

4. Quantity reserved for Co-operative Societies out of the quantity to be exported during 1965. No such reservation is made. Quantities of raw sugar supplied by Cooperatives for export during 1963 and 1964 were as under :—

Year	Total Quantity of raw sugar procured for export (Lakh Tonnes).	Quantity of raw sugar supplied by Co-operative factories out of quantities shown in column (1) (Lakh Tonnes)
	(1)	(2)
1963	2.52	0.77
1964	2.24	0.98

12.27 hrs.

COMMITTEE ON GOVERNMENT ASSURANCES

MINUTES OF EIGHTH SITTING

**Shri Siddananjappa (Hassan):** I beg to lay on the Table the Minutes of the Eighth Sitting of the Committee on Government Assurances held during the current session.

12.27½ hrs.

CORRECTION OF ANSWER TO S.Q. NO. 182 re: TRANSPORT CO-OPERATIVES

**The Minister of Transport (Shri Raj Bahadur):** In a supplementary question arising out of the reply given to the Starred Question mentioned above, Shri Buta Singh wanted to know whether Government proposed to set up separate financial Corporations to assist the transport cooperatives. I had stated in reply that one of the recommendations of the Study Group on Transport Cooperatives was that the State Governments should set up such Corporations, and funds could be withdrawn from the State Governments or the State Bank of India. The actual recommendation of the Group regarding this is that the financing agencies

for transport cooperatives would normally be the State and District Co-operative Banks and State Financial Corporations which should, in their turn, be able to secure the necessary funds from the State Governments or the State Bank of India, on State Government guarantee

12.28 hrs.

DIRECT TAXES (AMENDMENT) BILL—contd.

**Mr. Speaker:** The House will now take up further consideration of the following motion moved by Shri T. T. Krishnamachari on the 24th September, 1964, namely:—

“That the Bill further to amend certain laws relating to direct taxes, be taken into consideration.”

Shri S. M. Banerjee might now continue his speech.

**An Hon. Member:** How much time has been allotted for this Bill?

**Mr. Speaker:** The time fixed is 4 hours.

**Shri S. M. Banerjee (Kanpur):** I feel that certain provisions of this Bill are welcome provisions, but before I proceed to make my observations on the various clauses of the Bill, I must say that the income-tax arrears or the arrears of gift tax, wealth tax etc. have not been reduced.

When we are discussing this Bill and considering the measures by which relief could be given to the assessee so that he may pay the arrears, what is the picture that we have before us regarding the arrears of these taxes? The gross arrears of income-tax as on 31st March, 1964 amounted to Rs. 290 crores, and the effective arrears of income-tax on the same day amounted to Rs. 170.8 crores. The Finance Minister, according to the *Hindustan Times* dated the 7th April, 1964, is reported to have said at a meeting of the parliamentary consultative committee that the total gross arrears of income-tax amounted to Rs. 292.16

[Shri S. M. Banerjee]

crores, out of which an amount of Rs. 123 crores had constituted arrears for three years and more. The figures are Rs. 30 crores for two years, Rs. 48 crores for a year and Rs. 57 crores current arrears, 1963-64. Thus the total effective arrears amounted to Rs. 193 crores, Rs. 71 crores outstanding for three years and more, Rs. 22 crores for two years, Rs. 42 crores for a year and Rs. 57 crores current arrears. Arrears of wealth tax are estimated at Rs. 6.66 crores, estate duty Rs. 4.36 crores, gift tax Rs. 81.5 lakhs and expenditure tax Rs. 43.6 lakhs.

These are figures according to official sources. I feel that no effective steps have been taken to recover arrears of income-tax. I know that in 1957, when I was first elected to this House, I raised a question about the arrears of such taxes in the city of Kanpur only. The figures were revealing when I came to know that in Kanpur alone the arrears of income-tax, gift tax and wealth tax were to the tune of Rs. 4.98 crores.

**An Hon. Member:** What is Shri Ram Ratan Gupta's share in it?

**Shri S. M. Banerjee:** I do not know. Shri Ram Ratan Gupta is one of those who have been exposed. But there are other Guptas and Singhania in Kanpur. After raising the question in this House and getting an assurance from the Finance Ministry, this amount was reduced to Rs. 3.25 crores. Even today I know that in Kanpur alone this amount is nearly Rs. 3 crores.

As regards other commercial taxes also, the question was raised in the State Assembly about sales tax. The arrears in Kanpur alone were of the order of Rs. 64 lakhs. We are not discussing sales tax now; we are discussing direct taxes. I would like to know from the hon. Minister what effective steps are being taken to realise these arrears.

While speaking on the Finance Bill on 21st April 1964, Shri T. T. Krishnamachari observed:

"Evasion is very wide. That is conceded. In fact, in the last six months that I have been in charge of this Ministry, I have found that our estimates of evasion have been somewhat of an under-estimate. Evasion is much greater. In what we call the sample tests that we are making in particular streets, we find the number of people who have evaded are not small people but sometimes big people also".

The hon. Minister says 'sometimes', but I know it is all times that the big people evade. The policy of the income-tax department—I have nothing against any particular officer; I do not impute any motive; I have the greatest regard for the chairman of the Board who is a person of unquestionable integrity—the policy of the income-tax department is: be kind and polite to the big people and harsh to those who belong to the lower category. When income-tax arrears are due from an ordinary shopkeeper, he is prosecuted, persecuted and humiliated. But what happens in the case of those big people who are responsible for the total income-tax arrears, non-effective arrears of Rs. 292 crores? Cases are pending in courts of law. While announcing his tax proposals in the budget for this year, the hon. Minister said:

"As the House is aware there is a general feeling that the Government is losing a fair share of revenue due to evasion and avoidance. This has been attributed in the past to the prevailing high rates of taxes. But with the reduction in the tax rates now proposed, I hope we shall hear less of this. The proposed slight reduction of tax has been mainly in respect of incomes over Rs. 15,000".

Now, what was the reduction? I know my hon. friend, Shri Morarka, who is not present...

**An Hon. Member:** He is present.

**Shri Bade (Kharagone):** Is Shri Tyagi the would-be Finance Minister?

**Mr. Speaker:** He headed the Committee on direct taxes administration.

**Shri S. M. Banerjee:** A feeling was given to the country that the hon. Finance Minister by his tax proposals had spread the low income group people. But what are the facts? People who are within the income group of Rs. 5,000 pay less—I agree. What are the items? Tax Rs. 92, CDS Rs. 149, total Rs. 241. Under this, they would pay only Rs. 84 as tax. So there is a reduction of Rs. 8. But what happened further on? A person getting Rs. 10,000 per year who was paying Rs. 680 as tax and Rs. 250 CDS, that is in all Rs. 930, now pays Rs. 709. The variation in tax over 1963-64 is plus 29. A person getting an annual income of Rs. 15,000 now pays Rs. 40 more.

Who gets the concession? The entire tax proposal was that those people getting Rs. 20,000 and above upto Rs. 3 lakh should get concession to the tune of Rs. 33,649. This is how the tax proposal has affected the common man. In this particular Bill another concession is being given to those who want to contribute to the Nehru Memorial Fund. Why not a concession be given increasing the exemption limit for income-tax from Rs. 3,200 to at least Rs. 6,000? I say this because the poor middle class, whose backbone has completely been broken with these high prices, should be helped in this way if they cannot be helped in any other way. This was the unanimous request made in this House that the slab should be raised to Rs. 7,500. Some said it should be at least Rs. 6,000, that is upto those who are getting Rs. 500 per month or

Rs. 6,000 a year. They should not be taxed at this hour when Government have miserably failed to hold the price line and are unable to check the price line because of the policy they are pursuing.

**Shri Kashi Ram Gupta (Alwar):** Will we be included under that?

**Shri S. M. Banerjee:** Yes.

My submission is that some effective steps should be taken to realise all income-tax arrears.

As regards the proposed clause 13A, as follows:—

“any special allowance specifically granted to an assessee by his employer to meet expenditure actually incurred on payment of rent (by whatever name called) in respect of residential accommodation occupied by the assessee, to such extent (not exceeding three hundred rupees per month) as may be prescribed having regard to the area or place in such accommodation is situate and other relevant consideration”.

I welcome this concession proposed to be given to those employees who are serving in commercial firms. But I think the main purpose of the Bill is contained in the amendment to section 88, as follows:

“in sub-section (1) after clause (i), the following clause shall be inserted, namely:—“(ia) as donations to the Jawaharlal Nehru Memorial Fund referred to in the Deed of Declaration of Trust adopted by the National Committee at its meeting held on the 17th day of August 1964”.

This is something extraordinary. It was never done in the case of the Gandhij Memorial Fund or in any other fund. It was done to some extent in the case of the National Defence Fund. I can agree.

**The Minister of Rehabilitation (Shri Tyagi):** It was done in the case of the Gandhi Memorial Fund.

**Shri S. M. Banerjee:** Was the Act amended? No. I have got both the principal Act and the amended Act. It was not done. It was done in the case of the National Defence Fund I agree; but for that, it was never done in the history of our taxation or in the history of our Finance Ministry.

**Shri Tyagi:** In the case of the National Defence Fund and the Gandhi Memorial Fund, the same treatment was given.

**Shri S. M. Banerjee:** Unfortunately, from Finance you went to Defence, then you became defenceless, again you are rehabilitated. Naturally, you have forgotten these things of the Finance Ministry, I am sorry. I have got the principal Act.

**Shri Tyagi:** Does my hon. friend want rehabilitation?

**Shri S. M. Banerjee:** You rehabilitate me after discharging me? Both of us have been rehabilitated.

**Shri Joachim Alva (Kanara):** He has not forgotten what you have done to the Kanpur factory.

**Shri S. M. Banerjee:** What is the position today? Supposing I have earned Rs. 5 lakhs, 10 per cent of it I can pay to any charitable institution or National Defence Fund or Gandhi Memorial Fund, or any fund to which I am allowed to contribute; that is what we called allowable expenditure. That is, I shall not be taxed on Rs. 50,000, but if I want to pay Rs. 2 lakhs, then, naturally, I shall be taxed on the balance Rs. 1,50,000. The implication of the present clause is explained by the hon. Finance Minister thus in his Notes of Clauses:

"Clause 5 seeks to amend section 88 of the Income-tax Act. The

effect of this amendment will be that the entire amount paid by an assessee during the previous year as donation to the Jawaharlal Nehru Memorial Fund referred to in the Deed of Declaration of Trust adopted by the National Committee on 17th August, 1964 will qualify for rebate of Income-tax under section 88 of the Income-tax Act without application of the monetary limit laid down in sub-section (3) of section 88 of the Income-tax Act (viz., 10 per cent of the total income of the assessee or two hundred thousand rupees, whichever is less). It has been laid down in this behalf that donations to the aforesaid fund will not be taken into account in calculating the above-mentioned monetary limit."

**Shri J. B. Kripalani (Amroha):** That means the Government is making the donation.

**Shri S. M. Banerjee:** Exactly what is the total donation we are receiving? The hon. Prime Minister announced that the total amount is Rs. 9 lakhs. What a poor response! And out of this Rs. 9 lakhs, only one concern has paid Rs. 5 lakhs. Mr. Birla has yet to see what amendment is moved. Dalmia has yet to see what further concessions are likely to be given in the name of Shri Jawaharlal Nehru. All these people are waiting patiently to see if certain concessions are given in income-tax, in Wealth Tax, in Gift Tax or any other corporate tax. If some incentive is given, they will give further donations to this Fund. This is a very sad commendatory on the democratic functioning of this Government. It will be really creating blackmarketing or profiteering or racketeering even in the Nehru Memorial Fund.

