

passing of the Compulsory Deposit Scheme Bill, 1963, be suspended."

*The motion was adopted.*

15.09 hrs.

# COMPULSORY DEPOSIT SCHEME BILL, 1963

**The Minister of Finance (Shri Morarji Desai):** I beg to move:\*

"That the Bill to provide in the interest of national economic development for compulsory deposit and for the framing of a scheme in relation thereto, be taken into consideration."

**Shri Tyagi (Dehra Dun):** On a point of order, Sir.

**Mr. Speaker:** Would he not allow it to be moved and placed before the House?

**Shri Tyagi:** The question is if it is a formal motion. If he is making a speech on this Bill, then it will be too late for me to move the point of order.

**Mr. Speaker:** If he makes a speech, then it would become too late?

**Shri S. M. Banerjee (Kanpur):** The mischief will be done.

**Mr. Speaker:** By making the speech? If it is to stop him from making the speech, let me hear.

**Shri Tyagi:** My submission is that the Bill is so good in a way because it makes wider base of taxation for the first time in the history of this country. So, I do not want to oppose it on merits. Of course I have got some differences, and when the time comes I will discuss them, but constitutionally....

**Mr. Speaker:** Again I am tempted to bring to the notice of the hon. Members that the House can take objection to a thing only when it is placed before it, when the motion is placed before the House. Only when it has been placed before the House, the House is seized of it and objection can be taken or a point of order raised. So far, there is nothing. He has just begun. Let him make the speech also. Then the House gets possession of it when I place it before the House. The Speaker might refuse to place it before the House at all, and then there is nothing before the House.

**Shri Morarji Desai:** As I explained at the time of introducing this Bill, we have so far, apart from taxation, relied on voluntary savings of the community for financing our requirements. While voluntary savings are expected to continue to play their important role, a stage has come, owing to the situation created by the Emergency, when every possible alternative source has to be explored for augmenting our resources. The Compulsory Savings Scheme that I have placed before the House is intended to cover all the major sections of the community who can be expected to have some margin of savings and who will contribute their mite, however small it might be, for the use of the exchequer at this critical moment in our history. It has to be remembered that compulsory savings are not a tax but provide an earning asset. What is more important, however, is the saving habit that they would help inculcate.

I shall now briefly deal with the major amendments that I propose to move to the provisions of this Bill. Clause 2 (c) of the Bill does not draw any distinction between holders of immovable property in urban areas who are subject to income-tax and others. As income from property is already reckoned as income for the

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\*Moved with the recommendation of the President.

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purposes of income-tax and as income-tax payers are a separate category by themselves, this clause is proposed to be amended to refer to those property owners only who are not subject to income tax.

Clause 2(d) (iii) will be amplified to cover branches of foreign companies registered outside India so that their employees in India do not escape the liability for making compulsory deposits. A new clause is being inserted to cover employees of individuals and associations of persons liable to payment of income-tax and entitled to deduct the salary paid to their employees for the purpose of computing their income under that Act.

Clause 2(e) refers to the category of persons who are liable to the payment of sales tax and whose annual turnover is Rs. 15,000 or more but who are not subject to income-tax. In some States the limit of registration for the purposes of State Sales Tax Act is higher than Rs. 15,000. Accordingly, a provision is proposed to be added that wherever this is the case, the liability for payment of compulsory deposits will be determined with reference to the higher limit.

Clause 2(f) of the Bill refer to persons liable for payment of taxes on professions, trades or callings but below the income-tax bracket. These taxes are at present levied in a few States only. In consideration of the administrative difficulties involved in recovering the compulsory deposits from this small category of persons and the fact that the amount of deposits to be received from them would not be of any great magnitude I have decided, after consultation with the State Governments, to omit this clause.

The word 'person' as at present defined in the Bill does not include a

body of persons. This has the effect not only of excluding joint holders of land or property from the scope of the Bill but also of denying the benefit of earning a rebate to persons other than individuals who are liable for the payment of additional surcharge on their incomes. As this is not the intention, the definition of 'person' is being amended so as to confirm to the definition given in the Income Tax Act. The definition of 'salary' is also being amended to exclude persons in receipt of pensions of Rs. 1500 per annum or more but who are not subject to income-tax. Accordingly, retired persons in this category will not be required to make a compulsory deposit. Pensioners subject to income-tax however, will continue to have the option to earn a rebate of additional surcharge by making the compulsory deposit.

Clause 4 (2). (a) prescribes the maximum rate of deposit in the case of land revenue payers at 50 per cent of the land revenue payable for the year 1959-60 in respect of the land held in the year in which the deposit is made. The year 1959-60 was taken as the base year to remove the hardship that would have been caused by linking the compulsory deposits with the current land revenue liability in the States in which land revenue rates had been increased substantially since 1959-60. The State Governments, however, have expressed considerable difficulties in linking the compulsory deposits with the land revenue payable for each holding for the year 1959-60. It is accordingly proposed that the maximum rate of deposit may be fixed at 50 per cent of the land revenue payable in the year in which the deposit is made. In drawing up the scheme, however, suitable allowance will be made wherever possible to ensure that, on the whole, compulsory deposits in each State are not in excess of half the amount of land revenue at the rates applicable in 1959-60.

Several Members have tabled amendments suggesting the exclusion of the category of land revenue payers from the scope of this Bill or to fix a higher exemption limit for them. As I have said, my object has been to make the Bill as comprehensive as possible. In fact complaints are often received that the savings movement has not yet made its mark in the rural areas. The agricultural classes also have had their fair share of the rising incomes and progressive improvements in production and economy. It would not, therefore, be fair to exclude them or any other equally important section of the community from the scope of compulsory savings. I have already announced that having regard to the general poverty of the land-revenue paying classes and the problems of administration, an exemption will be given to all those whose land revenue liability is less than Rs. 5 per annum. In fact, in fixing the exemption at this figure, I am going against the wishes of some of the States who were urging for a lower exemption limit. In doing so I have taken into account all the relevant factors, including its effect on the total amount to be realised. Of the total number of 5 to 6 crores of land-revenue payers in the country, nearly half are those whose annual liability for the payment of land revenue is less than Rs. 5 and who would now all be excluded. But this would mean a reduction of about Rs. 5 crores in the amount of deposits to be realised. Any further increase in the exemption limit would not, in my view, be a justifiable proposition. It would also prove disadvantageous to the less advanced States who are more in need of resources. I might add that on an average the land revenue liability less than 2 per cent of the total agricultural income and as such compulsory deposits at about 1 per cent of the land revenue payable for the year 1959-60 should not prove too onerous a burden.

The existing proviso to clause 4(2) (b) requires that a 'reasonable' rent of the property may be computed wherever property is taxed with reference to a standard other than its annual rental value. As this would involve considerable practical difficulties, the proviso is being amended fixing the maximum rate in all such cases at 12 per cent of the property tax payable annually, which would approximately be equal to 3 per cent of the annual rental value. It has been found that on an average the property tax is about one-fourth of the annual rental value.

In response to numerous representations received from the category of salaried earners of Rs. 1500 or above but who are not subject to income-tax and who are already saving a good proportion of their earning, a new exemption clause is being inserted. Accordingly, if they are already contributing in all a sum not less than 11 per cent in the shape of life insurance premia, contributions to recognised provident funds or deposits in 10 or 15 year cumulative time deposit accounts, they would not be required to make any compulsory deposits. The existing proviso to clause 4(8) provides for the premature re-payment of the deposits in the event of the death of the depositor. As there may be other cases involving equal hardship, the clause is being amended to enable premature repayment in all such cases.

Power is also being taken to suspend, reduce or remit the liability for payment of compulsory deposits in cases where the liability for payment of land revenue is suspended, reduced or remitted. A new clause is proposed to be inserted enabling the Government to exempt by notification any person or class of persons from the operation of all or any of the provisions of this Act. The other amendments are of a procedural or

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clarificatory nature. I do not, therefore, propose to take the time of the House in explaining them here. As I mentioned in my statement of April 16, 1963, the scheme of compulsory deposits is somewhat novel and unorthodox, which we have had to undertake in the situation created by the Emergency. I would like to inform the House that it was only after State Chief Ministers and Finance Ministers had given their support that I decided to introduce this measure. It has been said that persons drawing Rs. 125 a month do not have any margin for savings. I agree that the capacity to save at this level of income is limited. But even this class whose income is considerably higher than the average income in the country must save at an increasing rate in the interest of the country and in their own interest. One must not overlook the basic fact that savings almost always entail a certain measure of sacrifice—a sacrifice of your present needs and comforts for the sake of securing your financial future. It is precisely for the fact that persons of lower income groups are relatively in greater need for safeguarding their financial position that I found it necessary to bring them within the scope of compulsory savings. In their case, compulsory savings should be viewed more as an important measure of social reform than as a means of raising resources for the Government. The money is returnable with interest at 4 per cent per annum after 5 years. The deposits will be protected from attachment in respect of any other liability. In fact, these deposits will be, like the provident funds, earmarked for meeting the future needs of the depositor and his family. These features by themselves should make the scheme a welcome proposition, particularly for persons of lower income groups.

Once the nation imbibes the habit of saving regularly, it would have laid solid foundations for its future pros-

perity and well-being. In fact, I would seek savings not only as an individual but as a national virtue. It is only then that the nation can with its own efforts and resolve succeed in pursuing its objectives.

**Mr. Speaker:** Motion moved:

"That the Bill to provide in the interest of national economic development for compulsory deposit and for the framing of a scheme in relation thereto, be taken into consideration."

**Shri Tyagi:** Sir, on a point of order. I would pray that I should not be misunderstood by the hon. Finance Minister. I entirely agree with the spirit of the Bill and the motive behind it. My difficulty is constitutional. I could not exactly hear what he said but he seems to have said that this is not a taxation measure. Now, article 366 (28) says that taxation includes the imposition of any tax or impost, whether general or local or special and 'tax' shall be construed accordingly. Entry 42 of List III refers to acquisition and requisitioning of property.

**Shri Tyagi:** Then—I do not want to take much time of the House...

**Mr. Speaker:** What is the article?

**Shri Tyagi:** Article 366 (28). It has laid down the scope of taxation. Certain details are given in the index, on what items taxes and duties can be levied. They have been mentioned there. I do not want to take much time of the House by reading all of them. Many items are mentioned such as corporation, advertisement, newspapers, agricultural income and so on. There is a complete list of them. But this type of taxation does not come in. We find that this is neither a tax nor it is acquisition. It can very well be termed that it is an acquisition for a temporary period for the emergency purposes. But about acquisition of property, there are rulings of the Supreme

Court. There was a case of land acquisition under the Land Acquisition Act, where the Bihar Government was acquiring land and also arrears of rent. That case was considered, and it was discussed threadbare, and if you do not mind, I would like to read portions of the decision given by the Supreme Court. Justice Mahajan said:

"It is a well accepted proposition of law that property of individuals cannot be appropriated by the State under the power of compulsory acquisition for the mere purpose of adding to the revenues of the State."

This is one objection. It is a big judgment. Justice Mukherjea has also made some observations. He has said:

"Money in the hands of a citizen can be reached by the exercise of the power of taxation, it may be confiscated as a penalty under judicial order and we can even conceive of cases where the State seizes or confiscates money belonging to or in the hands of a citizen under the exercise of its 'police' powers on the ground that such fund may be used for unlawful purposes to the detriment of the interest of the community."

He has mentioned Cooley and about the constitutional position, and says further:

"But, as Cooley has pointed out, taking money under the right of eminent domain when it must be compensated by money afterwards could be nothing more or less than a forced loan and it is difficult to say that it comes under the head of acquisition or requisitioning of property as described in entry 36 of List II and is embraced within its ordinary connotation."

This is the position of loans, where forced loans can be had. So, from that angle, if this question is examin-

ed, I am afraid that if the Bill is questioned or its legality is questioned from this angle, it might again have to go to the Supreme Court, and there it would be judged. This is one point, namely, whether forced loan could be had. If it is under acquisition, my submission is that compensation has to be paid. But you are acquiring money, and how shall it be, or with what shall it be compensated? Shall we compensate it with money, or will the compensation be in the shape of rice or wheat after money is acquired? If money is being acquired, how shall we compensate it? So, that is the question. It is not land acquisition or requisition. Therefore, the question is whether it could be termed as a taxation measure? I would suggest to the Finance Minister that he can think of the possibility of terming it as a tax which may be refundable. Do not call it loan, etc. I think he can give it such a shape so that it can be termed a tax which may be refundable.

**Shri Ranga (Chittoor):** Is a tax ever re-funded?

**Shri Tyagi:** It can be. *(Interruption).*

**Mr. Speaker:** Order, order. Let us hear him.

**Shri Tyagi:** There is also another point, and that is, eminent domain, and eminent domain is the only authority under which a State can acquire. But the question is whether money be taken under this authority. Nichols on *Eminent Domain* says:

"The question has arisen whether money can be taken by eminent domain and it has been held or intimated, at least in so far as a state or a private corporation is concerned, that it is not subject to such taking. The objection is not based on an implied inherent limitation upon the power of government, but upon the difficulty of effecting a

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taking of money that would be of any service to the public without violating the constitution. The use for which it was needed might well be public, but, as compensation must be paid in money, and, if not in advance, at least with such expedition as conveniently may be had, the seizure of money without compensation, or with an offer of payment in notes, bonds or merchandise,—in other words, a forced sale or loan—however it might be justified by dire necessity would not be a constitutional exercise of the power of eminent domain...”

This is what has been said under the heading “Money—as property subject to eminent domain.”

So, under the eminent domain also, this would not come. Therefore, I am only putting this difficulty. You, Sir, have been a judge and now I would request you to give this your interpretation. You have got practically a world-wide reputation now for your rulings. I hope you will kindly consider this and do justice to this thing.

