइजेशन एक नयी सुविधा थी नहीं है नयी कम्पनियों को खोलने के लिए, नये उद्योग-धंधों को खोलने के लिए। आज तक यह सुविधा हमारे देश में टैक्सपेयर को प्राप्त नहीं थी। यह नयी सुविधा दी गई है। हमारे बहुत से बन्धु इस नयी सुविधा से भी संतुष्ट नहीं हैं, वे और भी अधिक सुविधायें चाहते हैं। और यह

तब जबकि वास्तविकता यह है कि हमारे मुल्क में इतनी सुविधायें दी जाती हैं उद्योगपतियों को और व्यापार चलाने वालों को कि बहुत से लोगों ने हिसाब लगाकर देखा है—डेवलपमेंट फण्ड, डिप्रीशिएशन फण्ड, स्पेशल डेवलपमेंट रिबेट, टैक्स हैल्प—ये सब जो सुविधायें हैं उनसे उनको इतनी रकम की सुविधा मिल जाती है कि जितनी रकम वे खर्च भी नहीं करते हैं। इसका मतलब है कि हमारे देश में जो सुविधायें प्राप्त हैं वे इतनी अधिक हैं कि बहुत से व्यापारी और उद्योगपति बिना अपना एक पैसा भी खर्च किए हुए नया उद्योग खड़ा कर सकते हैं। फिर इसके बाद और है एमार्ट-इजेशन। एमार्टिजेशन में भी जो दिया गया है उससे भी वे संतुष्ट नहीं हैं। वे उसको और भी बढ़ाना चाहते हैं। इसका मतलब है कि पूरे समाज की कीमत पर बड़े बड़े पूंजीपतियों और इजारेदारों को खड़ा करने की बात हो रही है जिसको यह देश कभी भी स्वीकार नहीं कर सकता है। पूरे समाज की कीमत पर ऐसी बात क्यों होनी चाहिए ?

दूसरी तरफ जैसा मैंने कहा कि किस तरह से परिश्रम करने से जो आमदनी होती है, नौकरीपेशा करने वाले जो लोग हैं उनको जो टैक्स देना पड़ता है और दूसरी ओर कम्पनी या बिजनेस से जो आमदनी करते हैं उनको जो टैक्स देना पड़ता है, उसमें कितना पक्षपात है। मैं सिर्फ एक उदाहरण देना चाहता हूँ। हमारे मौजूदा कर कानूनों के मातहत जो खर्चा काटा जाता है, जो छूट मिलती है टैक्स तय करने में उसमें बिजनेस के सिलसिले में कहा गया है :

“Wholly or exclusively laid out or expended for the purposes of business.”

यह जो खर्चा होगा वह छूट में आका जायेगा। मगर परिश्रम करने वालों के लिए कहा गया है :

“Wholly, exclusively and necessarily incurred in the performance of the duty.”

इसमें शब्द ‘नेसेसरीली’ भी जोड़ दिया गया है। एक काम जो हम करते हैं उसमें जो नेसेसरीली खर्च करना पड़ेगा उसकी छूट हमको मिलेगी। लेकिन बिजनेस के सिलसिले में नेसेसरीली नहीं है। दूसरा फर्क देखा जाये। बिजनेस के लिए जो खर्च किया जायेगा उसका तो मिलेगा लेकिन परिश्रम करने वालों को ड्यूटी के लिए जो खर्च करना होगा उसके लिए कुछ नहीं है। इस प्रकार का भेदभाव है। हम समझते हैं इस भेदभाव को दूर करने की कोशिश होनी चाहिए। लेकिन अभी जो सुझाव आ रहे हैं वह तो उसको और बढ़ाने के लिए आ रहे हैं।

उसी प्रकार से आज हम इस नीति पर चल रहे हैं कि हमारे देश को स्वावलम्बी होना चाहिए हर एक तरह से। जितनी जल्दी हो सके उतनी जल्दी उसको स्वावलम्बी होना चाहिए। इस नीति को मानते हुए भी हमको अफसोस होता है कि इस बात की सिफारिश की जा रही है, इस बात की वकालत की जा रही है कि विदेशी टेकनीशियन्स और विदेशी पूंजी को प्रोत्साहित किया जाये टैक्स के जरिए से। टैक्स के जरिए से यदि हमको किसी को प्रोत्साहित करना है तो स्वदेशी उद्योग को प्रोत्साहित करना चाहिए विदेशी उद्योगों को टैक्स के जरिए प्रोत्साहित करने की नीति अस्तित्वात् नहीं होनी चाहिए। पूरे समाज की कीमत पर विदेशी पूंजी या विदेशी टेकनीशियन्स को क्यों प्रोत्साहित किया जाये ? लेकिन अफसोस के साथ कहना पड़ता है कि एमार्टिजेशन की सुविधा भारतीय कम्पनियों के अतिरिक्त रेजिडेंट नानकार्पोरेट असेसिज को भी दे दी गई है जिसमें कि विदेशी भी आ जाते हैं। ... (व्यवधान) ... मैं प्रवर समिति में भी था और मेरी यह बहुत बड़ी आशंका है। मैं चाहूँगा कि मेरी यह आशंका निर्मूल सबाबित हो कि जो एमार्टिजेशन की