I am sorry that the name of this beloved leader of this country, who has no parallel in this country, is

being brought in the form of coins, in the form of income-tax rebate. I do not know to what extent they are going to put his name in the dust. I am sorry at this. I am an ardent follower of Nehruji, without getting a ticket from him, mind you. He has been opposing me. Still, I really follow his words as gospel. I know he has given something not only to our country, but to the world, but should we go to this extent? If we did not do it in the case of Gandhi Memorial Fund or any other fund, why should we do it here?

We have done it in the case of the National Defence Fund, because, as very correctly said by the very leaders of this House as well as leaders outside, after all, the country is greater than Nehru. And naturally, I oppose this clause.

Today there is a provision that 10 per cent will not be taxable, but what is the response? No response. So, I feel that this should not be done.

**Shri Tyagi:** The functions of this Nehru Memorial Fund will be practically the same as those of Government, except that non-official help will be obtained, and therefore my hon. friend might keep that objective also in mind.

**Shri J. B. Kripalani:** Why should not the Government directly make the contribution. Why this indirect way, I really cannot understand. If you have to steal from people's pockets, do it honourably.

**Shri S. M. Banerjee:** As very ably explained by Shri Tyagi and very well replied to by Acharyaji, I should say that in that case, let Government come forward—we will give them sanction—and say that they want to contribute. Nobody will object in the case of Nehruji.

What happened in the case of the National Defence Fund? Much of it

has been misappropriated. What happened in the case of the Gandhi Memorial Fund. We have a bad history, and whenever some contribution is asked from the common man, he says:

“वा फिर काल की कोठरी में जा रखा है”

People have started telling this, because we could not give a good answer to them. I would only request the hon. Finance Minister to kindly consider the various aspects, the various suggestions given by the Tyagi Committee.

I would like to know from Shri Tyagi what has happened to the Viswantha Sastri Report. There was an income-tax investigation commission appointed under the chairmanship of Shri Viswanatha Sastri. What happened to that? I understand that simply because the Commission made scathing criticism of certain houses, including Birlas, that Commission's report was never published. It is surprising. I would like to know what has happened to that Commission's report and whether all the recommendations of the Tyagi Committee have been implemented.

I am happy that this Bill has brought two or three good items, but generally our expectations of the Finance Minister have been belied.

With these words, I would once again request them not to bring Nehruji's name in this particular thing. Let it be left to the people concerned. If Tatas want to pay Rs. 10 lakhs, or Birla wants to pay Rs. 25 or Rs. 27 lakhs, let them all pay income-tax, let them not be given incentive in the name of Nehruji. That is what I have to submit.

**Shri V. B. Gandhi** (Bombay Central South): The object of this Bill is to remove certain unintended hardships to assesses, and also to provide relief to assesses in certain cases. The Bill as it has come before us has

[Shri V. B. Gandhi]

certainly achieved the object, and hence we welcome this measure. There have been several promises made in this House by the Finance Minister during discussions on the budget, and this Bill, as we see, has also taken care to implement these promises.

This Bill has offered certain concessions and certain reliefs from hardships to a class of assessee. For instance, we have here Clause 3 which allows the exclusion from the total income of an assessee of any allowance specially granted to him by his employer to meet the expenditure incurred on payment of rent for the residential accommodation occupied by the assessee, not exceeding Rs. 300 per month. That is a very timely and a very deserving concession which has long been overdue. It is going to be of great relief to the middle class people, and particularly the Government and other employees with a fixed income are going to benefit from this concession. This need is very urgent in large cities like Bombay and Calcutta. There is one clarification which is sought by some people about this provision and it is whether the 20 per cent allowance for perquisites will be kept out of the calculation of these rent allowances. It makes one feel rather sad to hear what has just now been said by Mr. S. M. Banerjee about the provision in clause 5 in regard to Nehru Memorial Fund. This Fund is going to be used entirely for the purpose stated clearly in the Deed of Declaration of Trust. That there should be any expression of disagreement on a proposal of this kind for the memory of a man of the eminence of our late Prime Minister is, as I said, a very sad commentary on the minds of some Members from the Opposition. After all the fund is going to be used for public purposes. The purposes are stated. I do not think that anybody can have any objection to the purpose as indicated in that Deed.

I will come to two other very important clauses 10 and 18. These two clauses are going to be of great value in unearthing hidden resources, in helping the authorities to secure disclosure of assets of great value and in securing that there should be no evasion of tax. It is provided here that there shall be no registration of any document unless there is a tax clearance certificate produced before the registrar. We were a little apprehensive whether a provision of this kind would involve some kind of inconvenience. But we have now the assurance that there is going to be not much inconvenience felt because there is a provision that a certificate will be granted within a stipulated time or that the party will be informed that no certificate can be granted. That is a very good and sensible provision.

Another clause of importance is the one dealing with the provision which would require that the contractor who secures a contract for construction will inform the income-tax officer about the contract. Now, this is also one way in which concealed assets in immovable property will come to light.

There is one more clause about which I would say a few words before I close and it is about clause 2 which is about the distribution of accumulated profits in the case of companies which are acquired by the Government or other governmental corporations. Here, we agree to the principle that these accumulated profits should not be chargeable to tax as dividend but we find this concession is limited in point of period. It says it will be available for the years "attributable to the accumulation of profits of the company, relating to the period prior to three successive previous years immediately preceding the previous year". If really it is intended to be fair to the shareholders of the companies whose assets had been

taken over or acquisitioned by the Government I do not see why we should be not be generous in our approach and in our offers. After all it is not very likely that the companies would come to know of the Government's intention to acquire their assets or their companies in advance of three years and actually a company whose accounts are made up in the calender year 1964 would have to forego the benefit of this provision up to the year ending 31 December, 1960. I do not really think that this being taken is necessary. I think it would be more fair if we go the full length in our desire to be fair to the sareholders of the companies in this respect.

**Shri Prabhat Kar (Hooghly):** Sir, while moving this amending Bill, the hon. Finance Minister has stated that he had thought over many points which were raised during the discussion on the Finance Bill and after having applied his mind is now making certain changes with a view to give relief to certain section of the assessees.

**श्री हुकम चन्द कछवाय :** (देवास) :  
अध्यक्ष महोदय, हाउस में कोरम नहीं है।  
केवल 17 लोग बैठ हैं।

**Mr. Speaker:** Let the Bell be rung—now there is quorum.

The bell is being rung—now there is quorum. Shri Prabhat Kar may continue.

18 hrs.

**Shri Prabhat Kar:** Sir, I was saying that the Finance Minister, after consideration, has come out with an amendment of the various tax provisions to give some sort of relief to certain sections of the assessees. Along with that, with a view to tightening up the tax-collecting machinery so that avoidance or evasion of taxes can be checked, he has come out also with certain changes in the Income-tax Act. Now, I would say that we have found that most

of the time the sympathy is misplaced. In the present State of affairs, with a steep rise in the prices of the daily necessities of life, it is the lower rung of the salaried employees who are hard hit. The persons who draw a salary of five hundred, six hundred or even a thousand rupees, persons who cannot under any circumstances evade a single Paisa of taxation and whose taxes are deducted at the source at the time of payment of the salary, these are the persons who are hard hit.

**Shri R. S. Pandey (Guna):** Sir, on a point of order. Is it permissible for any person to occupy the Prime Minister's seat in the House?

(*Shri Bibhuti Mishra was at that moment sitting in the Prime Minister's seat.*)

**Mr. Speaker:** He might decide it within his party.

**Shri Prabhat Kar:** Sir, these are the section of employees who today are hard hit. The relief granted...

**Mr. Speaker:** It is desirable that the Prime Minister's seat should remain vacant when he is not there; it should not ordinarily be occupied by any other person. That would be a good tradition, if it is established. I would ask Members not to do like this.

**श्री हुकम चन्द कछवाय** उधर के लोग सभी उस जगह पर बैठने की कोशिश करते हैं।

**अध्यक्ष महोदय :** अगर माननीय सदस्य उधर होते तो व शांयद यही कोशिश केंते।

**Shri Prabhat Kar:** Sir, we suggested that so far as income-tax for this rate of salary group is concerned there should be a relaxation, that instead of having the income-tax imposed on the earnings of Rs. 3,600 it should be raised to at least Rs. 7,500 and the relief should be granted to

[Shri Prabhat Kar]

this section of the employees. Because, today, as it stands, it is very difficult for them even to pay income-tax to the tune of five, ten or fifteen rupees a month.

This year, during the budget speech, no doubt the Finance Minister granted some relief by withdrawing this compulsory deposit scheme. But so far as the tax incidence is concerned it was increased. The totality of the deductions, including the compulsory deposit, has surely been reduced. By the incidence of tax is more than what was the incidence of the tax along with the compulsory deposit. The compulsory deposit was an amount which was returnable after five years, and in the case of those who had deposits of less than Rs. 150 they could get it back within a year. Now the tax incidence in the lower income group has increased.

Today we find that concession is being granted to a section of employees who are drawing house rent allowance, and the relief is given after Rs. 300. It means that a section of employees who are drawing a house rent allowance much more than Rs. 300 a month; and it will mean a section of employees whose emoluments will be roughly between Rs. 1,500 and Rs. 2,500 or more as monthly salary.

When we consider that because of exorbitant house rent, some relief should be granted so far as taxation is concerned, I would like to know why for those sections of the employees who today are forced to live in a situation by which sometimes 25 to 30 per cent of their monthly salary goes for the payment of house rent, nothing has been provided. As I was saying, the sympathy is a misplaced one. You are granting a concession to a section of the employees. No doubt they are salaried employees. I quite agree that any question of tax evasion does not arise in their case.

But you are granting a concession to a section of employees who are for better off compared to the other section of employees who are suffering and whose number is large, and there is no concession granted to them. As I said earlier, during this year's budget, although the compulsory deposit scheme has been withdrawn, the incidence of taxation has increased. What was necessary, considering the present situation, was that tax relief should have been granted to the lowest-grade salaried employees who today are groaning under the rise in prices.

Now, the tightening-up provision in clause 10 is no doubt a welcome provision. With a view to checking tax evasion, clause 10 seeks to insert a new section, section 230A, in the Income-tax Act where the registering authority will refrain from registering any document of a value which is more than Rs. 50,000 until a tax clearance certificate has been produced. And the certificate is only in respect of Income-tax but in respect of various other taxes. This is a welcome provision.

In the same way clause 18 is also a welcome provision. This refers to contracts for house building and the contractor has to submit all the details to the Income-tax Officer. As has been rightly stated, one way of evading payment of taxes is to build immovable properties, and also, almost always in the name of a third person, a benami transaction.

So these provisions are welcome. But I would like to know what efforts have been made to find out whether, with the changes made in the Income-tax or other tax structure, the incidence of tax evasion or avoidance has decreased. As was quoted by my hon. friend Shri Banerjee, the Finance Minister admits that the incidence of tax avoidance has not decreased. How



this thing can be checked, what are the positive efforts made by the Finance Ministry, how to tighten the tax-collecting machinery: these are the things in which we are much more interested today, because we learn often about the unaccounted money. We are told, and rightly so, that many of the effective measures to control the prices or to really keep our economy under proper control are being frustrated because of the huge amount of unaccounted money which is moving in the market. How has this unaccounted money come, and is it not possible for the Government to find it out and check it? It is often being said that unless that is done, it will be very difficult to have a grip over the economy of our country. The Reserve Bank with all its power has failed to do it. I do not know. There was recently some enquiry about the money lying in some banks or vaults; it was said that some money was found. I want to know why this is not done in the case of the big houses. It is a known fact that so far as money is concerned, they are in the vaults. You will find currency notes there, or you will find currency notes converted into silver or gold bars. Why have you stopped with the checking of some accounts only of the film stars? Why can't you go further? Is it not possible to open the lockers in Delhi and Bombay, places where you will be able to find out unaccounted money? Why is this not done, if you are serious about it? So far as the gearing up of the economy and controlling it is concerned, if you are serious about collecting the taxes which are due and if you are to find out the tax evasion, these steps are absolutely necessary. I do not find any positive efforts being made by the Finance Ministry to this effect.