**Mr. Speaker:** I do not deserve it as much!

**Shri Tyagi:** Sir, I have made the first about or the first objection. Then the second point is that according to the Constitution, you cannot discriminate between citizen and citizen. If this is a taxation measure, then, it is difficult for you to just discriminate between the rural people and the urban people. In the case of the rural people, a man may be paying just Rs. 5 as land revenue, and his total income cannot be more than Rs. 100 or Rs. 200 for a whole year. That man has to forcibly pay this tax, whereas the Government servants can go free with just three per cent. That is another difficulty. The incidence of the tax must be uniform on both the urban and the rural popula-

tion. My fears are this law will again be questioned on these grounds. These are the points which I wanted to submit. I hope you will kindly give your ruling on the matter.

**Shri S. M. Banerjee:** Sir, this issue was raised not in the form of a point of order but by Shri Yajnik at the time when he was speaking during the general discussion of the budget. He did raise this point and requested this House, especially the Finance Minister and the Law Minister—I remember he was also present then—to give a ruling on this matter, as to whether it is against the various articles of the Constitution or not. Shri Tyagi has referred to article 366(28). I would only like to supplement it, by referring to article 23—right against exploitation. It says:

“Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.”

It is true that this amounts to a tax on movable or immovable property. If I have saved Rs. 10, the Government wants to acquire it. It virtually means that Government is going to acquire my movable property. I think this is a matter which should be referred to the law officers and if necessary to the Attorney-General. Nothing is so urgent. The Heavens are not going to fall. We require a correct ruling on this. Otherwise, this is going to be smashed to pieces some day.

**Shri Ranga:** I referred earlier to this point during my first speech on

these measures. This is a point whether any land revenue is entirely within the domain of the State Government and how this Government can bring in this legislation. Taking the agriculturist, on whom this is to be levied on the basis of the land revenue, even though they agreed to some kind of exemption up to Rs. 5, the question is how far this can affect him and so on. All these questions will be taken up later on by me. Now, the only justification my hon. friend offers in support of this measure is that the State Governments are going to be benefited. But then it is for the State Governments to make a special legislation in regard to this matter. Surely it is not going to be the Union Government which is going to collect this money and place it at the disposal of the State Governments. The States are to get the money by collecting it themselves. Now, even when a peasant finds it difficult to pay it or is unwilling to pay it, the State Government is going to be given power also to inflict penalties on him. How are they going to collect those penalties? They are going to do it under the usual civil procedure and the rest of it. All these are within the province of the State Governments. I personally feel that this is a matter which is likely to be taken up and brought up before the Supreme Court. Why should we now go into a province of legislation which even on the face of it appears to be liable to be challenged before the Supreme Court. As our friend suggested, I think it would be better for the Government to obtain authoritative views from the concerned legal authorities and thereafter again come back to the House with the Bill.

**Shrimati Renu Chakravartty** (Barackpore): I also think there is some force in what has been stated. After all, the Bill provides for a compulsory deposit and we have to examine the clauses of the Constitution. Unless we are quite sure about the constitutional position, maybe after the Bill is passed, it will be challenged and then it will be a reflection on

the House itself that we have passed something in a hurry, without having gone into the constitutional aspects. So, we should examine both the questions regarding taxation of land as well as the question of compulsorily taking deposits.

**Shri Bade** (Khargone): Under the ordinary civil law, nobody can compel another person to do a certain thing. Government cannot compel any person to make any deposit. Any person cannot compel another person to do a certain specific thing or to perform a contract or to act in a drama or do a certain thing. They can stay, but there cannot be any compulsion. Here Government want a compulsory deposit to be made. Even under the common law, nobody can compel another person to do a certain thing.

**Dr. M. S. Aney** (Nagpur): Sir, I have been waiting for six days to participate in the debate. My main object was to bring to the notice of the House the point which my hon. friend, Shri Tyagi has raised. For certain reasons, no time could be given to me and I do not want to make a grievance of it.

The main point is this. The Finance Minister himself knows that he is following an unconventional method of taxation. He has himself mentioned that it is not an orthodox method at all. It means only the exigencies of the situation have compelled him to adopt that method. My point is, in a case like that, even an ordinary man will think whether any other nation has done like that before or not, which is analogous to what he has done here and on the basis of which he comes forward with a measure of this kind. Here he starts by saying that it is entirely unorthodox and there is no precedent for it and we should not object to it.

I submit that this is in disregard of the constitutional position and the legal position. The constitutional position is, you are touching the

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property of another man without providing any principle of compensation at all as prescribed in the Constitution. You are also simultaneously doing something which is contrary to the common law itself. You want to ask a man to save compulsorily and deposit it with the Government. So, the individual liberty, which has been sanctioned by the fundamental rights, has been completely curtailed. It is a serious position. We are prepared to vote for the Bill, because we know his difficulties. But still we want that the Finance Minister should be standing on *terra firma* and not on doubtful ground. Therefore, the legal aspect must be seriously examined. It does not matter if one or two days are gone. Let him take proper advice and make up his mind. We are here to support him, but we want him to get out of the woods.

**Mr. Speaker:** The hon. Minister.

**Shri U. M. Trivedi** (Mandsaur): Primarily it will appear that it is a novel way of getting money, but it does not affect the fundamental rights in any way. It is neither taking away property nor is it deprivation of property in any manner. It is just a scheme for the purpose of helping the Government. But some of the provisions of this Bill itself, where penal provisions have been made of any sort, make it appear to be taking away property without providing for any adequate compensation in any manner. A taxation of this nature will be a very difficult problem in itself.

Therefore, it will be proper for the Minister to have a full consultation in this matter and not bring trouble for himself and for the country at large. I think there is some force in the argument that has been advanced. Nothing will be lost if this scheme is held over till such legal opinion is obtained in the matter.

**Mr. Speaker:** The hon. Finance Minister.

**Shri Radhelal Vyas** (Ujjain): In this connection, I may just submit one thing. Taxation has been defined in the Constitution in Part XIX, Miscellaneous, Article 366:

“‘taxation’ includes the imposition of any tax or impost, whether general or local or special and ‘tax’ shall be construed accordingly;”

I feel that this is an impost and a special tax.

**Shri U. M. Trivedi:** Not at all.

**Mr. Speaker:** The hon. Finance Minister.

**Shri Gajraj Singh Rao** (Gurgaon): May I submit. . .

**Mr. Speaker:** First of all, let me dispose of the first point of order. Then I will come to him.

**Shri Gajraj Singh Rao:** In this very connection, I wanted to make a submission.

**Mr. Speaker:** Some Members make up their mind after I have called the Finance Minister. I have called him thrice and he has stood up to answer, but every time there is some fresh point.

**Shri Morarji Desai:** Sir, the point that has been raised by my hon. friend, Tyagiji, is not new. I have considered it ever since this Bill has been considered or this step was taken. Therefore, I am well prepared to reply to him and it has not come as a surprise to me.

**Shri S. M. Banerjee:** You are not the Law Minister.

**Shri Morarji Desai:** It does not require a Law Minister to understand law.

**Mr. Speaker:** When the Government comes up, they must have consulted their legal advisers and others.

**Shri Morarji Desai:** We have consulted legal advisers. It is given to



every man of common sense to interpret law also. I have in my life for 10 or 11 years, without being a lawyer, interpreted law and given judgment. Therefore, it cannot be said that one is not entitled to do it. That does not mean that I am giving any authoritative views. Here also those who raise law points, neither Prof. Ranga nor Tyagiji is lawyer, but still nobody objects to that. I cannot see why this objection is raised against me. As a matter of fact, I am well provided with legal advice, while these other friends are not provided with it. (*Interruption*). They may be provided, but not as well as I am provided.

**Shri A. P. Jain** (Tumkur): Your legal advisers are no good.

**Shri Morarji Desai**: They were good only until about five years ago.

This is not a taxation measure, I agree; it has not been construed as a taxation measure. Nor is it imposing any tax or acquiring any property or any money. That also is not there. Therefore, I can say that the Constitution does not specifically provide for the introduction of a compulsory savings scheme of this type. There I agree. But that does not mean that it is not allowed under the Constitution. It is there. It can be construed to fall within the scope of Entry 20—Economic and Social Planning—and Entry 23—Social Security and Social Insurance—of the Concurrent List in the Seventh Schedule of the Constitution. But, irrespective of these considerations, the subject matter dealt with in this Bill can also be brought within the residuary powers of legislation available to the Parliament under article 248 and Entry 97 of the Union List which confer upon the Parliament exclusive powers to make any law in respect to any matter not enumerated in the State List or in the Concurrent List. The Parliament is, therefore, fully competent to make this law relating to compulsory savings as embodied in this Bill.

Then, Sir, it has been argued that you cannot compulsorily levy anything. This Parliament itself has made several compulsory levies in other fields. There is the Compulsory Provident Fund. It is compulsory.

**Shri Ranga**: It is contributory also.

**Shri Morarji Desai**: It is contributory, but it is compulsory. It cannot be evaded by anybody. There is the Coalmines Employees Provident Fund, and subscriptions to provident funds are made compulsory. Therefore, there is no question that this cannot be done.

Again, this is not a matter of land revenue. Land revenue is only the standard taken for recovering it. Therefore, it is not a question of land revenue at all. Again, all the incomes from those of the borrowings taken from the agriculturists are going to the States. That is the latest arrangement in this matter. It will be dealt with by the States. The law is made here and the Parliament is fully qualified to make this law.

If it is said that this is a matter of infringement of the right to acquire and hold or dispose of property under article 19(1) (f) of the Constitution, there too, sub-clause (5) of article 19 lays down that nothing in sub-clause (f) of the said clause shall affect the operation of any existing law or prevent the State from making any law imposing reasonable restrictions on the exercise of any of the rights conferred by the said sub-clause in the interest of the general public. This is a matter in the interest of the general public.

Again, may I mention that the provisions of this article are remaining suspended during the emergency. That also is a point which has to be borne in mind. I am not, therefore, much worried about whatever may be said about taking it to the courts. But,

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apart from this, I have no doubt that we are standing on strong grounds in the matter of this being within the Constitution and the right of the Parliament to make this law.

**Shri Bade:** Sir, may I ask one question. If this compulsory deposit scheme is to remain in force only as long as the emergency lasts, then he is right.

**Shri Morarji Desai:** At any rate, till then I am not affected.

**Mr. Speaker:** Shri Gajraj Singh Rao wanted to raise a point of order.

**Shri Gajraj Singh Rao:** Sir, I would submit that the difficulty of constitutional and legal points would arise as to the realisation of this compulsory deposit, and then it can be realised as arrears of land revenue. That is the only way. If that process of law is to be applied, how would it come within the Constitution? How can a compulsory deposit become a tax? Only taxes and certain things of that nature allowed by the Constitution or law can be realised as arrears of land revenue. An example was given of the provident fund rules. But they are service rules. If an employee does not pay provident fund amount, then the service rules come into play and he loses his service or is visited by some other penalty. That is governed by the civil service rules, because the provident fund rules are also under the civil service rules. If necessary, you may again look into it and examine it. But, if a person says that he shall not pay provident fund, it cannot be realised as arrears of land revenue. I have my own doubts on this point. What would be the method by which realisation of this compulsory deposit would be made? That would be made clear, as also the constitutional and legal aspect of it.

**Mr. Speaker:** Shri A. P. Jain.

**Shri Morarji Desai:** May I say in reply to the point raised....

**Mr. Speaker:** Shri Jain wanted to say something. He might hear that also and then reply.

**Shri Morarji Desai:** I will straightway reply to the point raised just now. In the preamble we have said:

"to provide in the interest of national economic development for compulsory deposit and for the framing of a scheme in relation thereto."

Then, in article 110, which provides for money Bills, sub-clause (1) (b) says:

"the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;"

Sub-clause (1) (f) speaks of:

"the receipt of money on account of the Consolidated Fund of India or the public account of India....".

So, they are all provided for there.

**Shri A. P. Jain:** I was forced to make the rather uncalled for and unorthodox remark that the legal advisers of the Finance Minister were not very competent, and I repeat it now with double force after hearing the Finance Minister. Firstly, he has based his argument on article 248, which is a residuary article.

**Mr. Speaker:** Here Ministers are responsible for Parliament. So, why should we comment upon the legal advisers? Certainly, comments can be against Ministers, in strong terms and as much as possible.

**Shri A. P. Jain:** It was the Finance Minister who started it by saying that his advisers were more competent than me (referring to Shri Tyagi).

**Shri Morarji Desai:** I did not refer to him; I referred to Shri Tyagi. I did not know that he was the legal adviser of Shri Tyagi.

**Shri Tyagi:** Sir, in this matter I have not sought for his advice. I spoke as a layman.

**Shri A. P. Jain:** Let us read the language of article 248. It says:

"Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List."

But the question is whether this is a measure of taxation. Now, the power of taxation of the Central Government has been provided for in Part XII of the Constitution, where there are a number of articles governing this subject.

"The following duties and taxes shall be levied and collected by the Government of India but shall be assigned to the States...."

What are those? All these powers of taxation are very well defined in Chapter XII. I submit very respectfully that the residuary power of legislation does not extend the Bill to Taxation can be confined only to the items which are specifically mentioned in the Constitution. If the Finance Minister wants to take shelter under these residuary powers, he must cover it by any of the items provided in Chapter XII. That is my first contention.

The hon. Minister has referred to article 19(f). Perhaps his contention that this article is suspended during the emergency is correct. It is possible, it is open to the Government to terminate the emergency tomorrow. If this law were enacted for the period of emergency, perhaps, he could have

taken shelter under the plea that the fundamental rights under the Constitution remain suspended during the period of the emergency. This levy is repayable after 5 years.

**Shri Tyagi:** It is not tax.

**Shri A. P. Jain:** We must examine the position that there is a possibility of article 19(f) being applicable to it. We must refer to exception to article 19(f) which says:

"Nothing in sub-clauses (d) (e) and (f) of the said clause shall affect the operation of any existing law in so far as it imposes or prevents the State from making any law imposing reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe."

to acquire, hold and dispose of property.