[श्री योगेन्द्र शर्मा]

सुविधा है वह किसी भी प्रकार से विदेशी पूंजी या विदेशी कम्पनियों को दी जायेगी।

दूसरी तरफ विदेशी टेक्नीशियन्स के साढ़े चार हजार प्रति माह वेतन की छूट दे दी गई है। बहुत से हमारे भाइयों ने कहा कि हमको बहुत सारे विदेशी टेक्नीशियन्स की जरूरत है। लाइये उनको, उनको लाने से ज्यादा मुनाफा होगा लेकिन पूरे समाज की कीमत पर आप ऐसा क्यों करना चाहते हैं? और आप यह तब करना चाहते हैं जब कि हमारे समाज में टेक्नीशियन्स बेकार हैं। पूरे समाज की कीमत पर आप विदेशी टेक्नीशियन्स को यहाँ पर ला कर रखना चाहते हैं। यह नीति देश के हित में नहीं है, यह नीति देश की बेकारी की समस्या को हल करने के पक्ष में नहीं है।

इसी प्रकार से चाय बागान के मालिकों को विशेष सुविधा दी जा रही है। चाय के पीषों को बढखने के लिए जो भी सहायता केन्द्रीय सरकार देगी वह करमुक्त है। चाय बागान के लिए यह सुविधा क्यों? क्या इसलिए कि चाय बागानों में बहुत से विदेशी और विदेशी पूंजी लगी हुई है। इस तरह से आप पूरे समाज की कीमत पर विदेशी पूंजी को सहायता देना चाहते हैं। यह कौन सी आपकी नीति है? आप अपनी नीति के विपरीत क्यों विदेशी पूंजी को सहायता देना चाहते हैं? हमको अफसोस तब होता है जबकि हमारे भाइयों ने जो विमति टिप्पणियाँ पेश की हैं उनमें वे उन सुविधाओं को और भी बढ़ाना चाहते हैं।

आखीर में संयुक्त हिन्दू परिवार के बारे में कहा गया है। हम जानते हैं कि सुप्रीम कोर्ट के फैसले के बाद किस तरह से संयुक्त हिन्दू परिवार को करबंचना का एक मुख्य आधार बनाया गया है। बवै हम इस देश में करबंचना

को रोकना चाहते हैं तो हमको निर्ममता के साथ इस तरह के तरीकों पर प्रहार करना पड़ेगा। इस सिलसिले में संयुक्त हिन्दू परिवार की पवित्रता की दुहाई दी गई है। हम जानते हैं कि पवित्रता और अपवित्रता सिर्फ कहने की बातें हैं, लेकिन असली बात है सिर्फ मुनाफा। आज हम गाँवों में देख रहे हैं कि जोत की हदबन्दी से बचने के लिए परिवार एक है, संयुक्त है, लेकिन कामूनी रूप से वह बंट गये हैं। यह प्रक्रिया गाँवों में चल रही है जहाँ हमारे हिन्दुस्तान के 80 प्रतिशत निवासी बसते हैं। परिवार टूट रहे हैं, वास्तव में एक होते हुए भी कायम में भ्रमण भ्रमण हो गये हैं ताकि हदबन्दी से बचें। मगर शहरों में क्या हो रहा है? शहरों में टैक्स की सुविधा प्राप्त करने के लिए परिवार भ्रमण भ्रमण होते हुए भी एक बने रहते हैं। यह वास्तविकता है। हमारे भी साल्वे ने वास्तविकता की बात कही है। वास्तव में परिवार भ्रमण भ्रमण हैं लेकिन कर-बंचना के लिए अपने को संयुक्त बतलाते हैं, जबकि देहातों में हदबन्दी से बचने के लिए वह अपने को भ्रमण भ्रमण बतलाते हैं।