As I have said, in this Bill there are items which we welcome. There are items to which I am not opposed but then I would say you must go further in regard to those items. When

you grant concession by way of income-tax relief to those earning up to Rs. 300, think of the millions of workers who are drawing much less. They are today finding a crisis in their own families; a situation has come about which has created a crisis among them and the stage has reached when they have almost become extinct. Why don't you think of this and grant concessions to them as far as income-tax is concerned?

Now, clause 5 seeks to amend section 88 of the Income-tax Act, and it deals with the donation to the Jawaharlal Nehru Memorial Fund. Some hon. Members have said that there should not be any controversy about this. There may not be any controversy so far as the creation of the Jawaharlal Nehru Memorial Fund is concerned and the purpose for which the Fund is utilised is concerned. But what does it signify? It signifies that today we have come to a stage when contributions will not be made to the Jawaharlal Nehru Memorial Fund unless you grant concessions and unless you give incentives! This is exactly the meaning of this particular clause. Though we are saying that we should not say anything about this particular aspect, because he was a national leader and not a party leader—with which I agree—the inclusion of this clause to amend the Income-tax Act means that today there will be no contribution to the Fund until and unless you give those contributors a rebate. I would put it like that.

It reminds me of a story. In a village chapel, the priest used to stand on the pulpit and give sermons, but the benches were empty. He thought that in order to draw the people some music and other things, say, a band party, could be given. So, the announcement was made that on a particular Sunday there would be music and band; the people came and after hearing the music, they went away; the benches were again empty.

[Shri Prabhat Kar]

Therefore, another announcement was made that the first item would be the sermon of the priest, when all the members would stand up, and after that, the band or music party would be allowed to play. Similarly, here is the Jawaharlal Nehru Memorial Fund. Here is the purpose known to the country; the purpose for which this Fund has been created. It is going to help the building up of the various aspects of our national life. But then the meaning of this clause is, "if you want to get the concession, then, if you contribute to the Fund, you will get income-tax relief." The most important thing is that you get the relief first and then contribute! Is this the way by which you are going to get contributions to this Fund which has been created for the purpose of building up a new India? If one says that such a clause should not be put like that, there would be Members saying that there should not be any controversy about it. But I say this is a great insult that great personality of India: for contributing to the Fund you are to give some concession so that the people may contribute to the Fund! It is an insult to the great leader of India and an insult to ourselves to include this particular clause and ask the people to contribute and get the income-tax relief.

So far as the provision in relation to the companies which will be liquidated and which will be taken over by the Government is concerned, I agree with the proposition no doubt. It is not a question of liquidation for the promoter, but for the purpose of taking over by the Government, the companies will have to be liquidated. Naturally, the promoters or the entrepreneurs should be given some amount of concession over there. There, I entirely agree with the suggestion made by the Finance Minister that it should be for the last three years' accumulated profit, because he said in his opening remarks that sometimes profits had accumulated when

the company goes into voluntary liquidation and that at the time of distribution the tax would be evaded. So, the period is limited to three years. I agree with that part of the clause.

Then, on the question of charitable institutions, I hold a very strong view. For the proportionate part, it is a tax on dividend. If it is a charitable institution, it is a known thing, which we have discussed on various occasions. We have said that the charitable institutions also will have to be enquired into and we must know what exactly is the type of charitable institution that is functioning, so that it can get the credit of the concession which is being granted. Today, we have charitable trusts and the charitable trust is utilised for the charity which always should begin at home and for the purpose of the person who creates the trust. Considering that aspect, the concession has to be thoroughly enquired into.

Lastly, so far as the tightening up of the tax-collecting machinery is concerned, it has become very important at this particular stage, and I would like the Finance Minister to take up this issue. On the question of granting some concession on house-rent, I would again appeal to the Finance Minister to consider the case of the low-paid employees who are today suffering very much.

13.19 hrs.

(MR. DEPUTY-SPEAKER in the Chair)

**Shri N. Dandekar** (Gonda): Mr. Deputy-Speaker, Sir, I am in general agreement with the purposes and objects of the Bill. There can be no doubt that some of the concessions that have been sought to be given are due and would ease the hardships of the assessee concerned with those particular matters. I would in particular, as regards the case of the salaried earners, endorse the plea that was made by the hon. Member who just spoke before me, namely, that it is not enough to clear off the hardship

of a particular section of the salary-earners. The salary-earners today,-- with the rise in prices that has taken place and the econonitant rise in the cost of living, and also the fact that in the case of the salary-earners there is no question of loss or any suspicion of loss of tax or under-assessment,-- are a category of tax-payers who are probably the most severely hard-hit as a result, on the one hand, of rising taxation, both direct and indirect, and on the other hand, of the rise in prices and the rising cost of living. I do not think the tax authorities are fully aware of the extent of hardship that has been suffered by the salaried class, particularly people in the lower income brackets, namely, those earning up to something like Rs. 10,000 to Rs. 12,000 per annum. And I would very earnestly.

श्री हुकम चन्द कछवायः उपाध्यक्ष  
महोदय हाउस में कोरम नहीं है।

**Mr. Deputy-Speaker:** The hon. Member may resume his seat. The Bell is being rung.

There is quorum now. Shri Dandekar may continue his speech.

**Shri N. Dandekar:** Sir, I was on the subject of concessions to salary earners. I do very strongly support the suggestion that was made by the hon. Member who spoke before me, that the lower limit of total exemption from tax in respect of salary earners in particular ought to be raised very considerably. I have been myself very much in touch, both while I was in public service as well as during the years I was in service in industry, with the conditions suffered by what one may call, the 'white-collar brigade' in regard to their standard of living arising as I have said, from these two circumstances, namely increasing direct and indirect taxation on the one hand increasing cost of living on the other. I do not think it is appreciated that in the case of persons of that category there is also the further fact that the num-

ber of earning members in most salary earners' families is usually only one, rarely two, but never more than two, with the result that most of them not having either additional salary earners, and most of them not having any other sources of income, they are a category of people for whom I think, the more we can do in terms of reliefs the better it would be. And, while I am not in the least opposed to the relief that is sought in terms of tax-free rent allowance for those who are in receipt of such allowances, my very definite feeling is that the lower bracket of salary earners, who constitute the very large mass of the middle and lower middle class, ought to be assisted in the way I have suggested.

The other reliefs do not I think call for much comment. I think they are just and proper;--for instance, relief in regard to accumulated profits of companies that are being wound up in consequence of their being acquired or being taken over by other government concerns. The only point I have in regard to that is, I wonder why the accumulated profits that are to be exempted from the definition of dividend are only those relating to periods prior to the last three successive previous years. Why those three successive previous years should be excluded from the benefit of this particular provision, I am unable to appreciate, though I am sure that when the hon. Finance Minister replies to the debate he will probably clear up that point. I would say this, if there is no clear-cut reason either of principle or of fact geared to possibilities of evasion and so on, then I would suggest that that little exception to this particular exemption ought to be removed.

There are two other provisions to which I wish to refer. One is in connection with the removal of the limit to the exemption, that is, the tax rebate in respect of contributions for approved charitable purposes. I refer to the proposed removal of the limit in the case of contributions to the Nehru

[Shri N. Dandekar]

Memorial Fund which, does call for comment. It is not that there should be no tax benefit, or rather, tax concession or relief to people who do make such contributions. But I think we are tending, of late, to make a very unfortunate singing out of the late Prime Minister concerning whom personally there can be no question, there is no one who has less than the highest possible respect for his memory, for the position that he held in the affairs of this country and the affection be enjoyed from the public. But I wonder, for instance, how I would feel if I were related to him and found that continuously things of this kind were being attempted almost to a point at which there is some kind of dedication of him. There was a debate the other day, about the proposal to have the effigy of Pandit Nehru embossed on the coins that are going to be minted hereafter. There were references to other matters also. Now this is another one that has come up, namely, that in so far as the upper limit of contributions for purposes of tax rebate are concerned the contributions of Nehru Memorial Fund would be excluded so that contribution to that fund may be made without any limit and they were still be eligible for rebate purposes. Certainly, people ought to contribute, and will be contributing to the maximum of their capacity to a fund of this kind just, as when Mahatma Gandhi died there was an excellent response to the Fund that was raised in memory of the Father of the Nation (*Interruption*). But then there was, as my hon. friend here points out, no amendment to abolish the limit in respect of contributions to that particular Fund. It is difficult on a matter like this, not to be misunderstood. At the same time, I think, we have to observe certain principles of propriety, certain principles of uniform public policy and not single out particular individuals, no matter how highly we esteem them, no matter what their contribution to the progress, and all that goes with it, of this country is. I do feel that this proposal is contrary to public policy.

I do feel it is setting up a precedent of a kind that is unfortunate. I do feel it is making discrimination of a kind that is unfortunate. I personally, for instance, have no less esteem for the late Prime Minister than I had for Mahatma Gandhi; but it seems to me that it is really unfortunate that this kind of thing should keep on cropping up in one form or another in connection with him. I do respectfully urge that I can find no over-riding reasons of public policy or propriety which justify this kind of special treatment in regard to contributions to the Memorial Fund for the commemoration of the late Prime Minister, Pandit Jawaharlal Nehru.

Sir, I would not say more than that. I will now go on to some of the other benefits and reliefs that are sought to be given. I think they are sound.

In regard to the procedure for tightening up the machinery I would like to make just two general comments. The first is about clauses 8 and 9 which are concerned with fresh demand notices being issued in connection with advance payment of tax consequent upon later returns involving higher self-assessment and so on. I feel this continual revision of the demand for advance payment of tax resulting from this business of self-assessment, provisional assessment, regular assessment,—the whole thing is becoming rather too confusing. And I believe the additional financial returns that are involved in this, as compared with the cluttering up of work in the tax office are trifling. I do not think it is worthwhile. I believe today an over-load position has been reached in tax offices where in connection with all those multiple assessments, and in connection particularly with income-tax matter such as self-assessment, provisional assessment, regular assessment, advance payment of taxes, re-assessment, amendment of a assessment, amendment of mistake in assessment, amendment of mistakes on appeal and so on, every one of them have continual

consequences upon the demand for advance payment of tax. But every one of them has also such an appreciable effect in terms of workload in the tax offices that I think it is time one did consider and weigh this fact against the very little additional money that would be coming in,—which is merely money coming in a little in advance, because it would come in anyhow—even if these changes in advance tax demands were to cover all situations in the tax returns or in the provisional assessments and regular assessments. The situation today as I know it is that so much of the time of the tax officers is continually engaged in these matters that they can devote little time, I would almost say they have very little leisure, to the careful examination of the more difficult cases, as well as of those that involve a considerable amount of tax evasion. There are cases which could not and should not be handled in a hurry; they are cases concerning which the tax authorities need to sit back and think,—they have got to have some little time to sit back and think because it is always a continuous race between those who want to evade or avoid payment of taxes, and the officers of the revenue department bent upon the State getting its full dues. But the tax authorities do not in fact get sufficient time to deal with really important cases I believe that this sort of changes in legislation, though they do result in a little amount of money coming a little earlier than would otherwise be the case, does result merely cluttering up of the taxation machinery.

Regarding the other two provisions for tightening up assessments; which are perfectly good in themselves, my only comment is that they lay down too low a limit. In regard to prohibition of transfers of registry until the production of a tax clearance certificate, I think it is an excellent provision. Similarly, the provision requiring the contractors to report to the tax authorities the fact that they have secured contracts is again an excellent provision. But I do think

these limits of Rs. 50,000 are too low. Today, as a simple consequence of the price rise, a transaction which ten years ago would be of the order of Rs. 30,000 or 40,000 or something of that kind would today be equivalent to double that amount, if not more. Consequently, if one is to get proper benefit out of this, without harassment on the one hand and without cluttering up of the offices of taxation department on the other, I would very strongly urge that these limits of Rs. 50,000 should be raised a little higher. I would suggest a figure of Rs. 1 lakh.