He can impose restrictions. But, he cannot take away property. That is extinction of property, complete total extinction of property when he acquires it. Therefore, it may be a good layman's argument that this comes under the exception article 19 (f); but it is no argument for a lawyer.

**Shri J. P. Jyotishi (Sagar):** Is it taking away property when you return it with interest?

**Shri A. P. Jain:** Taking away my property is depriving me of that property.

**An Hon. Member:** There is no extinction.

**Shri A. P. Jain:** Lastly, there is a third argument, namely that so far as compulsory deposit on the basis of land revenue is concerned, land revenue is taken only as a measure. I accept his argument cent per cent.

[Shri A. P. Jain]

He says further that this will be passed on to the States. This money will be passed on to the States. May I ask the Finance Minister, where is the provision in the law that the Centre or the Union Ministry is authorised to raise finances for the State. The Union Ministry may raise money in a general way. Then, it can give a loan or subsidy. That is a different thing. But, to impose a specific levy, to recover it and then pass it on to the States, is not within the purview of the Central Government. I had raised this point in my speech on the general discussion of the Budget. Unfortunately, I was not present when the Finance Minister replied. But, the point is that powers of taxation all over the world are to be very strictly interpreted, because upon it lies the safety of the people and their welfare. Unless a particular levy or tax comes within the four corners of the law, no Government have the right to levy it. I question the authority of the Centre to raise money for the States. I can understand the States can impose surcharge on land revenue, and they can recover it. Surcharges have been imposed. But, the surcharges have been imposed by the State; not by the Centre. He is not very clear. This money will not go into the Consolidated Fund of India. All moneys which Government raise must necessarily go to the Consolidated Fund of India. If this money is to go to States, it is an illegal levy and it cannot be imposed by the Centre. I have no objection if the State imposes a levy or surcharge or works out a scheme or compulsory deposit, but the State will use it for its own purposes. If the Finance Minister wants it for the purpose of the Centre, and if he accepts land revenue as a measure, I have no objection. But since it is to go cent per cent to the States, I consider very humbly that neither is it morally the function of the Finance Minister at the Centre nor is he legally authorised to do it. I submit that this law is *ultra vires* the Constitution.

**Shri Tyagi:** May I remind you, Sir, of article 13(2) which reads thus:

"The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void."

**Shri S. M. Banerjee:** The hon. Minister in his reply has mentioned two things. Firstly, he has said that..

**Mr. Speaker:** Order, order. The hon. Member cannot go on incessantly. The Minister has already replied, and now if he would reply to the hon. Minister's points, again there would be a reply....

**Shri S. M. Banerjee:** I am not replying to anything. I only want to have some clarification.

**Mr. Speaker:** He has had his chance already.

**Shri S. M. Banerjee:** The hon. Minister has stated that article 19 remains suspended now. I would submit for the information of the House that even in an emergency, Parliament lacks competence to make laws taking away the rights guaranteed by articles of the Constitution except article 19. But the Supreme Court has held that article 19 has no application to a law providing for detention. I want to know whether article 19 is suspended for all purposes.

**Mr. Speaker:** That is a different thing altogether.

Really, several points have been raised. And our best legal heads have taken part in this discussion. I have had the benefit of all those opinions here. I also remember that Shri Tyagi works very hard when he has to take up a point. Since we were Members in the Constituent Assembly, I remember one or two points taken up by him, and our Law Minister had paid him a tribute; though he is not a

lawyer, still he works hard when he takes up a point. I give all that credit to him, and to the other Members also. But when these debates take place, I have all along been thinking over the matter whether I can give any decision on those objections or not. Supposing I hold that it is *ultra vires*, and Government go to the Supreme Court and they hold that it is *intra vires*.....

**Shri Tyagi:** Government go against you, Sir? How can a Government exist which go against you, Sir?

**Mr. Speaker:** If I hold that it is *intra vires*, then any member of the public can go and have a decision of the court that it is *ultra vires* as has been apprehended by so many Members here inside the House.

Therefore, it has always been left to the House itself to decide, taking this also into consideration whether a particular law or part of it is *ultra vires* or *intra vires* or offends any articles of the Constitution.

**Shri Ranga:** You can direct Government to obtain the view of the Attorney-General.

**Mr. Speaker:** May I be allowed to speak? It has always been left to the House to take that into account besides other considerations and then decide whether it would pass the Bill into law or not. And this House is competent enough to pass any law; then, it is left to the courts to interpret that and say whether really some law or fundamental rule or the Constitution has been offended or violated. That has happened so many times. The question is whether this House is competent to consider it at this moment. Therefore, I have allowed this debate at this moment so that the Members might take into account this aspect as well.

16 hrs.

When the House takes decisions, it remains uncertain whether it did it on any particular point. Never has this

been put to the House also. The Speaker does not take a decision on that; the House also does not take a decision on whether it is constitutional or unconstitutional. It remains uncertain always so that ultimately it might not be considered that the court had overruled that decision of the House, because that court does not know whether really it was only on the constitutional point, on the competence point or on other considerations that they considered that.

Therefore, it is always safe to place all the legal opinions before the House so that the House might consider them. Now, the hon. Minister says that he has considered the legal advisers. In order to be able to make up their minds, if hon. Members do desire that the hon. Minister of Law also might give his opinion so that they might come to a decision when they are ultimately required to vote on it, I can have that done as well. But if they expect me to give here a decision whether it is *ultra vires* or *intra vires* the Constitution or it contravenes any of its provisions or whether ultimately it would be thrown out by the court or not, I am not prepared to do it. And they will agree with me that it has never been done upto now by any Speaker since we began here in 1947. Never has the Speaker taken it upon himself to take such a decision that a measure is *ultra vires* or *intra vires*.

**Shri Vasudevan Nair** (Ambalapuzha): We can have the benefit of your personal advice.

**Mr. Speaker:** No, no.

**Shri Tyagi:** In the case of Beru Bari also, I raised that objection. The matter was discussed and ultimately it went to court—the President himself referred it to the Supreme Court. There the Speaker rightly did not give any ruling. But could you not advise the Finance Minister to give it legal shape by calling it a taxation measure and have a few words changed?

**Mr. Speaker:** I have only said that if the Members do desire that they might have the benefit of the advice and opinion of the Law Minister also. I can call him also.

**Some Hon. Members:** Yes, yes.

**Mr. Speaker:** That is a different thing altogether.

**Shrimati Renu Chakravartty:** It is surprising that when this discussion is going on no Minister representing the Law Ministry is present.

**Shri Dasappa (Bangalore):** Could we not hear the Attorney-General on this?

**Shri A. P. Jain:** Yes, that was what I was going to say. I want to say a word about the Attorney-General. There have been occasions when the Attorney-General has appeared in the House and has given his advice. The law provides that the Attorney-General can address the House. He cannot vote....

**Shri S. M. Banerjee** rose—

**Mr. Speaker:** When one Member is already speaking, why should he get up. There should be some rules of conduct.

**Shri A. P. Jain:** That provision was purposefully incorporated with a view to enable the House to have an independent advice. I have great respect both for the legal knowledge and the advice of the Law Minister who is one of the ablest lawyers in the country. But he is a member of the Cabinet. The provision about the Attorney-General was specifically made so that the House may have independent advice. I request you to call the Attorney-General. Let him give his advice on this matter so that the House may decide for itself.

**Some Hon. Members:** Yes.

**Shri Morarji Desai:** May I say that this is in contradiction to what my hon. friend said, that the legal advisers of the Government are not very competent?

**Shri Tyagi:** I see; the Attorney-General has already been consulted.

**Shri Morarji Desai:** He said that they are not competent. Why does he want their advice?

**Mr. Speaker:** I might say that though the House really cheered Shri Jain when he made that suggestion, uptill now the Speaker has never sought the advice of the Attorney-General. It is for the Government when they want to consult him to bring in the Attorney-General. Otherwise, the House proceeds with the normal business. The advice of the Law Minister is always available. If hon. Members desire, I will certainly ask Government to ask the Law Minister also to participate in this. He may also come and give his advice. Meanwhile, we can proceed with this.

**Shri Tyagi:** Government brings the Attorney-General only when they feel that his opinion is in their support, to convince us.

**Mr. Speaker:** Order, order. Only just now it was said that his was an independent advice.

There is an amendment also by Shri Banerjee.

**Shri S. M. Banerjee:** How can we speak in the absence of any legal advice?

**Mr. Speaker:** We do not need any. It is only for the convenience of our taking a decision at the end.

**Shri S. M. Banerjee:** When the Land Acquisition Bill was discussed in the House, there was difference of opinion about the interpretation of the Supreme Court judgment which warranted the ordinance which was later on replaced by a Bill, and you were kind enough to refer the entire matter to a committee comprising of Members, and the Attorney-General suggested certain amendments.

**Mr. Speaker:** That is a different thing altogether. That does not apply

here now. We can proceed because I have already told the House that I will not take the responsibility of declaring it *intra vires* or *ultra vires*. That has never been done.

**Shri S. M. Banerjee:** I do not ask you to do so.

**Mr. Speaker:** I will ask the Law Minister to come and participate in this debate. He will give us the benefit of his opinion. That is all.

**Shri S. M. Banerjee:** How can we speak now? The Law Minister must speak first.

**Mr. Speaker:** No, no. He will only give his opinion about the constitutional position. That is all. He will be one of the speakers only.

**Shri S. M. Banerjee:** I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the first day of the next session."

In moving my amendment for circulation I wish to mention that the general opinion of the salaried employees, especially the Central Government and State Government employees and other employees in the private sector, is against this Bill.

My hon. friends Shri Tyagi and Shri Jain have raised constitutional objections to the Bill. We could also have raised objections.

The hon. Finance Minister has tried to impress upon the House by referring to two or three points. Firstly he said that this was just like the Provident Fund which is also compulsory. May I invite his kind attention to the fact that in 1938 the Provident Fund was introduced purely as an optional thing? At that time it was called Contributory Provident Fund in some places, the Indian Ordnance Factories Provident Fund in other places, and the General Provident Fund in some other places. It was not compulsory. After the Government decided that in their own undertakings Government's contribution would be raised

from 50 to 75 per cent and then to cent per cent, it became almost compulsory, but actually it is not compulsory. I am prepared to go through the proceedings of the House when it passed the Provident Fund Act. In the States also it was never made compulsory. Had it been compulsory, the employees would have benefited much more. Today every employer who has 100 workers in his factory or unit has accepted this and is implementing the provisions of the Provident Fund Act.

16.09 hrs.

[**DR. SAROJINI MAHISHI** in the Chair]

The salaried employees throughout the country have paid more than Rs. 2 crores to the National Defence Fund. I remember that on 9th December, 1962 a conference was convened by the Home Minister, Shri Lal Bahadur Shastri, of all the associations and unions of the Central Government employees, and it was unanimously decided by about 107 unions belonging to the various shades, various political groups and Central trade union organisations, that every employee would pay one per cent of his emoluments to the National Defence Fund. The Central and State Government employees and the mill workers have already paid more than one per cent, and in certain places one day's salary. In the circumstances, I do not know why this compulsion was necessary. This is not only constitutionally wrong—we have yet to get the opinion of the Attorney-General or the Law Minister—but also otherwise. According to the Pay Commission and the various other wage reports and according to the Constitution, Government has assured a living wage to the workers. Shri Nath Pai, Shri Prabhat Kar and I appeared before the Pay Commission and made this point very clear. Today the workers get less than starvation wages; they are not getting a fair wage or a living wage. After 15 years of Independence and two Plans, it is a matter of regret that they are not crossing the starvation line. There is plenty

[Shri S. M. Banerjee]

and poverty moving together in this country.

I object to this Bill because the salaried employees have nothing to pay as compulsory deposit. Announcing certain tax reliefs, the Finance Minister said.

"Turning to the salaried classes we are not in the income-tax paying category, we must make a distinction between those who are already saving a good proportion of their earnings and those who are not. Accordingly, I feel that where an employee whose income from salary is Rs. 1500 or more per annum, but below the income tax level, is already saving 11 per cent or more of his income by way of contributions to provident fund, life insurance premia, or to 10 or 15-year Cumulative Time Deposits, no further liability to Compulsory Deposit should arise."

I submit if an employee gets Rs. 125 per month, an employee serving in the Central Government or statutory corporations pays 6 per cent to the provident fund; an employee in private employment pays 8 and 1/3 per cent as provident fund. If the overall percentage should be 11 as suggested by the Finance Minister, he should have an insurance for at least Rs. 2000. We know that these persons getting Rs. 125 or so whether in urban or rural area have nothing to save. An employee getting Rs. 125-150 in Delhi is normally indebted to the tune of Rs. 400-500. A survey of the Bombay middle class families reveals that persons who are in the group of Rs. 100-150 are indebted to the tune of Rs. 400-450; in the income group of Rs 150-250, to the tune of Rs. 350-400 income-group of more than 250, to the tune of Rs. 200. This is the condition of the middle class employees who will be compelled to pay this compulsory deposit. I do not know whether their indebtedness is going to increase further. These employees whether in Government or in private

employment have taken loan from the co-operative societies, from their own provident fund, from the money lenders at exorbitant rates of interest. When the pay-day comes, we know that this is no exaggeration—he gives the authority to the other workers to take his salary because he knows once he goes out, his salary will be snatched by the money-lenders. If this is the condition of the Central Government employee, of the State Government employee, the workers in the private and the State sectors, I do not know how they will be able to pay three per cent. The hon. Finance Minister says "I have given him a concession". What is the concession. "You need not pay 11 per cent; you could pay three per cent." What a concession? So, I would like to submit that this amount can be had by other measures I have suggested.