ऐसी स्थिति में हमको क्या करना चाहिए? हमको निर्ममतापूर्वक इस कर-बंचना के स्रोत को बन्द करना चाहिए। इसलिए जब इस तरह की विमति की टिप्पणियाँ आती हैं तो हमको अफसोस होता है। मैं आखीर में फिर दोहराना चाहता हूँ कि यह विमति टिप्पणियाँ विपरीत दिशा में हैं। हमको सरकार से बरखास्त करना चाहिए कि जो हमारी टैक्स प्रणाली की बुनियादी समस्याएँ हैं—तीन बुनियादी समस्याएँ हैं जिनका मैंने जिक्र किया : कर-बंचना, परिश्रम से आमदनी के प्रति इन्सॉफ नहीं और टैक्स रेट का बढ़ते जाना तथा टैक्स बेस का गिरते जाना इन समस्याओं को दूर करने के लिए बहुत सोच समझ कर एक सर्वमुखी नया विधेयक वह लाये ताकि हम अपनी आर्थिक समस्याओं को हल

कर सकें और अपने देश के विकासशील अर्थ-व्यवस्था को विकसित करने का प्रयत्न कर सकें।

श्री शिवचन्द्र झा : सभापति महोदय, इस समय टैक्स लाज (अमेंडमेंट) बिल हमारे सामने है। आज सेलेक्ट कमेटी की रिक्मेंडेशनों और संशोधनों के बावजूद जब हम इस विधेयक पर गौर करते हैं तो कहना पड़ता है कि इस विधेयक के जरिये जो सस्-टोटल हमारे सामने आता है, जो उसका रूप है वह यह है कि इस सरकार की नीति जो है वह बिलकुल अन-साइन्टिफिक, अनक्लिअर और बेग है। अभी श्री साल्वे ने कहा कि जो हमारी टैक्स फिलासफी है, कर-दर्शन है वह बड़ी स्पष्ट है। उन्होंने यह भी कहा कि हमने उसको स्ट्रीमलाइन और रेशनलाइज करने की कोशिश की है। श्री महाजन ने भी कहा कि हमने स्ट्रीमलाइन करने की कोशिश की है। उन्होंने कहा कि हम अब तक प्रिमिटिव एज में थे, अब माडर्न एज आ गई है। लेकिन यदि आप माइक्रास्कोप से देखेंगे तो बार बार कहना पड़ेगा कि हम अब भी प्रिमिटिव एज में हैं बावजूद इस विधेयक के।

वांचू कमेटी मुकर्रर की गई। उसकी सिफारिशें आर्येगी टैक्स इवेजन के मुताल्लिक। लेकिन मुझे पूरा यकीन है कि उसमें फिर संशोधन आर्येगे। इस तरह से स्ट्रीमलाइन करने के बाद भी कहा जायेगा कि इट बुड बी कर्बर् स्ट्रीमलाइन्ड एण्ड कर्बर् रेशनलाइन्ड। यह सब बातें चलेंगी। इससे साफ हो जाता है कि सरकार की जो टैक्स नीति है वह बिलकुल बेग है।

तब इस विधेयक में काम क्या किया है ? इसमें बड़ी होशियारी से यह काम किया गया है कि यहाँ कुछ तत्कालिक सुविधायें दी गई हैं। या बों कहें कि तत्कालिक परिस्थितियां जो है उनकी मुकाबला इस तरह से करने की कोशिश

की गई है। लेकिन हकीकत जो इससे निकलती है वह यह कि वह पेरिफेरल फायदे हैं, साइड फायदे हैं। बुनियादी फायदा होने जा रहा है उन कम्पनियों को, जैसा श्री शर्मा ने कहा, जो चाहे विदेशी हों या देशी। उनकी मदद के लिए यह विधेयक बहुत चासाकी और होशियारी के साथ हमारे सामने पेश किया जा रहा है। इस तरह से चलता है हमारे समाज में।

आज सरकार की नीति है, सरकार ने साइन्स बोर्ड लगा रक्खा है हमारे सामने समाजवादी समाज का ढांचा बनाने का—सोशलिस्ट पेटर्न आफ सोसायटी का, सोशलिज्म और डिमाक्रेसी का, लेकिन चलता है क्या ? पूंजीवाद का विस्तार। हर योजना के बाद हिन्दुस्तान में पूंजीवाद बढ़ा है, और अब तो हम यह देख रहे हैं कि जो कुछ भी आदर्श पहले रक्खे गये थे योजना आयोग द्वारा या इंडस्ट्रियल पालिसी रेजोल्यूशन द्वारा, उस सब नीति पर कुठाराघात हो रहा है। मैं कहना चाहता हूँ कि यह सरकारी नीति है कि बड़े बड़े आदर्श सामने रक्खे, लेकिन हकीकत में काम दूसरा होता है।