The provisions about estate duty are again excellent. But I think there is some computational difficulty here. I do not want to enter into it in detail just now, but there appears to exist a good deal of computational difficulty in the proposal as to the precise extent to which rebate of estate duty has to be given in connection with properties that are sold for purposes of payment of estate duty, instead of a corresponding relief against capital gains tax. Otherwise, I think these two provisions are also good.

The general comment that I would make is, therefore, that the proposals made in this Bill are in principle sound and I commend them. There are however certain matters of detail connected with the reliefs on the one hand and the tightening up of the machinery on the other which would merit reconsideration.

**Shri Morarka (Jhunjhunu):** Mr. Deputy-Speaker, Sir, I welcome this Bill mainly because it fulfils the assurances given by the hon. Finance Minister to this House during the last budget session. The Bill has five purposes. One is to give some concessions, as some hon. Members have been pleased to call; secondly, to remove the unintended hardships, thirdly, to tighten up the provisions, fourthly, to withdraw some of the unintended concessions and; lastly, to deal with some procedural matters.

[Shri Morarka]

This Bill has been criticised on the ground that it seeks to give some concessions. I have gone through it carefully and I find that there are only two concessions, if you call them concessions, which are sought to be given. One is, house rent allowance up to Rs. 300 per month is sought to be exempt for the salaried classes. Another concession is to charitable institutions on the dividend income to the extent of proportionate share of the super-tax. The hon. Finance Minister had agreed to both these things at the time of the discussion of the budget. As he could not make any amendments on the spot, he assured the House that he would come to the House with these amendments in due course. I am glad that in fulfilment of this promise he is now coming with these proposals.

At that time it was pointed out to the hon. Finance Minister some of the provisions which are really harsh. For example, if a property was liable to estate duty as well as capital gains tax, if the total incidence of taxation was becoming more than 100 per cent, that was really an unintended hardship. At that time, the Finance Minister assured the House that he would examine the case and, if necessary, bring an amendment to the Act. Similarly, under the gift tax Act, a nominal gift costing Rs. 5,000, while it is exempted from the wealth tax Act is coming within the purview of the expenditure tax Act. That is another hardship which is sought to be removed by this Bill.

The third amendment relates to companies going into liquidation. If the company goes into liquidation with the sole or main object of evading tax in one way or the other, the distribution of the accumulated profits as dividend is subject to taxation. That is understandable. But if as a result of Government's action the assets of the company are taken away and the company is obliged to go into liquidation, if the assets are distribut-

ed to the shareholders as dividend, because there is no other alternative it should not be made subject to heavy taxation. So, we are obliged to the Finance Minister for bringing these amendments.

The hon. Member who preceded me posed the question why this period of three years should be there. At the time of moving the Bill for consideration the Finance Minister has explained it. Unfortunately, Shri Dandekar was not present in the House at that time. According to the Finance Minister, it is quite possible that sometimes these negotiations about taking over by the State takes some time during which the information leaks out and when this information leaks out some of the companies might distribute all the accumulated profits just with a view to evade this tax. Therefore he prescribed this period of three years. All the profits accumulated during these three years would not be exempt from that tax but the profits accumulated prior to these three years would be exempt. So, I think that it is not only rational but equitable and there is sufficient reason behind this.

There are two provisions to tighten up the provisions of the Income-tax Act. One is the registration of certain documents. It is now sought that no document transferring the property or limiting or extinguishing the proprietary title in those properties will be registered by the registering authority under the Indian Registration Act unless a certificate of clearance is obtained from the tax authorities. For that a limit of Rs. 50,000/- is prescribed. That means that property below the value of Rs. 50,000/-.

श्री हुकम चन्द कश्यप : उपाध्यक्ष महोदय  
कोरम पूरा नहीं है ।

Mr. Deputy-Speaker: The bell is being rung. Now there is quorum. It was the second time that the quorum bell was rung within half an

hour. I request hon. Members to maintain the quorum. Shri Morarka might continue his speech.

**Shri Morarka:** I was saying that now if this property is below the value of Rs. 50,000/-, there would be no registration and at the time of registration no certificate from the Income-tax Officer would be required. The hon. Member, Shri Dandekar, said that this limit of Rs. 50,000/- is too low. I see an amendment in the name of Shri Bade and others which seeks to increase this limit to Rs. 1,00,000/-. But I shall draw the attention of hon. Members, particularly Shri Dandekar, that in another Act, called the Payment of Tax (Transfer of Property) Act, 1949 where a similar provision existed, there was no limit at all. That means that the registration of any property, irrespective of its value, required such a clearance from the tax authorities. Now the Government says that instead of prescribing no limit at all, they prescribe the limit of Rs. 50,000/-. So, while to Shri Dandekar this limit of Rs. 50,000/- may appear to be on the lower side, under the previous Act which was passed in 1949, namely, the Payment of Tax (Transfer of Property) Act, no limit was prescribed.

But in my view this limit of Rs. 50,000/- is a little on the high side. Therefore I have suggested an amendment, being amendment No. 30 on the list, seeking to reduce this limit to Rs. 10,000/-. When I come to the amendment, I will give my reasons in detail; but here I may say that since the main purpose of this is to plug possible loopholes for tax evasion and to bring those, who have got unaccounted money and who are not assesseees at all, to the Income-tax Department, I think, this limit of Rs. 50,000/- is on the high side because, as you know, it is not unlikely that properties are deliberately undervalued and a large part of the consideration or the value of the property is given in cash outside the account books. If that is so then this limit of

Rs. 50,000/- would not serve the purpose which you have in view.

Besides, it is not a tax measure at all; it is only a regulatory thing. It may be that it may involve a little more work for the Income-tax Department in issuing a certificate, but, I think, the Government must be prepared for that and they must undertake that little more quantity of work if they really want to bring to book those people who through all sorts of transfer of properties without becoming assesseees at all. I, therefore, suggest that this limit of Rs. 50,000/- should be reduced to Rs. 10,000/-. I repeat that it is not a tax measure. You do not charge any duty or tax. It is only a regulatory thing. For that purpose there will be no difficulty at all; on the other hand, it would require people transferring any property above the value of Rs. 10,000/- to obtain a tax clearance certificate from these authorities. When I say this thing, I also know that the agricultural property is completely exempt from this provision. Therefore I think that there is ample justification for reducing this limit from Rs. 50,000/- to Rs. 10,000/-.

I said that another object of the Bill is to remove the unintended concession also. That has been done in the case of playwrights, artistes, actors etc. Under the Income-tax Act, as it exists, they can deposit up to 25 per cent of their total income by way of annuity deposits, but after this Bill is passed they would be able to deposit only 25 per cent of the professional income and not the entire income. I think that it was never the intention of Government ever in the beginning to give them this facility for the entire income. The intention was only to give this concession in respect of their professional income. To that extent it removes the unintended concession which has been given to these people.

[Shri Morarka]

Other things which are mentioned in the Bill are mostly procedural and they are intended to tighten up or facilitate the proper administration of the Income-tax Act. No doubt, they would involve more work and would make the Act more cumbersome as Shri Dandekar pointed out; but still in the interest of equity and justice they are necessary.

The hon. Finance Minister had given some more assurances at that time. Of course, he has brought this Bill implementing some of them, but some are still left out. I am sure, he must have implemented them by means of departmental instructions or rules which were framed. The most important assurance which the hon. Finance Minister had given was that if the amount of direct taxes collection came to Rs. 1,000 crores annually, he would substantially reduce the rates of direct taxes on earned as well as unearned incomes. We live in that hope and we do feel that sooner or later that expectation of the hon. Finance Minister would be fulfilled and then it would be possible for him to reduce the rates of the direct taxes substantially.

In conclusion, I only want to say that there are many amendments standing in my name and in the name of my hon. friend Shri Ravindra Varma. Most of these amendments are of drafting nature and of clarificatory nature. Only two of them, namely, amendments No. 13 and 16, are of substantial nature. As I have already said, amendment No. 13 proposes to reduce the limit from Rs. 50,000 to Rs. 10,000. So far as amendment No. 16 is concerned, it provides the right of an appeal to the person to whom a certificate is refused by the Income-Tax Officer about registering his property. In the registration of property concerned, there are two parties, the purchaser and the seller

or the person who transfers the property and the person in whose favour the transfer is made, that is, transferee. It is quite conceivable that in some cases, after the transaction is completed, the transferer or the person who wants to transfer the property may himself change his mind. Therefore, with the connivance of the I.T.O. he may not like to get the property transferred. In such cases, it should be open to the transferee, that is, a person in whose favour the transfer was to be made, to approach in appeal to the Commissioner for the certificate. The rights which are there can only be exercised by one person, namely, the assessee. Here there are two persons involved, the transferer and the transferee. I request the hon. Finance Minister to have this provision of appeal inserted. I may say that this is not a new provision. I again refer to the Act of 1949 where a similar provision existed and in that provision this right of appeal was specifically and clearly given to the persons so affected, not only to the assessee but to the persons affected by that transaction or who claimed to be affected by that transaction. I hope the hon. Finance Minister will consider my request and if it is possible for him he would accept them.

Shri Heda (Nizamabad): Mr. Deputy-Speaker, Sir, as Mr. Morarka has stated, the Finance Minister has come forward with a Bill to fulfil some of the assurances that were given during the Budget session. The Bill is not drafted with the object of tightening the measures or improving the present machinery of collection of taxes. Otherwise, he would have found out certain other measures too. Therefore, I will touch only two or three points.

Firstly, it is very good that the Finance Minister has come forward to give concession to the salaried employees so far as the house rent is concerned. But in my opinion the measure is a little half-hearted be-



cause the upper limit that is there is only Rs. 300. I had come across a very piquant case of a very highly respected organisation, respected by the country and which is formed under the Constitution. It so happened that when the head of that organisation retired and another gentleman was appointed, the newly appointed gentleman refused to go into the house allotted for the head of the organisation.

**Shri Hari Vishnu Kamath** (Hoshangabad): Why not name the organisation, not the person?

**Shri Heda:** That organisation is held in the highest respect.

**Shri Hari Vishnu Kamath:** That is why it should be mentioned.

**Shri Heda:** As highly respected as this Parliament.

**Shri Hari Vishnu Kamath:** Why fight shy of naming it?

**Shri Heda:** When the head of that organisation retired, the new gentleman who was appointed as the head of that organisation did not go to the house which is meant for the head of the organisation. The reason he gave was that he will have to pay a higher income-tax if he occupies a bigger house which is not more useful for him. He said that the house that he had been occupying was as good and as adequate for his purposes as the other one. So, this is a reason that is felt by the salaried employees and this is the only class from which the taxes can be collected, I may say, hundred per cent correctly. The Finance Minister was good enough to mention 10 per cent and 20 per cent all that. I thought that he would fix some percentage and its ratio to the salary itself and not put a big proviso of the upper limit of Rs. 300.

Then, I come to the point which was taken up by two or three hon. Members about the *benamidars*. The provision seems to be good. But I do not think that it will bring in any fruits

or it will serve any purpose because when somebody constructs a house—I am talking of these *benamidars*—it is more than possible that there will not be a single contractor for the construction of the entire house. It is just possible that there may be no contractor as such. In these days, generally what happens is that the labour contract is given to somebody. The main items are directly purchased and different items like electrical fittings or interior decorations are given to different contractors.

**Shri Bade:** There will be more evasion because of sub-contracts.

**Shri Heda:** Therefore, I do not think this limit of Rs. 50,000 will serve any purpose and, in fact, the limit proposed by Shri Morarka of Rs. 10,000 will also not go very far because if it is the spirit of evasion, they will find different ways. This is not a foolproof measure to stop it. However, it is good as far it goes.