We have been pleading in this House month after month and year after year that the contribution to the provident fund should be increased from 6½ to 8-1/3 per cent. The Government have brought in a Bill, and we have passed a Bill to that effect for certain industries like cigarettes, etc., where the contribution will be raised from 6 per cent to eight per cent. But a similar measure has not been implemented in the case of jute industry, sugar industry, the textile industry—all these big industries which have been granted concessions just now by the Finance Minister in the shape of the Super Profits Tax Bill. If you raise the contribution from 6½ to 8½ in all these industries, I am sure much more could be saved and could be accrued to the Government exchequer for development and defence than this paltry amount which is likely to be got by squeezing the already squeezed workers, by bleeding them white which, I am sure, will be a wrong thing.

So I feel that this Bill is constitutionally wrong, and opinion should be sought for this. I have been told



that legal opinion has been taken. What happened to the Land Acquisition Bill? What happened to the other legal advice that was given even to the Prime Minister regarding the appointment of the Law Minister as the Attorney-General? It was smashed to pieces. I am sure that this Bill is going to do much harm. I am all for saving money. Money must be saved for the nation. Today, the salaried people are paying much more than what was expected. Still, they are paying I can assure the hon. Finance Minister that the Central Government employees and the State Government employees and the corporation employees have taken a pledge that they will pay one per cent of their salary to the National Defence Fund. Let it not be misunderstood by the imposition of this Bill. they will be taking away the goodwill of the salaried people.

Then, coming to the small shop-keeper, I am sorry that the shop-keepers have also been taxed. I suggest that for the salaried people at least the limit of Rs. 1,500 should be raised to Rs. 3,600. I shall move my amendment later on when the second stage comes. I would request the Finance Minister to see that this Bill is withdrawn because of the national unity which we have achieved, seeing the way in which the working classes and the toiling millions have donated their ornaments for armaments. They have devoted every ounce of their energy to the nation's cause. Therefore, I am sure that the passage of this Bill will be wrong. At the present juncture, in this country we cannot possibly afford to save more. The people have got to save more for their children, for the future generations, but then where there is a race going on between poverty and plenty, when the line between hunger and anger has become thinner, if we tax the people more, what will happen? Of course, to save the country, they will say 'Yes.' But what about the millowners and what about the exemption of tax? What happened, when the Finance

Minister yielded to the organised pressure of the millowners and granted an exemption to the tune of 50 per cent in the matter of super profits tax? So, why have this three per cent? They are already contributing six per cent. That is enough. So, I move that the Bill be circulated for public opinion. The employees should be asked to give evidence.

**Shri Sham Lal Saraf** (Jammu and Kashmir): What have we left for eliciting public opinion now.

**Shri S. M. Banerjee**: I have said that the contribution to the provident fund should be increased from 6½ to eight per cent, in all the industries so that we will get much more amount out of it. The salaried people will pay you one per cent on a voluntary basis. Do not make it compulsory which is constitutionally wrong.

**Mr. Chairman**: The amendment moved by Shri Banerjee is before the House. We will proceed with the debate on the motion moved by the Finance Minister.

**Shri Ranga**: Mr. Chairman, the Swatantra Party is total opposed to this Bill. But I do not think it would happen if the Finance Minister is kind enough to agree to circulate it. I will certainly favour that suggestion. As my hon. friend, Shri Banerjee, has already stated, the peasants are not in a position to pay. It is no secret even for the hon. Finance Minister, because he said that half of them who are today paying a land revenue of Rs. 5 are not in a position to save compulsorily and he has chosen to exempt them. But I would like him to remember that even those peasants who have to pay up to Rs. 50 in dry area and Rs. 100 in wet area are not today in a position to make both ends meet. In the wet area, we know that according to the 1959 assessment, those who have to pay Rs. 100 as land revenue would be owing not more than 12 acres of land.

If we look into the statistics in regard to the indebtedness of such

[Shri Ranga]

peasants, we will be surprised to find that their indebtedness is increasing and not decreasing. A very large percentage of them are very heavily indebted. Many of them are always in arrears in payment of land revenue. I do not know why my hon. friend thinks it is quite reasonable on the part of Government to expect these peasants who pay more than Rs. 5 per annum as land revenue to contribute as much as 50 per cent of their land revenue assessment towards this compulsory saving scheme. If he has taken the trouble to collect information from the States about the land revenue arrears that are pending on the registers of State Governments, he would have been surprised or staggered by the enormity of these years.

Why is it that these arrears have gone on increasing every year? It is not because the peasants are in a position to pay, but because the peasants are not in a position to pay and the State Governments do not have either the coercive capacity or lack of sympathy or want of heart to force these peasants, to foreclose their properties and auction them in order to collect the land revenue arrears. In the face of all these things, I do not know why my hon. friend has been so keen on insisting that he should force this sacrifice on these people. He says, we must see that the burden is borne by all sections of the people more or less equally, so that there would not be any kind of discrimination. This I consider to be a terrible discrimination by itself. It is not proper that he should inflict this kind of punishment merely in the name of non-discrimination and distribution of suffering, coercion, imposition and sacrifice on the various sections of the people.

Let us take salaried employees. He has been good enough to raise the exemption limit up to Rs. 1500; that means Rs. 125 p.m. He has himself admitted that in many cases it is quite possible that these people are in debts and therefore, they may not be in a

position to pay. And yet, he says, he would insist that they should be made to suffer in this manner to this extent, in the interests of the nation and also in their own interests.

Supposing he is right in this regard, even then I maintain that there is discrimination between the peasant and the lower-paid salaried employee of the third class or the fourth class, whatever it is. When would a peasant be able to earn a net income of Rs. 125? Which peasant is in a position to earn so much? Not those peasants who have got less than 12 acres or 15 acres of land, not those peasants who have got 50 acres of dry land or 10 acres of garden land. Those people are not in a position to earn that much of net income after paying all the taxes. Again, you have to take into consideration their cost of production or cost of cultivation and interest on their debts. My hon. friend, Shri Banerjee, has already informed the House that industrial workers are heavily in debts. All those who are earning even more than Rs. 125 a month, salaried employees of the Government as well as of private enterprises, are in debts. The peasants are in debts. The rates of interest which they are obliged to pay are usurious rates of interest. He mentioned about money lenders and others. There is the kabuliwalah who flourishes his whip anywhere with immunity, and even though the police are not far from him they are helpless and they do not interfere. The salaried employees are at their mercy. So are the industrial workers. This also happens in the case of those people who are earning more than Rs. 125. When it comes to the peasants their position is even worse.

The standard of living of the peasants is very low. Their debt burdens are so high so much so even the co-operative credit societies today are not able to meet their demands at all and they are at the mercy of the local

money lenders. The rate of interest that they pay, as I said, is always usurious. To ask these people to pay 50 per cent more on the land revenue that they had to pay till 1959, knowing fully well that, after 1959 the land revenue has been raised by various States, is nothing but being cruel towards these poor people, these oppressed people and these helpless people.

My hon. friend cannot plead ignorance of the fact that a number of State Governments have doubled, and in many cases trebled also, the land revenue assessment during the last four or five years. That is why they are not in a position to collect these land revenue assessments. In addition to that there are the cesses also. The cess used to be two annas when the British were there and now it has been raised to eight annas in the rupee. That is an additional burden of 50 per cent already over and above the increase in land revenue after 1959. Now there is this 50 per cent that is being imposed. These burdens are in addition to the burden of excise duties that my hon. friend has been collecting all these years, as I said the other day, to the tune of 700 per cent. Excise duties to the tune of 700 per cent have been raised during the last 15 years. All these burdens are falling upon our peasants and agricultural workers. They are falling on other people also, but they are falling on the peasants in particular because we are dealing with them. The land revenue has been increased by 200 per cent or 300 per cent. There is the 50 per cent on top of it by way of cess and other things. Now there is going to be 50 per cent more on the land revenue as it used to be till 1959. If the peasants are expected to bear all these burdens and yet feel satisfied and grateful to the Government, then the Government would be expecting the impossible and we would be asking for the impossible indeed.

I think one of our hon. friends wanted an assurance from the hon.

Minister whether this position is going to be only a temporary thing and during the emergency. I do not know whether the Finance Minister was willing to give an affirmative answer. Even if it is to continue during this emergency, I say it is a burden which the peasants are not able to pay, the salaried employees whose income is above Rs. 1500 but below Rs. 6000 are not able to pay. It would be a terrible encroachment indeed upon their slender means and their low sub-normal standard of living. Therefore, even in the name of emergency there must be certain limits set for imposing these burdens. The emergency ought not to be made the all-embracing reason for inflicting such punishments upon the people. Under these circumstances, our party has got to emphatically state that it is opposed to this compulsory savings imposition upon our peasants and upon the salaried employees, and when the time comes for the peasants to organise themselves, in order to free themselves from this imposition, our party will feel itself bound to support them, to strengthen them and justify their revolt against this kind of unjust imposition.

**Shrimati Renuka Ray (Malda):**  
Mr. Chairman, the compulsory deposit scheme, as envisaged by the Finance Minister, has led to a good deal of controversy, and just now there is difference of opinion in the House as to whether it will be even constitutional or not.

16.31 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

Without going into the legal position, I would just like to bring to the notice of the Finance Minister certain difficulties.

The whole idea of compulsory savings emanated from Prof. Keynes, who

[Shrimati Renuka Ray]

suggested during the last war in Great Britain that compulsory savings should be introduced in the case of the income-tax paying group. Even though Great Britain is so much advanced than India, so far as economic standards are concerned, yet he did not suggest the levying of compulsory savings from those people who do not pay income-tax. But the Bill here, as it has been framed and brought before the House is indeed moved in that aspect. But it has been improved upon by the Finance Minister, for he has announced certain concessions. Even though some improvements have been made, I would plead with him to realise the necessity of making some other improvements also.

In the first place, let me confine myself to the question of land revenue. Anyone who knows rural India will certainly acknowledge that there has been improvement in the position of the rural people, but that improvement has not gone to such lengths that even those who pay an annual land revenue of Rs. 10 are in such a position as to pay towards the compulsory deposit scheme also. Of course, the Finance Minister has now agreed to exempt all those who pay Rs. 5 per annum as land revenue, but are those who pay Rs. 10 or even a little more than that in a position to save? If they are in a position to save, I would certainly agree to the introduction of compulsory savings on them also. But, knowing rural India as I do, knowing how much dependent we are even now on the vagaries of nature from year to year and knowing how much loans—not indebtedness to the money lender but loans from Government—are taken from Government which the people are not able to pay back in time because of their conditions having not improved, how can I say that such people are in a position to save? Therefore, I would plead with the Finance Minister that a more realistic view of the situation may be taken

and instead of giving exemption only up to Rs. 5, he should raise the limit of exemption to a little higher level so that more people who are on the marginal level can get the badly needed relief.

Turning to the other side, those who do not pay income-tax, certain concessions have been given, it is but natural that those who are contributing to the provident fund should not also have to go in for compulsory savings. I am glad that the Finance Minister has agreed to these concessions. I would like to know about the group that pays income-tax, up to Rs. 4200. We had asked for exemption for this group from income tax. When I was speaking in the discussion on the General budget, I pleaded with the Finance Minister that up to Rs. 4200, they should be exempted from income tax. That has not been done. The Finance Bill has been passed. The only way out for such people with such a low income would be to exempt them from the compulsory savings. I would therefore request the Finance Minister to exempt the group that pays income-tax up to Rs. 4200 from payment of compulsory savings.

The hon. Minister has pointed out that a man who earns Rs. 125 should be able to save something. I would ask him to consider this from another angle. Why are we raising money? We are raising resources to meet the immediate needs of defence, and also so that our development plans can go through, so that the standards of life can go up. A man who attempts on his own, before the welfare state is able to provide him with all such amenities, to keep up some kind of standard, to send his children to the school or secondary school which is not free today, or even to provide medicines which are very necessary—if he is also expected to pay both income-tax as well as compulsory savings, how is he going to do it? These are marginal cases. It

may just happen that he is unable,—in fact, it does happen—unable to pay for his daughter's medicines which he has to say, because the States does not provide all these things free. When he has to provide for his boy's or girl's education in the secondary school, he just cannot do it. Because the amount that is levied as compulsory savings to give him the benefit in the future, deprives his children from the opportunity that they may get in the present. This is a very real case. I would, therefore, plead with the Finance Minister that since tax has been imposed on this group, at least let them be exempted from compulsory savings because that is the only way in which they could struggle, battle in some way to keep up a standard that they have. Otherwise, while we are attempting to raise the standard of life with our development plans, we may, in fact, bring about a contrary result if we do not study these cases with care and see that savings are not expected from those who cannot even manage to live properly in the present.

Before I conclude due to lack of time, I just want to say one thing, though I had many other things to say. A good deal of controversy has arisen regarding the constitutional position. I do not know what will be the result of this. But, it is true that there appears to be a good deal of validity in some of the arguments. I wonder if the Finance Minister would consider having this compulsory savings deposit Bill as an emergency measure because, then it would be covered by the Defence of India Act. Otherwise, it is very likely that it will be challenged by courts of law. In any case, before this Bill is enacted, I hope, those sections of the people who cannot afford saving as yet, who cannot defer the present for the future, are not in a position to do so, will be exempted from the compulsory savings. If that is done, the introduction of compulsory saving for those who are in a position to save, is a whole-some measure.

354 (Ai) LSD—8.

**Shri Prabhat Kar** (Hooghly): Mr. Deputy-Speaker, so far as this Bill is concerned, on the legal points that were raised, of course, they will be taken up by the Law Minister and afterwards by the court. I was really surprised to find an argument put forward by the Finance Minister when he said that because, today, article 19 is not available to the common man because of the emergency, he will pass this. Really it is surprising in the sense that I expected a better argument from him. He simply said that because article 19 will not be available, he is not bothered about that.