इस विधेयक में कुछ आदर्श रक्खे गये हैं, जैसे जो बेनामदारी पार्टनर हैं यदि वे इवेड करने की कोशिश करें तो उस छूपहोल को बंद करने की कोशिश की गई है, हिन्दू ज्वायेंट फैमिली है, उसमें जो कोई अपना शेअर नहीं देता है और उस टैक्स लाइबिलिटी से भागने की कोशिश करता है, उसको बन्द करने की कोशिश की गई है। साथ साथ जो इंडस्ट्रियल ग्रन्डरटेकिंग को एक इलाके से दूसरे इलाके में ले जाता है लोकल कर कानून से भागने के लिए, उसको रोकने की कोशिश की गई है। सजायें कुछ बातों की बढ़ाई गई हैं। सख्त सजायें हैं। यह सब बातें हैं, लेकिन एक नया आविष्कार किया गया है इवेजन की मदद के लिये। अभी श्री शर्मा ने कहा, और श्री साल्वे ने उसको कबूल

[श्री शिवचन्द्र भ्वा]

किया, वह आविष्कार यह है कि ऐमारेटाइजेशन के नाम पर एक नई चीज टैक्स की दुनिया में चलाई जा रही है। देखने में तो यह माझूम होता है कि हम लूपहोल्स बन्द कर रहे हैं, लेकिन सबल रूप से, होशियारी और चालाकी से कम्पनियों की मदद के लिए हम रास्ता साफ कर रहे हैं। इस विधेयक से यह चीज आती है।

दूसरे लोगों को फायदा देने की बात आती है, मान लीजिए जो ब्लाइन्ड हैं उनको कर में छूट देने की बात है या उनको छूट देने की बात आती है जो परमनेन्टली क्रिपल्ड या इन्वैलिड हैं, तब हम देखते हैं कि उसमें भी यह उदारता नहीं दिखलाते हैं। इसमें कोई शक नहीं कि पहले जो विधेयक था उसमें 2,000 रु० की छूट थी और अब 4,000 रु० की छूट देने जा रहे हैं। लेकिन यदि मानवता की दृष्टि से देखें तो वह थोड़ी है। आज जो रुपये की वैल्यू है अगर उसके सन्दर्भ में हम देखें तो यह छूट बहुत कम है, जहाँ आप को उदारता दिखलानी चाहिये वहाँ आप नहीं दिखलाते हैं, और जहाँ आपको सख्ती करनी चाहिये, जिस तरीके से यहाँ कम्पनियों को फायदा होने जा रहा है और वह फिर टैक्स इवेजन करेंगी, वहाँ आप आविष्कार कर रहे हैं ऐमारेटाइजेशन के जरिये से टैक्स की दुनिया में। श्री साल्वे ने भी कहा कि यह आविष्कार किया जा रहा है। मुल्क बुनियादी चीज है। इस विधेयक का जो मोटा रूप हमारे सामने आया है वह यह कि जो छोटे फायदे हैं वह ऐन्वेलरी या सन्तीडिग्री फायदे हैं, मुख्य फायदा इससे यह होने जा रहा है कि हिन्दुस्तान में जो पूंजीवाद की गाड़ी चल रही है, इवेजन के जरिए, उनकी दुनिया आबाद की जा रही है।

अब सवाल आता है कि टैक्स की नीति हो कैसी ?

सभापति महोदय : माननीय सदस्य अब मपना भाषण कल जारी रखें।

16.29 hrs.

MOTION RE: FAILURE OF GOVERNMENT TO PROTECT THE LIFE OF MRS. PARUL BOSE IN CALCUTTA

SHRI P. RAMAMURTI (Madurai) : Sir I beg to move the following :

"This House deploras the failure of the Government to provide protection to Mrs. Parul Bose who was stabbed in Calcutta on the 4th November, 1970, while working in her school, despite prior intimation having been given to the Commissioner of Police three days before the incident."

Just because of the Rules of Procedure, I could bring only this particular incident to the notice of this House. I will just give the facts as they are first. It may be said "you are a Marxist Communist Party member, and the person who was stabbed also belongs to that party and, therefore, you are giving a tendentious version". Therefore, I am giving a summary of the incident as it has appeared in the *Jugantar*, a paper owned by the Secretary of the Bengal Congress Party (R), Shri Tarun Kanti Ghosh. According to that paper, Parul Bose, who was an important worker of the Mahila Samaj and a member of the Communist Party (Marxist), who was the wife of Shri K. G. Bose, a member of the now dissolved Legislative Assembly of West Bengal, an important leader of the West Bengal Government employees Organisation as well as a number of trade unions, she went to school at 9.30 a.m. because she was a teacher in a girls' school in Baliaghat. At about 9.40 a.m. about 20 goondas entered the school and they began to search for her. Immediately, the other teachers of the school asked the girl students of the class of Shrimati Parul Bose to surround her and give her protection.