Now, I will come to the companies which have to go into liquidation either because the Government have taken them over or they voluntarily lie to go into liquidation to avoid taxes. When you think of companies as such, you come to a different conclusion. But when you think of share-holders, you might come to different conclusions. The prices of shares vary according to the accumulated profits of the company and, therefore, to think that at the time of liquidation every share-holder was a share-holder from the very beginning of the floatation of the company would not be correct and that is why the Finance Minister has given a sort of exemption of three years, that is, the last three years accumulated profits will alone be taxed. So the point is that the share-holders are not, excepting in rare cases, from the very beginning of the floatation of the company. Generally, they purchase shares in between and from that angle they have not purchased shares at the face value but they have purchased

[Shri Heda]

shares at the enhanced value, at the market value. Therefore, I think this measure though doing some justice may not be doing full justice to them.

With these words, I support the Bill.

**Shri U. M. Trivedi (Mandsaur):** Mr Deputy-Speaker, Sir, the most of the provisions of this Bill are commendable and if I offer some criticism to some of them, it is not because I do not commend the general amendments that are being suggested but because I feel that in some cases an opportunity has not been taken to further amend the Bill to ameliorate the conditions of the assessee which are apparent.

14 hrs.

The first thing that strikes me is this. In these days when the value of the rupee has fallen so low that it is not more valuable than 1-1/2 annas of 1938, it is high time that the exemption limit for income-tax purposes which is now Rs. 3600 ought to have been raised to at least Rs. 4800. In my opinion, the time has come now when we must realise and evaluate things in their proper perspective and not stick to mere forms or be so conservative as not to realise that things have changed and the shape of things indicate clearly that in the present-day life the purchasing power of even Rs. 400 has become negligible and it is not even equal to that of Rs. 100 in other pre-war days I would, therefore, suggest that early steps ought to be taken in this direction. This was the proper opportunity to have done that. In any case, I hope the Finance Minister will take note of it and make use of this suggestion when the Finance Bill comes up next before the House.

The other thing which ought to have received the attention of the Finance Minister is this. When this question of direct taxes is being dealt with, something must have been done so as to make the appeals before the appellate commissioner appeals on

matters of fact as well and not merely routine matters, matters in which the income-tax officer merely sits down and tries to hear the complaint that is made against him and then makes a note of the word used by the assessee or his legal representative and then takes the next opportunity to pounce upon him as hard as he could if the language used by the assessee is not proper according to his own wish and pleasure. It is high time that some amendment ought to have been made of this nature whereby the first appeal, so to say, would be heard by a proper person and be heard on facts and also law. Generally, it so happens, as I have already narrated—and I would not like to recapitulate it—that the matter of appeal before the appellate assistant commissioner is entirely a routine matter and no relief is available except perhaps to the extent of a few rupees, annas and pies. Sometimes, the assessments are so illegal and perverse that we have hopes of seeing that if the appeal is heard by a man with sound knowledge of law and discretion and knowing how the discretion should be used and how particular inferences should be drawn legally, there would be no assessment at all on the basis of the facts that are placed before him. But that never happens, and that is never dreamt of by any of the practitioners in the whole of this country. Often one thinks that it is a great thing if an illegal assessment of Rs. 10 lakhs is reduced to Rs. 5 lakhs. Even that is considered as a very big thing if it happens. But nobody would concede the position that even the Rs. 10 lakhs assessment is absolutely illegal and cannot be levied. This could be looked into only if facts could be ascertained, and ascertained positively by an officer who is not in any manner concerned with the revenue of the Government but only with the administration of the law.

Some such suggestion has already been made in our country by the Direct Taxes Enquiry Committee. The

Law Commission has also made such a recommendation on the direct taxes administration. The Law Commission recommended the abolition of the tribunal and suggested a direct appeal both on questions of fact as well as of law to the High Court on the orders of the appellate assistant commissioner. This was what the hon. Chief Justice had said very recently, more or less on the same lines. I feel that the hon. Minister should have looked into this aspect of the matter also, because this was the proper opportunity for doing so, and during this debate, we also would have been able to look into the matter properly and then come to a proper conclusion whether or not such a procedure would be more conducive to the proper administration of the Income-tax Department.

However, as far as the clauses go, as I have said, I do appreciate the amelioration that would come about as a result of what little has been sought to be done. But when I look at clause 2, I cannot refrain from offering a little criticism on that point. I do not know why the limit of three years only has been put in. A suggestion is made that when there is a liquidation, it shall not include any profits of the company prior to three successive previous years immediately preceding the previous year in which such acquisition took place. I see no reasonable indicia to distinguish between three successive years and four successive years or five successive years. If a sort of reserve back the dividends and not by paying fund has been built up by keeping dividends, and if it extends for five or six years, I see absolutely no reason why that is not brought into the picture and amelioration is offered only to the extent of the last three successive years. I would, therefore, say that this is not a very reasonable piece of legislation and the provision ought to have been seen in that light.

So far as clause 3 is concerned, I would say that it is a very good provision, and it has been very much desired by the assesseees as well as the in-

come-tax officers. It is a good provision in that sense.

Coming to clause 5, I would not like to offer any criticisms in derogation of the matter that is contained therein. I would very humbly suggest that in future we should hesitate to create a controversy about the name of our deceased Prime Minister. It should not become a matter of controversy for anybody. In that sense I say that I do not see the propriety of bringing forward such a provision just for the sake of granting income-tax relief. Those who have got the hearts to pay and the desire to make payments will not hesitate to make the payment and would not like to have a mere incentive from Government or from the Income-tax Department or from the Finance Ministry to make the contributions that they desire to make. I shall not enter into any further discussion on this point, because it is a very touchy matter with many, and I do not like that I should indulge any more in it.

Now I will draw attention to cl. 8. I am very much surprised as to why this amendment has become necessary. This is merely a sort of pinprick which will not help anybody except that it will create more work for the income tax department. After all, you have various methods of assessing escaped income, correcting an error, revising orders, reassessments, all sorts of methods by virtue of which you may not lose a paisa of your revenue if you are a little alert. So even if the advance payment has been made one way or the other, just to get a little more, just to earn a little more of interest therein or lose some interest thereon, I do not think it is necessary to have this amendment. Why this amendment has been suggested passes at least my comprehension.

I know that in these days paper work in government departments has increased tremendously, with the net result that even simple assessments of day to day affairs of people who honestly submit their returns are held up,

[Shri U. M. Trivedi]

not on purpose but because the man dealing with it does not reach that particular person. He has got piles and bundles placed one over the other and unless they keep on moving, he does not reach that person's file. The workload itself has increased tremendously. From this it should not be construed that I take a sympathetic view of the income-tax officers' ways. No. This is because I know that some of them are not honest people. Yet, man to man, I feel that the Workload is such that even with honesty and integrity income-tax officers will not be able to dispose of the work before them.

**Dr. M. S. Aney (Nagpur):** They are over-worked.

**Shri U. M. Trivedi:** They seem to do over-work.

So I feel that this additional work should not be created for them. It would have been better if this amendment had therefore, not been suggested.

In some cases, I have felt that retrospective operation even of a fiscal measure is not called for. It creates trouble for the officials, for the assesses and for the office also. In no way should such retrospective measures be encouraged. There is absolutely no reason why in September, 1964 we should make a law to take effect from April, 1964. It is a fictional law which should not be encouraged. State Governments generally take the hint from what the Centre does. They go a step further. They make laws with retrospective effect going back to 1958. One State Government has made a law very recently, in 1963, with retrospective effect from 1958. There must be some limit to making these laws effective retrospectively. I would therefore suggest that in making these laws apply retrospectively should not be encouraged. Of course, in this particular case, the Finance Minister is better informed and he may have his reasons for it, but I would persuade him not to fall into the hands of the bureaucracy in this manner, and he

should avoid bringing forward laws with retrospective operation.

**Shri Rameshwar Rao (Gadwal):** Mr. Deputy-Speaker, this Bill has been generally welcomed and supported mainly because it is in consequences of the assurances given by the Finance Minister when he made his tax proposals early this year. The Bill proposes to tighten up certain loopholes in the taxation machinery and also prevent evasion.

I shall not take the time of the hon. House in going into very many details of various aspects of the Bill. But I would begin by correcting a misimpression which seems to have arisen regarding cl. 2, that the clause seeks to include the accumulated profits of only three years and not make them subject to tax. As my hon. friend from Jhunjhunu pointed out when Shri Heda was speaking, it is the other way round. It is the accumulated profits prior to three years before liquidation that will not be subject to this tax. This, he explained, was to prevent any firm or company taking undue advantage of the proposed takeover by Government.

My main intention in making observations on this Bill is to draw attention specially to cl. 10. This clause seeks to put a limit of Rs. 50,000 above which all registrations of property require a certificate from the taxation authorities to the effect that no tax is due from the person concerned. The hon. Member opposite, Shri Dandekar, said that this limit was too high while my colleague, Shri Morarka...

**Shri Kashi Ram Gupta:** He said the limit was too low.

**Shri Rameshwar Rao:** I stand corrected. My colleague, Shri Morarka, said it was too high. I am inclined to feel that the main reason for bringing about this provision is to track down tax evasion and to plug loopholes. It is observed in large areas in this country—I do not know if there is

any area which is exempt from this practice—that most registrations are in fact being undervalued. Government is losing in two ways on this account. Of course, there is loss on stamp duty and registration charges which is a direct loss. There is also the implication that quite a large amount of money on real estate transactions is being taken as what has come to be termed either as 'black money' or 'On money'—or "unaccounted money". It is very easy for this unaccounted money to be absorbed in either real estate construction or real estate purchase and sale. I am inclined to agree with Shri Morarka that this limit should be reduced to Rs. 10,000 and I would like to support his amendment in this respect at the appropriate stage. Merely fixing a figure above which registrations cannot take place without a certificate from the tax authorities is not enough to plug this loophole. While by providing a figure of Rs. 10,000 it becomes more difficult for people to register property at ridiculously low prices, it does not avoid the possibility. I would like to urge the Finance Minister to consider whether he would not like to include an "enabling provision" whereby whenever either the taxation authority or Registrar or such government department, as may be specifically authorised, deems such registration to be at ridiculously low prices, it should have the right to take over the property by paying about 5, 10 or 15 per cent over the registration value. That alone will be an effective deterrent to this continued process of undervaluation in registration.

This, to my mind, opens out certain other possibilities too. Once Government is willing to take over such under-valued properties, I do not see why it should be restricted to only properties where registration has been low. It should also extend to properties where returns for wealth tax purposes, or estate duty or other purposes, is found to be unduly low. There also, Government should have the right to take over the property

giving 5 or 10 per cent extra, whatever be the formula evolved, over the evaluation in the estate duty or wealth tax return concerned. If for any reason the Finance Minister feels that he cannot include such a provision now, I would urge him to consider it and bring in such an enabling provision as early as possible, and at a convenient date.

I would like to draw your kind attention to one other matter in this Bill, and that relates to Clause 19(b) wherein a provision has been made enabling Government to accept or take over property in satisfaction of the whole or any part of estate duty due. I would like to submit to the Finance Minister through you that this provision should be extended to cover all direct taxes. There is no need to limit this facility to estate duty only. It should cover all direct taxes. If any assessee would like to give over any property as payment of taxes, it should be acceptable to Government. I do not see any difficulty in this regard. I hope the Finance Minister will consider these possibilities, too.

With these observations, I support the Bill.

**Shri Kashi Ram Gupta:** Mr. Deputy-Speaker, Sir. Before I come to the clauses of this Bill, I would request the Finance Minister to give his consideration to the assurances given on the floor of this House. One of these was about the late filing of returns and the penalty thereon. The hon. Finance Minister had assured that this provision would not be taken seriously and latitude would be allowed to the people, but so far as my knowledge goes, the assessing authorities do not care, do not seem even to know about this assurance, and they are taking the same steps, and on the basis of the provision, some people being harassed. So, I would request

[Shri Kashi Ram Gupta]

the hon. Finance Minister to see whether a directive cannot be sent to the authorities concerned, or if it has been sent, to see that they implement it. If the assurance has not reached the taxing authorities, that must be sent as soon as possible.