**Shri Morarji Desai**: I did not say so. It is a misrepresentation of what I said.

**Shri Prabhat Kar**: That is what he said; they cannot go to court. That is what he said. Look at the proceedings.

**Shri Morarji Desai**: That is also a thing which is relevant.

**Shri Prabhat Kar**: That is one of the points. That means, you are not bothered about the legal point because....

**Mr. Deputy-Speaker**: Nobody can prevent anybody from going to court.

**Shri Morarji Desai**: I never said that.

**Shrimati Renu Chakravartty**: There is no bar to any one going to court.

**Shri Prabhat Kar**: Because of the emergency, article 19 cannot be evoked and that is why he is not bothered. That is what he said.

**Shri Morarji Desai**: That would be the case only if it was an emergency measure. Otherwise, it is not so.

**Shri S. M. Banerjee**: There is a Supreme Court judgment that only in the matter of detention, people cannot go to the court.

**Shri Prabhat Kar:** I wanted a better explanation and not this type of argument.

**Shri Morarji Desai:** Any argument that I give will not convince my hon. friend. What can I do?

**Shri Prabhat Kar:** Anyway, this is no argument.

**Shri Morarji Desai:** There, my hon. friend is perfectly right.

**Shri Prabhat Kar:** To say this to anybody that because there is an emergency today, therefore, it cannot be taken up, and, therefore, we need not discuss about the legal points is not proper. That is how he has put it. Otherwise, why did he refer to article 19?

**Shri Morarji Desai:** A loud voice is not a better argument. Anger cannot make it more right.

**Shri Prabhat Kar:** What was the necessity for referring to article 19, unless he had this idea in his mind?

So far as this Bill is concerned, already three Members have spoken, belonging to three different political parties with two different ideologies. But everyone has spoken about the burden that will be put on the shoulders of the ordinary men, the lower income groups and those who are earning less than about Rs. 150, and also the peasantry who are paying land revenue who come in the lowest income group. These are the persons who will suffer. One good thing is there that everyone is suggesting certain relief to these sections of the people.

I would only like to point out one thing to the hon. Minister. Considering the way in which he has discussed and given relief to the industrialists in the case of the super-profits tax on the ground that he has to see that the efficiency of the industries is not jeopardised, I think that it is also incumbent upon him to see that

the efficiency of those persons who produce wealth, and who run the industry, is not also jeopardised. For, today, it is admitted that the employees or workers, whether they be in the Central Government or in the State Governments or in any other institution or in any factory, are not getting even the wages which are required to maintain themselves. Even today need-based wages have not been granted to them by the tribunals. And today, a certain percentage of the wages or salaries is being taken away in the form of taxation or in the form of the proposed compulsory deposit. If a certain percentage of the salary is taken away, that means that the employee is deprived of taking home a certain percentage of his emoluments. Thereby, his efficiency will be hampered, and that will in turn hamper the growth of the industry and not so much the question of the decrease in the dividends to the shareholders.

I would, therefore, request the hon. Minister to consider this compulsory deposit scheme from this angle. While presenting the budget, he has said that his expectation under this scheme is between Rs. 60 and 70 crores. But I find that the revenue will be much more. If his expectation was between Rs. 60 and 70 crores, and if today from the calculations we find that the revenue will be much more, then I would plead with him that he should consider giving relief to those sections who are today so overburdened because of the increase in the prices of the daily necessities of life due to the increased taxation on the commodities and who are today also not enjoying the emoluments necessary even for their maintenance. It is from that angle that I would request the hon. Minister to consider this proposition.

So far as the peasantry paying land revenue is concerned, already it has been pointed out that there are surcharges in some of the States, there

is water tax, and there are other taxes or duties which have to be paid by them apart from the land revenue. So, if they are asked to pay an amount equal to 50 per cent of the land revenue, it will be too much. I would, therefore, request that some concession should be granted to the lower classes of the peasantry who pay land revenue to the tune of Rs. 15 or 20. As I can see from 1959-60, the land revenue of all the States comes to Rs. 95.15 crores. 50 per cent of it will come to Rs. 47.6 crores. The expectation of the Government is between Rs. 60-70 crores total. From the land revenue, 50 per cent calculated on the basis of 1959-60, will come to Rs. 47.6 crores. With the concession granted by way of exemption of those paying Rs. 5 as land revenue annually, Rs. 3-4 crores will be less. So roughly it will be Rs. 41 crores.

The number of income tax assesses is roughly 8,28,000 and the number of those whose income is between Rs. 3,000 and Rs. 5,000 is 3,05,167. They contribute to the tune of Rs. 3.73 crores. Those in the income bracket Rs. 5,000-7,500 contribute Rs. 13.19 crores. The amount which is expected to be contributed to the scheme is to the tune of Rs. 17 crores. The section of the assesses whose income today is between Rs. 3,000-5,000 will contribute 50 per cent of the deposit. It will be about Rs. 8 crores out of Rs. 17 crores.

So far as the rentier classes and householders are concerned, it is well known that there are a large number of middle class people who have got a house which is another source of income. They are also to contribute to the scheme. The amount under that head will come to Rs. 7.90 crores. Professional tax would come to Rs. 0.48 crores, but the Finance Minister has deleted that class. Then there is the urban non-income tax householders. They will give Rs. 22.60 crores. The rural non-agricultural sector will also give Rs. 8.80 crores. Therefore, from these figures, we find that it will be roughly about Rs. 101 crores. The

hon. Minister's expectation is Rs. 60-70 crores. There is enough scope in between to give relief so far as the common people are concerned.

Today there has been representation from the working class and the middle class workers. Various papers, which do not belong to any Opposition group, like the *Statesman* (Calcutta) have written about it. It says that today the whole middle class in the lower income group is completely frustrated, because while it has been found that it is possible for big business to put pressure and got concession, it is not possible for the middle class people, who are the cream of the society, who have sacrificed for the cause of the nation, who have been all the time in the forefront of the national movement, to get any concession. They are being put to great difficulties. It appears that the Finance Minister is not at all considering their case which remains unheard.

I would just only tell him what is the present position. Shrimati Renuka Ray and Shri Banerjee referred to the indebtedness of this type of people—the lower income salaried employees. The Government can go through the accounts of the co-operatives. The Minister will find what is the position today. Today the lower income group people are not in a position to meet their obligations and commitments to their families, and they are in debt, and how can you ask them to contribute three per cent of their emoluments? The Finance Minister should realise what it means to pay Rs. 4 out of Rs. 120. It means they will have to curtail a portion of their budget and forego something very essential. It is possible for the Government to take recourse to deficit financing by issuing treasury bills, but it is not possible for these people because after all they will have to repay the loan and pay their bills to the grocer and milkman. As the yield is likely to be double of what the Finance Minister has placed before the House, it is possible to give these people some

[Shri Prabhat Kar]

relief, and there is no reason why the Finance Minister should not consider this aspect.

16.52 hrs.

[MR. SPEAKER in the Chair]

Today the prices of commodities have gone up, while emoluments remain stagnant, because the dearness allowance has not caught up with the cost of living. In the circumstances this imposition is most repressive, and I would request the Finance Minister, in view of the likelihood of his realising much more by way of this deposit, to give the workers some concession so that their efficiency may not be jeopardised in the same way as he has given some concessions to the industrialists.

**The Minister of Law (Shri A. K. Sen):** I am obliged for your having asked me to assist the House in determining about the validity of this Bill in the light of the constitutional requirements that we must necessarily conform to.

It is true that under article 358 the fundamental rights, particularly article 19, stand suspended, but that is hardly of relevance. I agree with Shri Prabhat Kar that so far as we are concerned, we have never relied upon article 358 excepting for purely defence and emergency measures. Notwithstanding the Proclamation of Emergency, every normal measure is tested before it is introduced here according to the requirements of the Constitution, and may I say that we intend to do so whatever happens, unless something more catastrophic overwhelms us, because after all the normal machinery of Government is still in operation.

This is not an emergency measure at all. Hon. Members would be good enough to turn to article 39, particularly clauses (b) and (c). It reads:

"The State shall, in particular, direct its policy towards securing—

\* \* \* \* \*

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;"

From this follows the requirements of planning, control of the total requirements of the nation and pooling them for the purpose of employing so that the common good may be served and so many measures have been under-subserved. This is the reason why taken to pool the resources of the nation. The compulsory deposit is only one of the measures for that purpose. Whether a particular scheme is proper or not is a different matter and is not a constitutional question at all. But the necessity of pooling the resources of the nation for the purpose of subserving our plan requirements is a matter which is not only sanctioned by the Constitution but it is a matter which we are required to do under the Directive Principles of the Constitution. I do not think the purpose of compulsory saving as a means for enabling us to fruitfully pool the resources of the nation would be doubted by any one. In fact it is a very sound measure and the only way by which we can increase the savings of the nation so that investments may proceed at an increased pace. The question, therefore, is whether having regard to the fact that this is completely sanctioned by the Constitution, the Centre has the power or Parliament has the power to pass the necessary legislation. That takes us to the Seventh Schedule of List I. I have no doubt that the Centre has ample power for this purpose. I refer to entries 20 and 23 which are relevant for the purpose here. Entry 20 relates to economic and social planning and entry 23



refers to social security, social insurance, employment and unemployment. I am referring to the Concurrent List. The more appropriate entry is economic and social planning which is all pervasive. We had not, decidedly and quite wisely, specified the items of economic and social planning because economic and social planning is all pervading.

Even supposing for argument's sake that it is contended that this particular piece of legislation is not covered by economic and social planning, it will be amply covered by the residuary clause, namely, 248 of our Constitution which says that Parliament has exclusive power to make any law with respect to any matter not enumerated in the concurrent list or State list. I personally think that it is covered by the entry relating to economic and social planning. Even if it were not, it will be completely covered by article 248. I am, therefore, quite convinced that the point of constitutionality is not of much substance, with due respect to those who have raised the point.

**Shri Tyagi:** Does the hon. Minister deem it to be a tax? Does this pertain to the provision which says that such power shall include the power of making any law imposing tax not mentioned in either of the lists?

17 hrs.

**Shri A. K. Sen:** It is not a tax at all. It is admitted that it is not a tax. How can it be a tax?

**Shri Tyagi:** What is it then?

**Shri A. K. Sen:** It is a restriction on the person to dispose of his income.

**Shri P. R. Patel (Patan):** That is his personal income. It becomes a deficit budget; supposing an agriculturist's expenses are Rs. 150 and his losses are Rs. 50, what about the resources?

**Shri A. K. Sen:** That is about merits. It is on merits, and not on the constitutional basis. It is not a tax measure. Shri Tyagi was right when he said that it is not a tax measure. It is really a restriction on the power of the person to dispose of his income in the way he likes. He has to set apart a particular part of his income.

**Shri Tyagi:** Does the hon. Minister mean that under the entry "economic and social planning", any taxation measure can come?

**Shri A. K. Sen:** It can come, but it must have been covered by the taxation entry, because there are specific entries. The hon. Member will see that List I provides for the power of the Union to tax, including the residual power of taxation. That is a different matter. If it was a taxation measure, I would have taken recourse to those entries, but it is not a taxation measure. It prevents a person from disposing of his income or spending his income in the way he likes. Saving is nothing but a restriction on spending. That is, from my income, I ought to be able to spend in the way I like. But this is a restriction on that right to spend, so that I can only spend subject to setting apart a particular portion of my income under the provisions of clause 4 of the Bill itself, the provisions which are brought within the ambit of clause 4.

Therefore, Sir, it is conceded that it is not a taxation measure. Therefore, it must be a measure for economic and social planning. As I said, there is ample power for making a provision for this purpose under the Constitution itself.

Then there is your own ruling and the ruling of your predecessors that on such matters it would be for the House to decide after hearing the arguments on both sides, so that the question of *vires* can be decided.

**Mr. Speaker:** That is exactly why I wanted his advice so that it would be ultimately for the House to make up its mind on the issue.

**Shri A. K. Sen:** That is what you have always done and your predecessors have always done, so that if it comes to voting, the House can vote on the validity of the Bill which is challenged. Before the decision of the Speaker, the House is assisted with the views concerning the *vires* of the challenged legislation. So, these are my submissions.

**Shri H. N. Mukerjee:** I would not normally have intervened, but I was rather befuddled by the Law Minister's arguments because I could have understood a straightforward averment that on account of the emergency, article 19 is being kept in abeyance. But he did not say that. On the contrary, he rather went out of his way to say that all the fundamental rights are being maintained and except for very special reasons Government is not going to impinge upon them. I am not going into the merits of the matter. Technically speaking, the position seems to me to be a very intriguing one. I say with all respect—I have nearly forgotten my law but even so—what I have heard from the Law Minister did not satisfy me.

The Law Minister has referred to article 39 which forms part of the directive principles of State policy. Now, there is always a distinction—and everybody knows it—between the fundamental rights which are justiciable, which are enforceable in courts, and the directive principles of State policy which are very fine adumbrations of the principles and extremely important for our purpose. But there is a qualitative difference between the two, and if there is even a conceivable contradiction between the areas within the ambit of fundamental rights and of the directive principles, surely the fundamental rights would have precedence.

The Law Minister has argued that on this occasion we are only going to have a mere restriction on the right which is guaranteed by article 19 of

the Constitution to acquire, own and dispose of property. Government feel that they can eat the cake and have it too. I might substantially support the Government on this issue, but Government must put forward legal arguments which are satisfactory. My feeling is, the Law Minister says that this is a mere restriction and there is nothing positive about it. But this is a very positive injunction which is coming from the Government, with all the sanction that the Government has got behind every statutory injunction. It is an injunction on the people to do a positive act, namely, to keep something out of his or her income and put it as a deposit, for Government to look after. Here is the sanction of Government being brought into the picture by a very positive injunction, which is being placed on every citizen of the country, who happens to be earning an income of a certain amount or more. This is not a mere restriction or a mere modification of the ways in which the right to hold property or dispose of property can be exercised. Here is something which is constructive, of a nature which surely cannot merely be comprised under the term "restriction". This is a matter of very serious import. We are all talking more or less on the spur of the moment. I am sorry I was not here from the very beginning, but *prima facie* the argument of the Law Minister cannot be accepted. Of course, it is for you, Sir, to decide, how you are going to decide it.