Dr. M. S. Aney: Immediately.

Shri Kashi Ram Gupta: Then there is a system of fixing the district targets for income-tax realisation. As a matter of fact, this is being used to coerce the people. The targets are only meant to give some rough idea, not that they must be fulfilled at any cost, whether practicable or not. Therefore, it is very necessary that the income-tax authorities must be given a directive not to coerce people like that. Especially in the districts where low-income people reside, they have to face these things in a very bad way.

Then, I may point out that there should be a code of conduct for higher authorities when they visit the districts. I have seen that Commissioners of Income-tax or some other higher authorities, when they visit the districts, use the cars of assesses, and there are also some ways in which they are entertained, and honest and simple officers are put in a very awkward position when such officers arrive there. Therefore, there should be a strict code of conduct so far as the tours of these persons are concerned.

Then, what is going on is this. There are some honest officers who have got the human touch. Naturally, they want to see that the small assesses are not harassed, but again the authorities from above try to force them to realise the targets in such a way that even against their will they have to do it.

Then, in my opinion, when there are always controls of this kind and

that kind, there should be a wing in the Finance Ministry to see the effects of such controls. For example, the Gur Control Order of U.P. has given rise to so many smugglers and black-marketeers, so many persons are involved in it and lakhs and crores have been evaded. Unless and until a scientific way is evolved to find out such culprits, this black, unaccounted money will go on increasing. Of course, the policy should be liberal to small persons always.

Then, I have to refer to a very important point. Up till now, dead-ends and royalties under the Mineral Concession Rules were treated as coming under revenue expenditure, but due to certain High Court decisions, there is an anomaly, because some High Courts have taken it as revenue expenditure, while others are treating it as capital expenditure. The income-tax authorities, instead of taking remedial measures, are thinking of realising money on the basis of such decisions. My humble submission is that, in the first place, the Mineral Concession Rules of the Government of India and the Mines and Mineral Concession Rules of the States should tally, and if there are certain judgements on the old rules, then, of course, they cannot be applied now, and cannot be made a general thing. Even if it is so, on practical grounds, never can these expenses be treated as capital expenditure, and if they are treated like that, it will even go to harm our big industries like the steel plants even. Therefore, the necessity is that immediate steps should be taken to remedy this, and an amendment, if necessary, must be brought in to treat this expenditure as revenue expenditure. Personally, I think there is no need of an amendment, even a directive will do. Anyhow, this should be examined, and without any delay it should be remedied.

So far as the low income group is concerned, the present limit is not conducive to the people. It is now quite certain that the present high prices are not going to be lowered. They may not be allowed to rise further, but they are not going to come down, and the present index of prices is such that these people have to face hardships.

Now, I come to the clauses. So far as Clause 5 is concerned, many friends have spoken before me. My humble submission is that Shri Jawaharlal Nehru was a man whose spirit and whose wishes were quite different, and this action of the Government is quite contrary to his own wishes and spirit, because he was a man who never liked the money of the monopoly class to be used in such cases. This Clause is clearly meant to benefit the moneyed class in the name of contribution. Therefore, I have strong objection to it, and in my opinion, it has been put in a hurry. This should be further examined and put off till at least the next Budget comes in. At the same time, Shri Jawaharlal Nehru's name should not be made so cheap as to allow the monopoly capital to use it for their own purposes.

So far as Clause 10 is concerned, I may very humbly say that the process of this clearance certificates is very cumbersome in the Income-tax Department, and people are much harassed. In spite of directives, there is more delay. And now not only income-tax, but Wealth Tax and Estate Duty have also to be cleared. There is no provision and it is not clear whether people who do not pay Wealth Tax or Estate Duty will need to get Wealth Tax and Estate Duty clearance certificates. It is put in such a way that there is confusion. There should be more clearcut wording and it should be bound down upon the authorities to give them within a specified time.

So far as clause 18 is concerned, it is all right so far as PWD business

is concerned. In my opinion there are other class of people for whom there should be an amendment. For instance, the transport people must also be bound down to declare such things at the time of purchase of their transports. Among people who avoid taxes are doctors and lawyers and those people must also be specially dealt with because I have seen an American expert's report that in India tax evasion is done by a certain class of people. So far as the point about limit is concerned, I agree with my hon. friend Shri Morarka on principle. The limit should be lowered down from Rs. 50,000 to Rs. 25,000, but not to Rs. 10,000 so that people may not be able to evade these things.

All the amendments which had been brought forward by the hon. Finance Minister according to his assurance are quite all right. Still there are certain things left behind and I hope that in the next Finance Bill there would be no such lacunae and the anomalies would be removed.

श्री सिंहासन सिंह (गोरखपुर) :

उपाध्यक्ष जी, इस विधेयक का सदन में सब ओर से किसी न किसी रूप में स्वागत हुआ है। मैं भी इसका स्वागत करते हुए, इसके कुछ प्रावीजन्स की ओर अर्थ मंत्री का विशेष ध्यान दिलाना चाहता हूँ।

इस विधेयक के द्वारा इनकम टैक्स में और कुछ और टैक्स में रिलीफ दिया गया है। लेकिन जो रिलीफ दिया गया है उसको देखने के बाद ऐसा लगता है कि फाइनेंस मिनिस्टर के ऊपर कुछ दबाव पड़ रहा था—क्योंकि कहा गया कि पांच सौ से ज्यादा रिट पिटीशन अभी पड़े हुए हैं—जिसके कारण उन्होंने बड़े बड़े पूजीपतियों को इस बिल के जरिये रिलीफ दिया है और साथ में कुछ औरों को भी दिया है।

भ्राज देश में महंगाई के कारण चारों ओर हाहाकार मचा हुआ है। आप देखें कि

[श्री सिंहसन सिंह]

इस बिल में बड़े आदमियों को चेरिटेबिल ट्रस्ट के मामले में रिलीफ दिया गया है, कहीं कहीं रोकथाम भी है, कुछ किराए में भी रिलीफ मिल रहा है। किराए की रिलीफ का मैं स्वागत करता हूँ। लेकिन आप देखें कि आज देश में महंगाई के कारण चारों ओर हाहाकार मचा हुआ है। इस समय सरकार को नीचे के वर्गों को जिनकी आमदनी कम है कुछ रिलीफ देना चाहिए था। आज जो इनकम टैक्स के लिए टैक्सबिल लिमिट 3000 या 3200 है उसको बढ़ा कर 4200 या 5000 कर देना चाहिए था। इससे ज्यादा लोगों को राहत मिलती और आपको ज्यादा आशीर्वाद मिलता। जितने सैलेरीड क्लास के लोग हैं आज महंगाई भत्ते की मांग कर रहे हैं। चारों ओर से महंगाई की मांग है। हड़तालें भी हो रही हैं। जो कम आमदनी वाले लोग हैं, जिनकी तनख्वाह 3200 है उनको अगर कुछ रिलीफ दे दिया जाता तो यह मांग कुछ कम होती।

दूसरे आज अन्न की इतनी कमी है। अन्न की पैदावार बढ़ाने के लिए सरकार चौथी योजना में कृषि पर ज्यादा खर्च करने का विचार कर रही है। आपने जो प्रवचन दिया था उसमें फाइनेंस बिल का हवाला देते हुए कहा था कि फाइनेंस बिल की बहस के समय बहुत सी चीजें मांगी गई थीं। उन्हीं मांगों को ध्यान में रखते हुए यह रिलीफ मेजर आज लाया गया है। मैं आपको स्मरण दिलाऊँ कि फाइनेंस बिल के समय यह मांग थी कि जो डीजल किसान काम में लाता है वह महंगा पड़ रहा है, उसकी ड्यूटी कम की जाए। किसान इस से मशीनें चलाता है, ट्रैक्टर चलाता है। उस वक्त कहा गया था कि किसान को डीजल आइल महंगा पड़ रहा है। अगर आप यह रिलीफ जो आपने बड़े आदमियों को दिया है, वह आप किसानों को दिए होते तो किसान जहां अपने खेत में एक पानी

देता है वहां तीन पानी देने की सोचता, जहां एक बार खेत जोतता है वहां दो बार उसे जोतता। आज काश्तकार को डीजल आइल 12 रुपये टिन मिलता है। इसलिये उसको अधिक पानी देना या अधिक जुताई करना संभव नहीं मालूम होता। उसको कुछ रिलीफ मिलना चाहिए। मैं सोचता था कि जो आपकी दया दृष्टि उधर जा रही है वह किसानों की ओर भी जाएगी क्योंकि आज देश में अन्न की कमी है, और अन्न की पैदावार बढ़ाने के लिए सरकार को ऐसा कदम उठाना चाहिए।

अभी हाल में प्रधान मंत्री का एक वक्तव्य निकला था और वह बहुत सही था कि हम चौथी प्लान में देखेंगे कि कृषि का उत्पादन बढ़ाया जाए। अब तक इंडस्ट्री की तरफ ज्यादा ध्यान रहा है, कृषि की तरफ कम ध्यान रखा है। कृषि की पैदावार बढ़ाने के लिये किसान को अविलम्ब रिलीफ दिया जाना चाहिए। मुझे उम्मीद है कि अब इस बात पर ध्यान दिया जाएगा कि जो डीजल इतना महंगा हो गया है उसको सस्ता किसान को दिया जाएगा और किसान के लिए बिजली की दर कम की जाएगी। अगर किसान को इस प्रकार की कुछ सहूलियत दी जाए तो उत्पादन बढ़ सकता है। साथ ही जो नीचे की श्रेणी के लोग हैं उनको भी रिलीफ दिया जाना चाहिए।

इसमें एफ और बहुत अच्छी चीज आपने रखी है कि जो पचास हजार की प्रापर्टी का ट्रांसफर कराना चाहे उसे उस के बारे में टैक्स क्लियरेंस सरटिफिकेट पहले दाखिल करना होगा। मोरारका साहब ने कहा कि यह लिमिट ज्यादा है। मैं भी उनके सुझाव का स्वागत करता हूँ। अगर आप इतनी ऊंची लिमिट रखेंगे तो लोग टैक्स से बचने के लिए छोट छोट ट्रांसफर करेंगे, दस दस या पांच पांच हजार के ट्रांसफर करेंगे। आप लिमिट कम कर देंगे टैक्स एवाइड करने



वाले तो फिर भी एवाइड करने की कोशिश करेंगे लेकिन फिर भी आपके सामने ज्यादा चीज आवेगी ।

दूसरे आपने एक और अच्छी चीज इसमें रखी है कि जो कोई व्यक्ति पचास हजार या इससे अधिक के मकान बनाने का ठेका दे वह एक महीने के अन्दर उसकी सूचना इनकम टैक्स आफिसर को दे दे ताकि पता चल जाये कि रुपया कहाँ से आ रहा है । लेकिन इस प्रकार के मकान बनाने के ठेके या तो सरकार देती है या कम्पनियाँ देती हैं । व्यक्ति विशेष बहुत कम ऐसे ठेके दिया करते हैं अगर मोरारका जी दो लाख का मकान बनायेंगे तो वे उसका लेबर का ठेका तो दे देंगे लेकिन और सामान का ठेका नहीं देंगे, वे अपना लोहा, सीमेंट आदि खुद सप्लाई करेंगे । तो इस तरह आपको ब्लैक मनी का पता नहीं चल सकेगा । काफी मकान बने हैं, उनमें बहुतों में ब्लैक मनी लगा है । यहाँ करपशन की बहुत बातें होती हैं और कहा जाता है कि ब्लैक मनी छिपा हुआ है । लेकिन मेरा खयाल है कि ब्लैक मनी किसी न किसी रूप में प्रकट है, अधिकतर मकानों के रूप में या सोने के रूप में । आपने कुछ लोगों के लाकर इनवेस्ट किए लेकिन बहुत से बड़े बड़े लोगों के नहीं किए और उन्होंने अपने लाकरों से अपना माल निकाल लिया । अगर आप इनवेस्ट करने से पहले ऐसा आदेश दे देते कि आज से कोई बैंक लाकर से किसी को सामान न निकालने देगी और फिर इनवेस्ट करते तो आपको बहुत कुछ मिलता । लेकिन ऐसा नहीं किया गया । इसी कारण सरकार जो कदम उठाती है उसका उलटा असर पड़ता है ।