**Mr. Speaker:** That I have already decided.

**Shri S. M. Banerjee:** The Law Minister has quoted article 39.

**Mr. Speaker:** At this stage, it is not a controversy between the Law Minister and the hon. Member. I only asked the Law Minister to come and give his advice, so that it might be available to the hon. Members.

**Shri S. M. Banerjee:** Why I say that this should be referred to the Attorney General is this.

**Mr. Speaker:** That I have decided. I hope the hon. Law Minister has just seen the debate that has preceded his arrival here. Objections have been raised that this is appropriation of property without compensation. That is one thing. Secondly, it is not a tax proposal. That has been admitted perhaps on all sides. Then, the objection is there is interference under articles 19(f), the liberty of the people and the fundamental rights are infringed. Mr. Mukerjee has argued just now that these fundamental rights are being infringed to some extent, this is not a reasonable restriction on them, which is allowed but something which is more fundamental.

I am afraid the Law Minister first referred to the Directive Principles. These are the lines on which the policies of the Government are to be formulated. But if a particular Bill is brought, that has to be judged on merits, whether it really contravenes or violates any provision of the Constitution. Simply because there is a provision that the State in particular shall direct its policy towards so and so, if a Bill is directed towards that policy; it does not become *intra vires* of the Constitution.

**Shri A. K. Sen:** I did not say so, Sir.

**Mr. Speaker:** He has referred to the Directive Principles or to the entries in the Schedule. The entries in the Schedule are only distribution of the subjects which are within the province of the Centre or of the States or concurrent subjects. If it were a dispute whether it is within the province of the State or of the Centre or whether it is a concurrent subject or whether it comes under the residuary list, I can understand. The dispute is not whether this should be exercised by the Centre or the States or whether it comes under residuary powers, which belong to the Centre. But whether

the attack is fundamental, that it does violate or contravene the provisions of the Constitution itself, then the advice should be whether it does really violate or infringe those provisions or not, and not simply refer to the directive principles or the entries. So I would request him kindly to throw more light on this objection.

**Shri U. M. Trivedi:** Sir, one point has been missed by you.

**Mr. Speaker:** I might have missed many.

**Shri U. M. Trivedi:** It is just possible. The point that I raised was that the Constitution itself may not come in the way of having a compulsory saving scheme because it may not offend the provisions of article 19 or it may not offend the provisions of article 31. But there is a penalty clause in clause 9 of this Bill.

**Mr. Speaker:** The hon. Member would realise that if there is some portion which is *ultra vires* or objectionable, perhaps the House might drop it. Therefore, it cannot be applied to the whole thing.

**Shri U. M. Trivedi:** I am giving a clarification of this particular point.

**Mr. Speaker:** We cannot take up now the different clauses of the Bill.

**Shri U. M. Trivedi:** I am saying, why this whole scheme will fall through. Clause 9 of this Bill governs practically the whole working of this Act. Clause 9 says that you will be deprived of a property, and this being not a taxation measure, as has been admitted by everybody, not governed by article 265 of the Constitution and not coming within the definition of article 366(28), it is being hit by article 31 of the Constitution. This is deprivation of property without, what you call, giving compensation. In that sense, therefore, it will be hit entirely by article 31 of the Constitution. That is why I submit that this point also should be examined, whether with this cumulative provision

[Shri U. M. Trivedi]

that is contained in clause 9, without which the operation of this Act will be ineffective, it is worthwhile proceeding with it.

**Shri Tyagi:** There is one more point that would require to be clarified. Restriction of use does not give the Government the authority of taking over, not even temporarily taking over. Restriction of use means that they can restrict the use. They cannot sell a thing. I can understand if they were to keep it in deposit and show that it is in their possession. Dispossession for the time being does not mean restriction of use.

**Shri P. R. Patel:** If there is no surplus, then what would be the position?

**Shri A. K. Sen:** Mr. Speaker, Sir, it was not my intention to say that the fundamental rights can be ignored simply because there are the directive principles. The purpose of my referring to the directive principles was simply this, that when we try to show whether a restriction is reasonable or not frequent references are made to the directive principles and it gives effect to the directive principles. The Supreme Court has in many cases taken recourse to the directive principles in order to find out whether a particular restriction was reasonable or not, because a restriction designed to give effect to one of the directive principles is certainly for the common good and must be regarded as reasonable. That is what the Supreme Court has said. That is the reason why I referred to the directive principles and the necessity for economic and social planning. But, nevertheless, as you rightly pointed out, if the fundamental rights were in operation and not suspended, we must satisfy the requirements of article 19 and not contravene it at all. But whether article 19 has been contravened or not has to be decided by deter-

mining whether a particular restriction is reasonable or not, because that is article 19(5).

**Shri A. P. Jain:** Is it your contention that it is reasonable?

**Shri A. K. Sen:** Of course, it is. That is why I referred to economic and social planning and to the directive principles. Whether it is reasonable or not is a different matter, but my whole purpose in referring to the directive principles and to economic and social planning was to prove that it was reasonable.

Now, Sir, Shri Tyagi rightly referred to article 19(5) because, according to him, this restriction was not reasonable because, according to him again, this affects the rights guaranteed under article 19 to acquire, hold and dispose of property. And he said, by referring to clause 5 of article 19, that this restriction was not reasonable and was not for the public good. That was his attack of the Bill. My whole purpose in showing the Directive Principles was to prove that this restriction was reasonable and was for the public good.

**Shri Tyagi:** Restriction literally means stopping a man from making use of it, curbing its use, but not taking over or dispossessing him.

**Shri A. K. Sen:** Shri Tyagi said that this was not in the interest of the general public, seeking to impose reasonable restrictions, as contemplated in article 19(5) of the Constitution. I did not notice that before, but now he says that it is not a restriction at all. If it is not a restriction, then article 19 does not come into operation at all. Article 19 comes into operation only if it is restricted. According to him, it is taking over, it is a complete acquisition of the property of a person, because it says that he has to put his

savings in a particular place and not keep it under his control. Whether it is complete acquisition or not is a matter on which there can be no dispute, because the Supreme Court has decided as to what amounts to acquisition or deprivation of property. It means, according to the Supreme Court, complete cessation of all right and interest in the property, so far as the person who is the owner is concerned, and complete deprivation of that property. And restriction is where the right, title and interest remain in the owner but the right of disposition and right of enjoyment are fettered. That is restriction. Therefore, this particular measure has to be tested for the purpose of determining whether it provides for acquisition and cessation of all right to title and interest of the owner or it provides restrictions on the user of the property which belongs to the owner.

In my submission, the provisions are quite clear. The ownership of the person is not at all affected; it remains with the person who is the owner. It is returned to him after the lapse of a particular period. The only thing is that he will not get any interest. That is a different matter. He will, during this period, not be entitled to dispose of it, and not to keep it where he likes. He has to keep it in the way as the Act enjoins.

**Mr. Speaker:** In other words, the enjoyment of that is temporarily suspended for a particular period.

**Shri A. K. Sen:** Yes, and the user of it is fettered in a particular manner. That is the whole thing. Therefore, it is not a question of acquisition; it is a question of restriction on the owner, who remains the owner for disposing of the property, or using the property, or enjoying the property, as an owner would normally be, only with restrictions. Therefore, it is quite clear that it is a case of restriction on the owner's right, as it says in article 19, to acquire, hold and dispose of his property. He cannot dispose of it, he cannot hold it as he likes, dur-

ing the period for which he has to compulsorily deposit part of his income, affected by the Act. Therefore, as I said in my submission, I rightly pointed out whether it was a reasonable restriction or not. In my submission—I do not want to repeat it by arguments—I want to prove that it was a reasonable restriction for public good, for pooling the resources of the nation for more effective economic and social planning and to subserve the common good.

**Some Hon. Members rose—**

**Mr. Speaker:** There is no point in continuing the controversy in this manner. Hon. Members can make all the points that they want in their speeches.

**Shri A. P. Jain:** I will make my point in two or three sentences. The word "restriction" is negative in character. It says "don't do this" or "don't do that" or "don't do a third thing". It is not at all positive. Now, what the hon. Finance Minister is providing is not at all a negative thing. He does not say "don't do this or that". He takes over a part of the income of the people for a particular period. That is a positive purpose. Therefore, with all respect, I submit that the interpretation of the Law Minister is not correct.

**Mr. Speaker:** Does he want to speak on the Bill?

**Shri A. P. Jain:** Yes, Sir.

**Mr. Speaker:** He might continue.

**Shri A. K. Sen:** I only wish to add one thing. It is covered again by many judicial decisions that a restriction may flow from a positive act. It is quite clear, when you say that you shall do this, the owner is required to do a thing contrary to his ownership. (Interruption).

**Mr. Speaker:** That is all right. That is not disputed. Order, order.

**Shri A. P. Jain:** I am thankful to you for giving me this opportunity to speak on this Bill.

**Mr. Speaker:** He has wrested it from me: not that I have given.

**Shri A. P. Jain:** By your kindness.

**Mr. Speaker:** That is all right.

**Dr. Sarojini Mahishi** (Dharwar North): I want to make a submission on this point.

**Mr. Speaker:** That point is gone now.

**Shri A. P. Jain:** To begin with, I shall deal with the legal aspect. You, Sir, have correctly observed that the power of legislation cannot flow from the directive principles. There must be positive provision. The hon. Law Minister has accepted that it is not a taxation measure. It, therefore, lightens my burden. If it is not a taxation measure, I would like to know what it is. The only other way know to law by which a person can be deprived of his property is by acquisition. He also agrees that this is not acquisition. He has taken shelter under clause 5 of article 19. As I said a moment before, the exception article 19(f) provides reasonable restrictions. For that purpose, we must first understand what the word 'reasonable' means, and then what 'restriction' is.

**Mr. Speaker:** If he excuses me, I will place a time limit of 10 minutes to each Member. They must appropriate the time they want to give to this legal aspect as well as to the provisions of this Bill.

**Shri A. P. Jain:** I obey. I am your obedient servant. Now, how much time is over?

**Mr. Speaker:** I will begin from now.

**Shri A. P. Jain:** Thank you. The word restriction, as I said, is something negative. You can say, don't do this, don't do that. You can lay down a thousand conditions until all

the rights of the person become defunct. Whether it will be reasonable or not is a different question. Restrictions can extend to the extent of making the rights practically defunct. Can it mean that you acquire a positive right to use it in the manner you like?

**Mr. Speaker:** When I ask the hon. Member to resume his seat is that a negative thing or a positive thing? I place a restriction on his continuing speech.

**Shri A. P. Jain:** It is both a negative and a positive thing. It is negative in so far as it restricts my continuing the speech. It is positive...

**Mr. Speaker:** As the Law Minister has said, if the consequences that follow result in placing some curbs,—the thing may be positive in itself—that would be considered as a restraint and restriction.

**Shri A. P. Jain:** That is legal quibbling.

**Mr. Speaker:** He might continue.

**Shri A. P. Jain:** As I said, the restrictions can amount to practically total extinction of the use for the time being or permanently. Whether it is reasonable or not is another question. But, no amount of restriction can give a positive right to the Finance Minister to use this property for his benefit or for the benefit of any other person. My objection is this. This law cannot come under the exception provided there. Because, there are two aspects. First, I shall not be allowed the use of the money; second, the Finance Minister will be allowed to use it for development purposes, whatever that may be. Where does the law say that it will be used only for development purposes? It may be used as well for paying salaries. It may as well be used for consumption expenditure: not for development. Therefore, that argument of

the Law Minister falls to the ground. Then, I raised another objection also, which I am not going to repeat now, because you have given me only limited time.

The Finance Minister has said the money recovered on account of compulsory deposits from the farmers will be passed on to the States. When was he appointed an agent by the States to collect taxes for the States or to impose taxes for the States? There is no such power. So, that is again wrong. These are the two aspects.

Then, he gave a smile. He said that there was the compulsory provident fund, there was the compulsory insurance fund and so on. But those things are for worker's own benefit. He does not take away that money. The compulsory provident fund is for the benefit of worker. But, here it is not for depositor's benefit. So, that simile does not hold good.

Coming to the merits of the case, I feel very strongly about this compulsory levy on the farmers. We know the condition of farmers all over India. But, do you know the land system of India? It was very wisely laid down in the law that land is a State subject, because it has been a State subject for hundreds of years and different systems have grown up. I can tell about my own state of U.P. We abolished zamindari there, and we created two tenures. One is known as *sirdari* and the other is known as *bhoomindari*. All the occupancy tenants became *sirdars*, and anybody who paid ten times the land revenue became a *bhoomindar*, and his land revenue was reduced by 50 per cent. In other words, if I am the holder of a land as *sirdar*, suppose I pay Rs. 100 as land revenue; if the same land is held by a *bhoomindar*, equivalent land of the same quality, he pays only Rs. 50. What does this mean? It means that the man who has more shall pay less, and a man who has less shall pay more, which is a negation of all the principles of taxation.

**Shri A. P. Sharma (Buxar):** That always happens. Those who have got more never pay more.

**Shri A. P. Jain:** Then, validate this also.

That is one aspect of it. Then, in the Indian States, there are different land tenures. Particularly, in the States which have been constituted out of the old princely States, the incidence of the land revenue is very low. Sometimes, it is only about one-third or one-fourth or one-fifth of what it is in the progressive States where settlement has been done from time to time. This law violates that principle also because where the incidence of land revenue is low, the man gives less, and where the incidence of land revenue is high, he pays more. This is another defect in this law.

The Finance Minister has been very gracious in giving some exemption to persons who pay Rs. 5 as land revenue. I am sorry for that. It is a very miserly thing. Compare it with the urban areas. I think that the Finance Minister has now agreed that persons who do not pay income-tax will be exempted, that is, those having an income of Rs. 3000 per year will be exempted. Now, take the case of a man who pays land revenue to the extent of Rs. 5. What is his income? At the most, it will be Rs. 100. According to this Bill, it means that everybody who has an income of more than Rs. 100 must contribute to compulsory deposits. In the urban areas, a man who has an income of Rs. 3000 or an income up to Rs. 2999 is exempted. How is this levy on the farmers, therefore, justified? We want some more cogent arguments for justifying these things, and not merely a dogmatic assertion that it is all right and it is equitable. I say that it is not equitable.

The condition of the rural areas is very poor. Already, the people in the rural areas are going to suffer from heavy taxation. I very respectfully

[Shri A. P. Jain]

submit that this part of it, namely the levy of the compulsory deposits on the farmers must be completely given up. Neither is it the function of the Finance Minister nor is this levy of compulsory deposit equitable. It will work hardship upon the poorer classes of people. It will also give rise to unlimited administrative difficulties.

Suppose the Finance Minister orders me to pay Rs. 2.50 in a year, and I deposit Rs. 2.50. If I do not do it, a warrant will be issued against me and I shall go to jail. Therefore, I deposit Rs. 2.50. And what would be the interest on it? I shall have to go to the post office to take the interest of about two annas or one anna or six pies. Now, why should he not take it if the interest has accrued?

One of the fundamental functions of law is that it should not cause too much of inconvenience to the subject. This law causes too much of inconvenience to the farming classes. Therefore, very humbly but very strongly and with all the force at my command, I request the Finance Minister to drop this part of it.

So far as the other parts are concerned, I repeat what I had said, namely, let us have the opinion of the Attorney-General. After all, we are as much interested in seeing that this law is properly framed and that it is not later declared *ultra vires* the Constitution, as he is. It is not any extraordinary request. And if it is found that it is illegal, we will agree so as the other things are concerned. That is all I have to say.

**Shri Sachindra Chaudhuri (Ghatal):** I had sought to speak to make some very brief observations on this measure. I congratulate the Finance Minister whole-heartedly on the measure that he has brought forward. I feel it is a reasonable measure.

I heard Shri Prabhat Kar say that there are 8 lakh odd income-tax payers in our country. In a country of 440

million people, only 8 lakh odd pay income-tax. Is it to be suggested that in this country only those who pay income tax are the people who should be made responsible for the governance of the country, for the development of the country, for the progress of the country? Or is it that poor as we are, we shall all happily contribute our little mite to the progress of the country and feel the pride and satisfaction that we are citizens of this country and we are doing our bit? If we have got to tighten our belts even more than we have already done, this is the occasion when we have got to do it. This is demanded of us.

Not so long ago when the emergency was very strongly on us, we in this House, outside, publicly and privately declared that we shall shed the last drop of our blood and give up the last morsel of our food for the purpose of opposing our enemy. There is one enemy all the time, and that is absence of progress, illiteracy, poverty, absence of food and so on. Are we going to drive ourselves to suffering today for the purpose of bringing a certain measure of progress, a certain measure of prosperity to those that follow? Or are we going to say, 'No, let one section of the people shoulder the burden always'?

I am not going to take up the House's time by debating on each one of the clauses of this particular Bill. There may be differences of opinion as to whether Rs. 5 should be the limit or Rs. 7 should be the limit so far as land revenue is concerned; or whether in the other case it should be Rs. 1500 or Rs. 1700. These are matters of debate which can never be solved. After all, the Finance Minister has got to make up his mind as to where to draw the line. But on principle, I entirely agree that the Bill is good. Even clause by clause, I submit it is good.

There is another aspect, to which I would like to refer. There are three



grounds on which the constitutionality of this particular measure may be challenged. The first is on the footing of competence of this House you have practically disposed of it—whether it is within the legislative competence of this House. It is granted that this is not a tax. Therefore under article 248 or under item 97 of List I of the Seventh Schedule, this House has got ample power to legislate on this particular matter. It is a loan which is being taken by Government, true enough compulsory, but nothing more and nothing less than a loan.

The next question that arises is: does it offend articles 19 or 31? Article 19 is aimed at preventing unreasonable restrictions to the possession or holding of property. Now in order that there should be a restriction in the matter of possession or holding of property, the property must continue with the owner—the hon. Member said as much. When this compulsory deposit is made, when the money is deposited, the property in it is gone. It is not there any longer. Therefore article 19 is not the appropriate article to think of.

If I have been deprived of a certain sum of money, article 31 says that that can be done by the authority of law. This Bill is going to be enacted, going to be made into law. Clause (2) of the article says there should not be any deprivation of property except by paying compensation, not adequate compensation. What is required is this, that for five years the Government of India should have the use of this money, and at the end of it the entirety of that sum would be returned with interest calculated at a rate which is slightly higher than what will be paid by a bank if the money were deposited with it. If that is so, can we say there is no compensation for the deprivation? Therefore, I submit it is wholly constitutional, there is no offence to the Constitution.

If you take it as a restriction, although I am not convinced, on the

holding or possession of property, in that case, having regard to the circumstances of the country, the needs and the progress of the country the deprivation for a period of five years with the addition of a right to receive interest at a particular rate is a reasonable restriction and the money is going to be used for public purposes. It is not going to be used for private purposes, whether it is development or payment of salary. It will be salary to a public servant. Whether it is for development or for purposes of aiding defence or any other purpose, it really enures to the benefit of society at large in this country, and the restriction is reasonable and there is no offence to the Constitution. If it is acquisition of property, we are amply protected by article 31(2) which says that there can be deprivation of property by operation of law provided always there is compensation, and in this case compensation is there in the form of interest being paid.

In the circumstances, I repeat my congratulations to the Finance Minister and whole-heartedly and fully support this measure.

**Mr. Speaker:** We have taken about an hour and a half or something like that in this legal discussion as to whether it is *ultra vires* or *intra vires*. We had scheduled that we would finish this Bill today. Shall we sit late today or how is this to be finished, because I would not like the House to disrupt its further programme. The Official Language Bill is to be taken up tomorrow and that should not be disturbed, though I know that the Minister of Parliamentary Affairs is going to make an announcement that the House is being extended by a day or two as was mentioned by him in the morning.

**Shri S. M. Banerjee:** Should we hurry up this most important Bill?

**Mr. Speaker:** We are discussing it and the time that has been allotted I am going to give to the House. I am

[Mr. Speaker]

not taking it away. The time allotted is three hours. Either we sit longer today....

**Some Hon. Members:** No, no.

**Shri P. R. Patel:** Two hours more may be given.

**Mr. Speaker:** Then we will have to find time by sitting after 5 O'Clock tomorrow and the day after, one hour each day, so that we might have two hours as desired by the House. Dr. Mahishi.

**Dr. Sarojini Mahishi:** I want to draw your kind attention to the case of Sholapur Spinning and Weaving Mills whose management was taken over by the Union Government. The petitioner shareholders in that particular case challenged the competence of the Union Government to take away the management of the mills under articles 19 and 31 of the Constitution the depriving him of his right and interest as a shareholder, but Their Lordships were pleased to give the judgement that it was neither deprivation of the right of any person, nor acquisition of property belonging to any person; only the right of vote of the shareholders was being suspended for the time being. So, it is only suspension, neither acquisition nor deprivation of the property. Here too, it is only the suspension of the right to enjoy the property arising out of the amount that is with the person.

**An Hon. Member:** Not even that; he is getting interest.

**Dr. Sarojini Mahishi:** For the depositor, it is only the suspension of his right, for the time being, of the enjoyment of the property.

**Shri P. R. Patel:** If there is no property?

**Dr. Sarojini Mahishi:** The right to vote is considered as a property right. The Finance Minister has also said:

"How long these proposals will remain as a part of the law of the

land and in what shape, are clearly not matters on which I, or the Government, or this House need form any judgement at this stage."

This Bill seeks to augment the national resources to meet an emergency, to meet the demands of defence and development. The citizens are certainly not reluctant to make payments but they want their humble contributions to be properly utilised for the purposes meant. The Comptroller and Auditor General in his report for the year 1961-62 says that the Finance Ministry has made under-estimates during this year to the extent of Rs. 118 crores. It was never before done like that during the past five years, except in the year 1959-60. He also refers to the liberal rebates and reliefs given by the Finance Minister to the extent of Rs. 1.8 crores as a result of which there is some loss to the exchequer. Reference has also been made to the under-estimation of the tax; there are arrears to the extent of Rs. 150 crores. The Finance Minister the other day referred to the reasons for these arrears. Certain part of these arrears are irrecoverable. The Auditor General refers to the gross under-estimation and under-assessment. The measures taken by the Ministry to remedy these have not been intimated to him till the end of the year.

The commercial section has also been audited separately and the audit report (commercial) has been presented to the House. Therein we see that there are not less than 15 Government corporations in the public sector with a paid-up capital of Rs. 30 crores and a loan of Rs. 70 crores. With this investment they have been able to make a profit of Rs. 2.79 crores. In 46 Government companies there is a capital investment and paid-up capital of Rs. 156 crores. 25 of these companies have been able to give a dividend of only Rs. 1.79 crores or so.

These companies which have been working for five or six years have not been able to show a clear dividend or to give a clear profit. The auditors specially refer to the waste, to the excessive waste in the maintenance of Indian Missions abroad. Huge waste has been recorded by the auditors as far our establishments in the foreign missions are concerned. Naturally, we want to see that these things do not happen. The citizen is quite keen on seeing that every pie given for development and defence is properly utilised.

Coming to the Bill itself, I find that all the sections of the people are being asked to contribute to these compulsory deposits and no section is left out. All the persons are brought under one category or the other. I refer particularly to the cultivator who pays a land revenue of not less than Rs. 5; he is required to make a compulsory deposit. 71 per cent of the people in India live on agriculture and in the rural areas. Suppose a cultivator cultivates his own land, or cultivates the land belonging to another, he is required to pay a land revenue even with a holding of, say, four acres, something like Rs. 14 or Rs. 15. It will be extremely difficult, considering the return that he gets, when he is to make a compulsory deposit, and he has to deny to himself facilities to himself and to his family, especially when the agricultural production depends mainly upon the vagaries of the monsoon. He may not be getting in the next year what he got in the previous year. So, I hope the Finance Minister will reconsider and raise this limit of Rs. 5 to at least Rs. 15 and give some concessions to all those who come within the payment of land revenue of Rs. 15.

I would then particularly refer to clause 4 of the Bill, on page 2 of the Bill. The second proviso to clause 4 (1) says as follows:

"Provided further that the rate of compulsory deposit shall not exceed the maximum rate specified in sub-section (2)."

That means, when the compulsory deposit will be levied by the Government, it will be treated as a sort of harassment. That presumption is there. That means this is the maximum rate. If any person wants to contribute voluntarily a greater amount to the compulsory deposit, he should be entitled to. At the same time, I came to know as regards this tax concession that he would not be able to have this concession over the additional amount that he may contribute to the compulsory deposit. The country is in need of money; not that the cultivator is in need of a deposit. Therefore, we might amend this and say that the compulsory deposit shall not be less than a prescribed minimum, so that he will have an opportunity, in case he desires, to give more. Some hon. friends, I met, who are more experienced will say that no one would like to make a deposit of additional amount in this when the other Government securities are there which are giving more interests. I will say that we should not prevent people from depositing in this. Therefore, I hope that the person will be allowed to contribute in case he desires, something more. There should be provision for it.

I have referred to the cultivator because in India, as far as agriculture is concerned, we are finding that proper facilities to the cultivator have not yet been given. The full irrigational potential has not been exploited in spite of our efforts to increase and accelerate our agricultural production. During the First Plan, we have imported foodstuffs to the tune of Rs. 538 crores; that was increased to Rs. 711 crores in the Second Plan, and during the short period of 18 months of the Third Five Year Plan, the exports have gone to the extent of Rs. 200 crores. I do not know how much more we will spend. Anyway, proper facilities have

[Dr. Sarojini Mahishi]

not been given and it is very difficult for the majority of the people in India; the cultivators, will find it difficult to contribute.

In the industrial sector also, we find that corporate tax, dividend tax, etc., besides the compulsory deposit have been imposed. So, those persons may find it very difficult to go in for investment in the industrial field. Except some financiers, the industrialists may not find it a happy source of investment of their income. Therefore, I hope the Finance Minister will reconsider these points and favour the major sections of the people.