जहाँ तक मकानों का सवाल है, ये तो सामने प्रकट हैं । सन् 1950 से आज तक बहुत मकान बने हैं । अगर आप जिला मजिस्ट्रेटों को आदेश दे दें तो वे पता लगा सकते हैं कि सन् 1050 से अब तक कितने मकान

बने हैं और तब आपको पता लग जाएगा कि यह रुपया कहाँ से आया । इसमें बहुत से करप्ट आफिसर भी पकड़े जाएंगे और बहुत सा ब्लैक मनी आपके सामने आ जाएगा । इसलिए ठेकेदार के द्वारा मकान बनाने का पता लगाने के बजाय आप जिला मजिस्ट्रेट के द्वारा यह पता लगाएं आप जिला मजिस्ट्रेटों को आदेश दे दें कि जो मकान बने उसकी सूचना वे इनकम टैक्स आफिसर को दे दिया, करें कि फलां का मकान बन रहा है । यह काम कठिन नहीं है, क्योंकि कोई मकान म्युनिसिपैल्टी में या कसी कारपोरेशन में बगैर परमिट के नहीं बनता है । उसके लिए नक्शा पास होता है और दूसरी और कार्यवाहियाँ होती हैं ।

चूँकि घंटी बज चुकी है इसलिए मैं अब और अधिक न कह कर फिर एक दफे मन्त्री महोदय का इधर ध्यान दिलाऊंगा कि अच्छा हो अगर वह एक दूसरा संशोधन बिल लाये और छोटे स्तर के तनख्वाह वालों को भी रिलीफ दें ताकि लोगों को मालूम हो कि रिलीफ सरकार द्वारा चारों तरफ बंटी है न कि केवल करोपड़तियों के बीच में ही बंटी है ।

**Dr. L. M. Singhvi (Jodhpur):** Mr. Deputy-Speaker, Sir, the Bill before us is to be welcomed as an instalment in the rationalisation of our tax system, indeed as a necessary consequence of the experience acquired in operating the parent Act, and in view of the fact that certain unintended hardships had appeared on the horizon of tax administration in our country. One is therefore impelled to say that in so far as the Bill goes, it is very much to be welcomed.

I would, however, also add that this is a somewhat insignificant and small step in that direction. We are entitled to expect a more comprehensive piece of legislation before us for recasting and streamlining the tax system in our country. One is impelled to object to the various omis-

[Dr. L. M. Singhvi]  
sions in the Bill rather than against what it contains.

Mr. Deputy-Speaker, you would recall that the Finance Minister had at one time promised to this country that he would bring about a recast of the tax structure in the country. We would like to have an earnest of that promise; we would like to have; successively and progressively, and in instalments if necessary, otherwise in the form of a comprehensive Bill if possible, a complete blueprint of tax reforms in this country which would go far, which would go deep.

I also want to invite the attention of the hon. the Finance Minister to the question of modifying the present machinery of tax adjudication. I would have hoped that an opportunity would be taken while bringing forth this Bill to give us an idea of what changes in the tax adjudication machinery can be effected or is likely to be effected in the near future. Only this morning, Sir, answering a question during the Question Hour, the Law Minister said that the question of eliminating the Income-tax Appellate Tribunals is engaging the serious attention of the Government. You would recall, Sir, that this suggestion had been made at one time by the Chief Justice of India, and the Government naturally felt that the suggestion deserved to be examined in greater detail. I was disappointed, however, when the Law Minister was unable to tell us of the reasons and the advantages adduced as grounds in favour of eliminating the Tax Tribunals and vesting these powers in the High Courts. I should like to welcome the Law Minister's opinion voiced this morning on the floor of this House that the trend of academic analysis is that the High Court should be vested with powers of adjudicating both on facts as well as law. This would, I think, strengthen the structure of the rule of law which we are so anxious to preserve and promote in our country. Because, the arbitrariness of the revenue-collecting officials, the various com-

pulsions which drive them to collect and even to exact taxes, the various modalities employed by them, the various tactics pressed into service by them, have become a bane of the tax administration in our country; and unless a structural, institutional and functional reform is carried out in the machinery of tax adjudication, the assessee would continue to be harassed, would continue to be bedevilled by the tactics of the Income-tax officials.

I would like to refer to one more matter and I would have done. I feel that there is considerable ground for allowing royalty payments based on mining output as allowable business expenditure, as expenditure which would be deductible in the computation of business income. This I say, Sir, in view of the fact that the Taxation Enquiry Committee of 1953-54 as well as the Tyagi Committee felt that where royalty is payable on the basis of production of mining material, it is clearly admissible as deductible business expenditure. The Tyagi Committee said in clear words:

"The royalty payable on the basis of output is clearly admissible under the Income-tax Act. It was pointed out that these payments of royalty, whatever their mode of calculation and however they may be judicially interpreted, have to be made for the purpose of working the mines and extracting minerals. There is great force in these arguments and we feel that disallowance of royalties in the assessment cases of mining industry would obviously hamper its development and ability to compete in the world markets."

An assurance was sought to be conveyed in this House by the then Finance Minister in this respect that royalty payments based on output are deductible as business expenditure. However, on account of a recent judgment, of the Rajasthan High Court, this is not the position. The result is that royalty payments are no

longer regarded as deductible business expenditure.

Sir, even after the decision of the Supreme Court in the cases of Pingle Industries and Abdul Quyam, the Income-tax Department continued to allow royalty payments based on output as deductible expenditure in the computation of business income. This has ceased to be after the judgment of the Rajasthan High Court. Before this a Full Bench of the Lahore High Court and a judgment of the Privy Council had held that payment of royalty was the price of the raw material or stock in trade and therefore it was considered to be a revenue expenditure. It would be appropriate if the Finance Minister proceeds to give relief in this respect to the mining industry. Otherwise I apprehend that the mining industry in various parts of the country, and particularly in the State from which I happen to hail, would suffer a setback from which it may not recover for a long, long time to come.

**Shri Kashi Ram Gupta:** The Calcutta High Court has treated it as revenue expenditure.

**Dr. L. M. Singhvi:** I am aware of that. But unfortunately the Department has proceeded not to permit the royalty payments as deductible expenditure in the computation of business income. I would hope that the Finance Minister would consider this matter on its merits which are intrinsically very convincing and persuasive, and which I hope would be found all the more compelling in view of the objective to which we are committed, namely, the development and promotion of the mining industry in our country. I hope the Finance Minister would be able to tell us, when he rises to reply to this debate, as to what measures and according to what time-schedule he proposes to carry out to streamline the tax administration in this country and to reform the machinery of tax adjudication in our country. He would also, I hope, be able to say or react to the

submission that I have made in respect of permitting or allowing royalty payments as deductible business expenditure in the computation of the business income.

**श्री यशपाल सिंह (कैराना) :** उपाध्यक्ष महोदय, इस वक्त ज़रूरत इस बात की थी कि कोई कम्प्रोमिसिबल बिल लाया जाता, लेकिन माननीय वित्त मंत्री ने ज़हम को धोने के बजाये पट्टी को धोने की कोशिश की है। यह समझ में नहीं आता कि थोड़े से ब्रादरियों को रिलीफ़ मिलने से 44 करोड़ जनता का क्या फ़ायदा हो जायेगा।

इस बिल की क्लॉज 3 में यह व्यवस्था की गई है कि बिजिनेस एक्सीक्यूटिव्स को रेज़िडेंशियल एकमोडेशन के किराये के लिए अपने एम्प्लायज़ से जो स्पेशल एलाउन्स मिलता है, उसको टैक्स रेमिशन दिया गया है। बिजिनेस एक्सीक्यूटिव्स को तो यह टैक्स रेमिशन दिया गया है, लेकिन ग्राम सरकारी कर्मचारी और सरकारी आफ़िशल को हाउस-रेंट एलाउन्स पर कोई टैक्स रेमिशन नहीं दिया गया है। उन बड़े बड़े ब्रादरियों को और रियायत देने के लिए ही यह बिल लाया गया है। इस बिल में एक क्लॉज भी नहीं है जिससे हम यह जान सकें कि इस बढ़ती हुई महंगाई के ज़माने में, जब कि गेहूँ चालीस, पचास रुपये मन बिक रहा है, किसी छोटे गवर्नमेंट सर्वेंट को कोई रियायत दी गई हो।

यह भी समझ में नहीं आता है कि रेंट टैपिज़्म को क्यों ज्यादा मजबूत किया जा रहा है, नौकरशाही के ह्युंजों को क्यों ज्यादा खुल खेलेने का मौका दिया जा रहा है? क्लॉज 18 में लिखा गया है :

"Where any person...enters into a contract for the construction of a building for, or the supply of goods or services in connection therewith to, any other person, the value of which exceeds fifty thousand rupees, he shall within one month of the making

[श्री यशपाल सिंह]

of the contract, furnish to the Income-tax Officer having jurisdiction to assess the contractor such particulars relating to the contract and in such form as may be prescribed."

इसका सीधा सा मतलब यह है कि 46,000 या 48,000 रुपये के कंट्रैक्ट्स दिये जायेंगे और इसमें नौकरशाही के हथकंडे इस्तेमाल किये जायेंगे। ज़रूरत इस बात की थी कि मकान बनाने वाले—मालिक मकान—के बजाये कंट्रैक्टर का हिसाब देखा जाता कि उसने कितने कंट्रैक्ट्स लिये हैं। कंट्रैक्टर को उस वक्त लिया जाता जब कि वह बड़े-बड़े ठेके ले रहा है, बजाये इसके कि मालिक मकान को रेड टैपिज्म के मातहत और नौकरशाही के अण्डर लेने के लिए 50,000 रुपये की क्लॉज रख दी जाये। सरकार मालिक मकान को मजबूर करने के बजाये कंट्रैक्टर, गवर्नमेंट कंट्रैक्टर, या जो ठेके पर काम करते हैं, उनका हिसाब, उनकी एकाउण्ट बुक, बैंक बुक और बैंक बैलेंस देखे।

जब तक सरकार मुनाफ़ाखोरी नहीं छोड़ेगी, तब तक पब्लिक मुनाफ़ाखोरी को नहीं छोड़ सकती है। सरकार ने हम किसानों की ज़मानों पांच रुपये गज पर लीं और फिर उन्हीं ज़मानों को 250 रुपये गज के हिसाब से बेचा। अगर सरकार इस मुनाफ़ाखोरी की ज़हानियत को दूर नहीं करेगी, तो फिर वह किस तरह यह उम्मीद कर सकती है कि मिल मालिक या कंट्रैक्टर मुनाफ़ाखोरी छोड़ देंगे।

हमारा ख्याल था कि माननीय वित्त मंत्री इस बिल में गरीब जनता के लिए, टायरलिंग मासिज़ और एक्सप्लायटिड मासिज़ के लिए कोई रोगानी की किरण लेकर आयेंगे, लेकिन इस सारे बिल में एक जगह भी नहीं कहा गया कि पांच एकड़ का काश्तकार टैक्स से मुस्तसना किया जायेगा, जब कि इस हाउस में हजारों