**श्री बड़े :** उपाध्यक्ष महोदय, हमारे सामने जो यह कम्पलसरी डिपॉजिट स्कीम आई है उसके संबंध में काश्तकारों के लिये यह प्राविजन है कि उनको लैंड रेवेन्यू का ५० परसेंट डिपॉजिट करना पड़ेगा। सुपर प्रॉफिट टैक्स के बारे में काफी हल्ला हुआ। उस हल्ले के बाद जितने पूंजीपति थे उन्होंने तो, बहुत से पम्पलेट्स वगैरह निकाल कर शासन पर अपना प्रेशर डाला लेकिन किसानों के पास कोई आवाज नहीं थी, इसलिये वे लोग हमारे मंत्री महोदय पर कोई प्रेशर नहीं डाल सके। जब हाउस के अन्दर बहुत हल्ला हुआ सरकार ने यह कर दिया कि जो लोग ५ रु० से कम लैंड रेवेन्यू माल में देते हैं उनको एग्जेंप्शन दे दिया। एक बच्चा रो रहा था तब उसकी मां ने क्या किया कि उस का एक अंगूठा उस के मुंह में दे दिया। इस पर वह बच्चा रोते रोते चुप हो गया और सोचा कि शायद उसे कुछ खाने को मिलेगा और उसकी भूख का समाधान हो जायेगा। जिस प्रकार से उस माता ने बच्चे के मुंह में अंगूठा दे दिया था उसी प्रकार से हमारे मंत्री जी ने ५ परसेंट का एग्जेंप्शन दे दिया है।

वस्तुतः किसानों के ऊपर जो टैक्स लगाया गया है उसके संबंध में किसानों के अन्दर यह भावना है कि इसके बजाय तो

जजिया कर लगा देना चाहिये। जिस प्रकार औरंगजेब बादशाह ने जजिया कर लगाया था और हर एक हिन्दू को १ रु० देना पड़ता था वह इतिहास के हर विद्यार्थी को पता है। एक रुपये की कीमत ५ रुपये हो गयी है। ४५ करोड़ लोग इस देश में बसते हैं और हर एक के पीछे पांच रुपया भी लगा देंगे तो २०० करोड़ रुपया आप को आमानी में मिल जायेगा। इस प्रकार का टैक्स लगाने से किसानों में बड़ा असन्तोष है। दरअसल छूटा जाय तो यह जो ५ रुपये से ज्यादा लगान देने वालों पर यह टैक्स लगेगा अर्थात् ५ रुपये और ७५ नये पैसे जो लैंड रेवेन्यू देता है उस पर यह लागू होगा तो क्या वह गरीब काश्तकार इससे ओवर टैक्सेबल नहीं हो जायेंगे ? उनके पास क्या बाकई इतनी इनकम आती है कि वह इस अनिश्चित बोझ को बर्दाश्त कर सकें ? आज वास्तविकता तो यह है कि किसान पहले ही कर्ज के बोझ के नीचे दबा हुआ है। उसको पैसेजर्स टैक्स देना पड़ता है, पंचायत टैक्स देना पड़ता है और फिर उसकी तकावी रहती है। तकावी के काफी ऐरियर्स रहते हैं। तकावी के बाद में लैंड रेवेन्यू का काफी ऐरियर्स पड़ा रहता है। उसके ऊपर काफी कर्जा पहले से ही लदा होता है। शैड्यूलड ऐरियाज और शैड्यूलड ट्राइबज कमिशन की रिपोर्ट में साफ तौर से कहा गया है कि किसानों की इनडेब्टेडनेस काफी बढ़ गयी है। वे कर्ज के बोझ के नीचे दबे पड़े हैं। उस में ऐसा लिखा हुआ है :—

“The size of the problem is enormous. Often the debts descend from father to son and even to the third generation. Generally speaking, the tribals appear to accept indebtedness as a normal, almost inescapable, aspect of their existence. On the economic side, the tribals rely entirely upon the money-lender for the settlement of his dues. His faith and trust in him is quite astonishing. One

reason is that he gives easy credit when it is needed most."

किसान अथवा काश्तकार का कर्जा फादर टु सन चलता है। ही लिप्स इन डेंट ऐंड डाईज इन डेंट। ऐसी स्थिति होते हुये उसके पास कम्पलसरी डिपॉजिट स्कीम के अन्तर्गत पैसा जमा करने के वास्ते कहां से आयेगा ? उसकी आमदनी ही कितनी है जिसमें से कि वह डिपॉजिट में पैसा दे सकेगा ? सरकार आज जो गरीब किसानों पर यह बोझ डालने जा रही है तो इस संबंध में मुझे एक कहावत याद आ जाती है और वह यह है कि जब सियार की मौत आती है तो वह गांव की तरफ भागता है। ठीक उस सियार वाली दशा इस कांग्रेस गर्वनमेंट की मालूम पड़ता है कि कांग्रेस शासन के पतन के दिन आ गये हैं। यही कारण है कि उसने गांवों की तरफ अपने यह टैक्सेज बढ़ाये हैं क्योंकि कहावत मशहूर है कि सियार की जब मौत आने को होती है तो वह गांव के पास आकर चलता है। कांग्रेस सरकार द्वारा किसानों पर जो यह ऐंडेशनल टैक्स लगाया जा रहा है तो प्रतीत होता है कि शासन का अंत नजदीक आ गया है। शासन इस से अनपापुलर होगा यह बात बिलकुल स्पष्ट है .....

**श्री मोरारजी देसाई :** इससे तो आपको खुश होना चाहिये ।

**श्री बड़े :** हमको खुशी नहीं है। किसी भी शासन के पतन होने में हमें खुशी नहीं है। हम तो चाहते हैं कि जो भी शासन हो वह सुचारु रूप से चले और उसी ध्येय से हम शासन की आलोचना करते हैं। हम नहीं चाहते कि कोई भी शासन का पतन हो जाय ।

दूसरी बात यह है कि इतने टैक्सेज होने के बाद भी अभी हमारे एक वकील साहब हैं जिन्होंने कहा कि और भी टैक्सेज होने चाहियें । टैक्सेज लगाने की वकालत करने

वाले अपने उन वकील साहब से मैं पूछना चाहंगा कि क्या उन्होंने गांवों में जाकर काश्तकारों की शोचनीय अवस्था देखी है ? अगर वे मेरे साथ चलने को तैयार हों तो मैं दिखा दूंगा कि वे कितनी पस्त हालत में रह रहे हैं। गांवों में किसान कर्जों के बोझ के नीचे दबे पड़े हैं। वकील साहब यह तो जरा देखें कि वे बेचारे गरीब लोग कितनी मुश्किल से पैसा उनको लाकर देते हैं ? उचित तो यह होगा कि किसानों पर जो टैक्स लगाने का प्राविजन है वह बिलकुल निकाल दिया जाय तो कम से कम ग्रामीणों में शासन के बारे में इस इमरजेंसी पीरियड में जो असन्तोष हो रहा है, वह असन्तोष नहीं होगा ।

मैं यह भी अच्छी तरह जानता हूं कि अधिकांश कांग्रेसी सदस्य भी किसानों पर इस कर को लगाये जाने के विरुद्ध होंगे और वह भी मेरी तरह यह चाहते होंगे कि अगर यह बिलकुल नहीं हटाया जा सकता तो कम से कम किसानों के लिये यह कम्पलसरी डिपॉजिट कम कर दिया जाय और इस बारे में उनको और अधिक राहत दी जाय । वकील साहब सरीखे इक्के, दुक्के की तो मैं कह नहीं सकता जोकि पूंजीपति मेंटलिटी के हों बाकी करीब करीब सारे कांग्रेसी सदस्य भी जोकि यहां किसानों के नुमायन्दे बन कर आये हैं, वे सब इस स्कीम के विरुद्ध ही जायेंगे ।

इस बिल के क्लॉज २ (सी) में यह दिया हुआ है :—

"holders of immovable properties situated in urban areas assessed to tax (whether known as property tax, house tax or by any other name);"

मेरा कहना है कि इस तरह का ऐंजम्पशन नहीं दिया है कोई डेफ़ीनीशन नहीं दी है कि उस की रेंटल वैल्यू कितनी होगी तो उस को टैक्स लगेगा ? इस के बारे में यह डिफ़ाइन

[श्री बड़े]

नहीं किया है कि कितनी रेंटल वैल्यू तक आप टैक्स लगाना चाहते हैं ? मैं ने देखा है कि बहुत दफे विडोज और अनाथ बच्चे मकानों से जो किराया आता है उसी पर अपनी ज़िंदगी गुज़र करते हैं । उसके अलावा उनके पास दूसरा आय का साधन नहीं होता है । मकान से जो उन्हें किराया मिलता है वही उनका ज़रिया होता है । उसी पर उनका शिक्षण और परिवार की उदर पूर्ति का काम चलता है । इसलिये इसमें यह स्पेसिफ़ाई होना चाहिये था कि कितनी रेंटल वैल्यू के बाद यह टैक्स लगेगा और कितनी रेंटल वैल्यू तक आप इस टैक्स से उन लोगों को छूट देंगे ? अब ऐसे मालिक मकान जोकि प्राफ़िट मोटिव से रेंट वसूलते हैं उन के ऊपर यदि टैक्स लगाया जाये तो कोई हर्जे की बात नहीं है लेकिन ऐसे लोग जोकि अपना पेट पालने और जीवन निर्वाह के खातिर किराये का इस्तेमाल करते हैं उनके वास्ते कुछ राहत का प्राविजन होना चाहिए था ।

इसी तरह से शौपकीपर्स के ऊपर यह टैक्स लगाने के बाबत मुझे यह कहना है कि बड़े शौपकीपर्स की बात जाने दीजिये लेकिन मंत्री महोदय को मालूम होगा कि गांवों में छोटे छोटे दुकानदार होते हैं, गाड़ी वाले हैं, हौर्स हैं या ठेले वाले हैं उन का क्या बनेगा ? क्लाज २ (ई) में यह लिखा हुआ है :—

“(e) shopkeepers whose annual turnover, determined in accordance with the provisions of any law with respect to tax on the sale of goods, is fifteen thousand rupees or more and who are not liable to payment of tax under the Income-tax Act;”

मैं ने सेल्स टैक्स की स्थिति देखी है । उन के पास एकाऊन्स रहता नहीं है । सेल्स टैक्स वाले आने हैं तो वह गायब हो जाते हैं । इस के अलावा गांवों में पार्टीबाज़ी रहती है और एक दूसरे के खिलाफ़ चुगली की जाती है कि उस के पास इतना सेल होता है अथवा इतना नहीं होता है ।

आप ने इस में उस का कोई स्टैन्डर्ड नहीं रक्खा है । आप ने इस को देखा है कि क्या वाकई उस को १५००० रुपये सालाना आमदनी होती है ? मेरा विचार है कि छोटे शौपकीपर्स में इस को लेकर बड़ा असन्तोष पैदा होगा और वह हार्डशिप अनुभव करेंगे । गांवों में यह टैक्स हो जाने से उन को एकाउन्ट देना पड़ेगा जोकि वह अभी रखना नहीं जानते हैं और रखते नहीं हैं । इसके अलावा सरकार को यह भी तो देखना चाहिए कि यह शौपकीपर्स और यह किसान इतने टैक्सेज देंगे कहां ? पोस्ट आफ़िसेज में देंगे या कहां देंगे और इस एकाउन्ट को कौन रखेगा ? एकाउन्ट रखने के बाद उसको रिएलाइज कैसे किया जायगा एंज इफ़ इट इज दी ऐरियर्स आफ़ लेंड रैवेन्यू । ऐरियर्स आफ़ लेंड रैवेन्यू के बारे में ने देखा है कि किसान उसे दे नहीं पाते हैं और वे इस कर्जे के नीचे दबे रहते हैं और उसके वसूल करने में उनका सब कुछ नीलाम हो जाया करता है । इसलिए जब उन की यह हालत है और उन के पास कुछ सेविंग्स ही नहीं रहती है तो वे यह टैक्स कहां से देंगे ? इस बारे में रिजर्व बैंक आफ़ इंडिया ने अपनी रिपोर्ट में कहा है :—

“As the Reserve Bank of India has quoted on page 1353 of its September, 1962 bulletin, the National Council of Applied Economic Research contends: ‘Whatever evidence is there indicates that persons with income up to Rs. 3000 per year have on an average hardly any net savings.’ All these persons have neither any taxable capacity nor any capacity to make savings.”

इसलिए मेरा मंत्री जी से कहना है कि जैसे कि उन्होंने सुपर प्राफ़िट टैक्स में रियायतें दी हैं उसी प्रकार से इस में भी काश्तकारों को राहत दें । इस में उन्होंने जो यह ५ रुपये तक लगान देने वाले किसानों को इस से छूट दी है, वह बिल्कुल अपर्याप्त है और वह केवल एक आसू

पोंछने वाली बात है। आप उन को दरअसल कुछ अधिक रिआयत दें। इसी तरह शौपकीपर्स की डैफ़नीशन कर दें ताकि इसके कारण जो गांव के दुकानदारों को हार्डशिप होगी वह न हो। यह जो १५,००० रुपये की फीगर उन्होंने रक्खी है यह किस क़ानून या किस स्टैंडर्ड से रक्खी है ? ठेलेवाले, छोटे छोटे दुकानदार तथा किसानों के पास जब सर्विस रहती ही नहीं है तो उन पर यह क्यों लागू किया जाय ? उनको इस से छूट दी जाय। ऐसे मकानमालिक जोकि मकान के किराये से अपने व अपने परिवार की उदरपूर्ति करते हैं उन को भी इस बारे में रिआयत मिलनी चाहिए। २ (सी) में होल्डर्स आफ़ इम्पूवेबुल प्रापरटीज़ जो आप ने लिया है तो ओनर्स होना चाहिए कि होल्डर्स होना चाहिए, इस के बारे में काफ़ी शंका उत्पन्न होती है और इस को लेकर कितने ही लीगल प्लेज़ निकलेंगे ?

इस के अलावा जैसा कि मैं ने पहले भी कहा मैं पुनः निवेदन करना चाहता हूँ कि किसानों पर यह टैक्स जोकि ज़िजिया कर के समान है, यह ज़िजिया कर कम से कम उन पर बालिये और उन को इस बारे में अधिक रिआतें दीजिये। इस के अलावा १५,००० रुपये की जो आप ने फीगर रक्खी है उसके बारे में यह स्टैंडर्ड रखना चाहिए। यही हमारी विनती है।

17.58 hrs.

#### BUSINESS OF THE HOUSE

**The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha):**

Mr. Speaker, Sir, this morning I had offered to make an announcement in the House about extending the present Session of the Lok Sabha to meet the demands of various sections

of the House in the light of increased allotment of time for various items (Interruption).

I am now in a position to announce that in order to complete the essential business, the Lok Sabha will sit up to Tuesday, May 7, 1963, and may be adjourned *sine die* on the evening of that day. The business to be taken in hand will be—

- (1) Items carried over from to-day's order paper.
- (2) Official Languages Bill.
- (3) Demands for Excess Grants—General.
- (4) Demands of Excess Grants—Railways.
- (5) Supplementary Demands—Railways.
- (6) Bengal Finance (Sales Tax) Delhi Amendment Bill.
- (7) Constitution (15th Amendment) Bill.
- (8) Constitution (16th Amendment) Bill.
- (9) Government of Union Territories Bill.
- (10) Export Quality Control Bill.
- (11) Vivian Bose Commission Report.
- (12) Dhebar Commission Report.
- (13) Planning Commission.

18 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, April 23, 1963/Vaisakha 3, 1885 (Saka).