दफ़ा यह वादा किया गया है कि छोटे काश्तकार को फ्री दिया जायेगा। छोटे काश्तकार को एक पैसा भी रिलीफ़ नहीं दिया गया है। बल्कि सरकार की नीति इस बात से स्पष्ट हो जाती है कि बिड़ला कम्पनी को तीन नये पैसे फ्री यूनिट के हिसाब से बिजली दी गई है, जबकि किसानों को 19 पैसे फ्री यूनिट के हिसाब से बिजली दी गई है। इतने बड़े गैप को भरने के बजाये नये-नये बिल इसलिए लाये जा रहे हैं कि बड़े-बड़े आदमियों की इमदाद की जाये।

मेरी दरख़वास्त है कि अगर इस बिल को सही रूप में लाना है, तो इसमें इतनी क्लॉज ज़रूर रखी जाये कि जिन लोगों से सेल्ज टैक्स लिया जा रहा है, उनको इन्स्पेक्टर्ज के मातहत न छोड़ा जाये। आज़ इन्स्पेक्टर्ज को इतने अक्षयारात दिए गए हैं, जितने ब्रिटिश पीरियड में हाईकोर्ट के जज के पास भी नहीं थे।

मैं आपको इन्फ़र्मेशन के लिए यह अर्ज़ करना चाहता हूँ कि यू० पी० सरकार ने तम्बाकू पर 75 रुपये मन का टैक्स लगाया है, जब कि उसने तम्बाकू की कीमत 45 रुपये मन तय की है। जिस चीज़ की कीमत 45 रुपये मन है, उस पर 75 रुपये मन टैक्स कैसे हो सकता है? लेकिन इन्स्पेक्टर्ज को इतने अक्षयारात दिए गए हैं कि वे किसानों और प्रोड्यूसरों को इस बात की तरगीब देते हैं कि अगर वे सौ मन पैदा करते हैं, तो वे दस मन तो सरकार को दिखा दें और बाकी नब्बे मन ब्लैक मार्केट में बेच दें। मैं यू० पी० के 52 जिलों की हालत जानता हूँ। हम देखते हैं कि एक गरीब बनिया अपनी छोटी सी दुकान लिए हुए बैठा हुआ है, जहाँ पर वह थोड़ा बहुत सामान बेच कर दो रुपया कमाता है और गुज़रे-श्रीकात करता है। उसका बूढ़ा बाप भी वहाँ बैठा है, क्योंकि उसका मकान गिर गया है। उसने अपने बच्चे को

भी अपने साथ दुकान पर बिठा लिया है, ताकि वह वाहियात न हो जाये, ताश खेलना और पान खाना न सीख जाये। इंस्पेक्टर उन दोनों को इन्क्लूड कर के यह दिखाता है कि इस दुकान में तीन आदमी काम करते हैं, इसलिए उसको हेवी टैक्स दे देना चाहिये।

सरकार इस बिल में ऐसी व्यवस्था करती कि एग्जीक्यूटिव और छोटे दुकानदार को कुछ राहत मिलती। राहत किनको मिली? राहत उन को मिली है, जो करोड़पति हैं। करोड़पतियों को और ज्यादा रियायत देने के लिए यह बिल लाया गया है।

सेन्ट्रल गवर्नमेंट ने चीफ मिनिस्टर्स की कॉन्फ्रेंस में यह सवाल रखा था कि सेल्ज टैक्स को एक्साइज के मातहत कर दिया जाये। यह सीधी सी बात है कि अगर सेल्ज टैक्स एक्साइज के मातहत हो जाये, तो बीस जगह टैक्स न देना पड़े और हमको तसल्ली हो जाये कि धोती-जोड़े और माचिस के बाक्स पर एक जगह टैक्स लिया गया है। लेकिन एक चीज बीस जगह बिकती है और बीस जगह टैक्स देना पड़ता है। जब चीफ मिनिस्टर्स के सामने यह प्रॉपोजल रखा गया, तो उन्होंने कहा कि यही तो हमारी कामधेनु है, इसी से हम लोगों से रुपया वसूल करते हैं, इसी से हम मालामाल होते हैं और आप इसी को बन्द करने जा रहे हैं।

माननीय वित्त मंत्री से मैं यह निवेदन करूंगा कि यथा नाम तथागुण होना चाहिये। उनका नाम कृष्णमाचारी है। इसलिए उन को भगवान् कृष्ण के समान आचरण करना चाहिये। भगवान् कृष्ण ने घी-दूध पर टैक्स छोड़ दिया था। उन के समय घी-दूध, चरागाह किसान, छोटे कल्टीवेटर और छोटे दुकानदार पर कोई टैक्स नहीं था। आज हम देखते हैं कि मिल-मालिकान सेल्ज टैक्स और इनकम टैक्स का 450 करोड़ रुपया मार कर बंटे हुए हैं। उस रुपये को वसूल करने के

लिए कोई तारीख नहीं है, कोई डिक्री नहीं है, किसी तरह का कोई आर्डर नहीं है। लेकिन अगर एक किसान की तरफ आबपाशी का पांच रुपया भी बाकी रह जाये, तो उस को पकड़ कर जेल में डाल दिया जाता है।

मेरी दरइवास्त यह है कि देश की हालत बिगड़ती जा रही है। अगर सरकार इसका इलाज नहीं करेगी, तो जनता इसका इलाज जरूर करेगी। हम सरकार के हितैषी हैं। हम सरकार और माननीय वित्त मंत्री से यह आशा करते हैं कि जिस तरह से उन्होंने गोल्ड कंट्रोल के सम्बन्ध में आगे बढ़ कर काम किया है और देश का हित किया है, उसी तरह से वह किसान, छोटे दुकानदार, छोटे टैक्स-पेयर और छोटे गवर्नमेंट सर्वेंट को राहत दें। बड़े-बड़ों की तरक्की और मदद सब करते हैं, लेकिन भगवान् कृष्ण का यह गुण था कि वह दीनबन्धु थे। श्री कृष्ण-माचारी भी दीनों की मदद कर के दिखायें।

**श्री कपूर सिंह (लुधियाना) :** भगवान् कृष्ण तो माखन-चोर भी थे।

**श्री बी० च० शर्मा (गुरदासपुर) :** भगवान् कृष्ण ब्राह्मणों की मदद करते थे।

**Mr. Deputy-Speaker:** The Finance Minister.

15 hrs.

**Shri Bade:** Sir, is not my name there in the list of speakers?

**Mr. Deputy-Speaker:** I am sorry, it is not there. Shri Trivedi from your party has already spoken.

**The Minister of Finance (Shri T. T. Krishnamachari):** Mr. Deputy-Speaker, Sir, I had followed the speeches made by hon. Members with a considerable amount of interest. Broadly, it seems that many have welcomed this measure because it gives a certain amount of relief in cases of hardship—not relief from taxation but relief from hard-

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ship on the working of taxation laws which cause hardships.

This is not a comprehensive Bill at all; I made no claims of that nature. Of course, some hon. Members had raised the point whether the occasion should not be taken to provide a large measure of relief. I think hon. Members must be aware that in the last Finance Bill, in the case of a person who has a wife and two children the limit was raised to Rs. 4000.

15.02 hrs.

[MR. SPEAKER in the Chair]

**Shri Kashi Ram Gupta:** The prices have gone further up.

**Shri T. T. Krishnamachari:** It has, I agree. But, any way that was done. Somebody did mention it should go to Rs. 4000. I am replying to those suggestions. I only mentioned that some concession was made at the time of the Finance Bill. So far as this measure is concerned, I make no claim that it is something which gives a general relief. In fact, as hon. Members pointed out, I had promised to look into some of the points raised by hon. Members at the time of the Finance Bill and it is in response to that promise that certain reliefs are given where, as I said before, the law is really hard. For instance, in cases where Government of their own volition bring a company into liquidation the entire amount of money that is in the reserves should not be treated as dividend and taxed and some portion of it which need not have been ploughed in with any knowledge that the company will go into liquidation or will be taken over by Government should be separated. Instead of paying the normal income-tax on the entire amount that portion of the amount which has been ploughed into reserves three years before Government's decision was made known would only attract capital gains.

In fact, this Bill is not intended to benefit any particular section of the community, as for instance the capitalists. I think the idea was that the capitalists, people who have a large income, would not benefit considerably because of these concessions because they will be paying a very high rate of capital gains tax, and it is only in the case of the smaller people that it might help.

Similarly, the question of concession in regard to rent has a limitation of Rs. 300. It is not intended to help the bigger people but only the medium and smaller type of people.

I think the general charge that this is intended to help the affluent class is not right. Even in the question of taxation of that income which goes to charity, from which they were exempt, we seek to give some relief only where the beneficiary happens to be a charitable trust which in turn helps only the needy people. Therefore, I would humbly submit that any charge that has been made on the floor of this House that it is intended to benefit any particularly affluent class is not right.

Sir, suggestions have also been made by hon. Members by means of amendments. Some of them want to tighten the provisions. For instance, one set of amendments do not want the three-year limit to be put in respect of companies which go into liquidation where a portion of the amount distributed is sought to be treated as capital and therefore taxed under the Capital Gains Tax. The whole idea is, as my hon. friend Shri Morarka explained, if people with any knowledge of some such thing happening plough their income into the reserves so as to get away from the obligation to pay taxes on dividends, that should be avoided. Hon. Members might ask, why there is a three-year limit? In fact, I think, in a previous wording of this taxation—I think it was in 1954-55—there is a total limit of six years right up to the time of payment. Well I can understand if hon. Members say

that three years is too long a period and two years is the proper thing. It is a matter of judgment, and the judgment of hon. Members may be better than mine. Somebody may say that three years gives a large concession, it should be made into 4 years. But I do not understand the reason for completely taking away this limit which, I think, is inherent in any concession of this nature.

On the other hand, my hon. friend Shri Morarka had suggested that if we put a limit of Rs. 50,000 either in respect of contract or in respect of notification of persons who transfer property or acquire them it is likely to be avoided. It is true. As somebody mentioned, Rs. 48,000 might be the amount so as to avoid this. We will have to watch such cases. In fact, as some hon. Members did mention, provisions of this nature throw an enormous amount of burden on the taxing authority and it is also likely that the area of people to be covered becomes wider. It may be that there might be a *bona fide* transfer of property which is not of a very high value, not above Rs. 50,000. I give this assurance to hon. Members who had suggested this amendment, that I appreciate the basis or the reason for which they have made this suggestion. But let us work this for some time. We are making a change. We are putting in a limit and we are trying to get people outside this limit. If, say, after working for a period of a year or so, even in the six months period that would elapse between now and the Finance Bill next year we find that evasion is there, I would come to the House and say that I will lower it. Therefore, I submit to hon. Members that it is not that I do not appreciate their desire to make the measure cast iron, but I do not want to increase the area unnecessarily, I do not want to increase the area of control. We will have to do it after experience. Therefore, I assure them that I will watch the position. Always any limit is arbitrary. Even

Rs. 10,000 is arbitrary. We are fixing a limit of Rs. 50,000 because that is not on the abnormal side. It may be that for flats in Bombay it may be Rs. 30,000. We will watch the position and see. Anyway, Rs. 10,000 is a very small limit. It may be Rs. 25,000 or Rs. 30,000. I will certainly watch the position and if I need any change I shall come to this hon. House.

Certain fears were expressed in regard to arbitrary refusal or unnecessary delay, and certain provisions are sought to be suggested. I will give this assurance that in the rules that I make I shall put in the safeguard necessary for the purpose, that there should be no undue delay. We shall put a limit by which a person should either refuse or grant the certificate and then leave the party who is affected to take such further proceedings as he wants. But I do not think it is necessary for me to put it in this statute.

Some hon. Members said that I have given certain assurance in regard to self-assessment. I may tell them that this assurance has been conveyed by means of instructions to the income-tax officers. If my hon. friend has any particular instance in which he thinks that it has been ignored, I should be happy to have the details of that particular case. I will look into it. I shall, before long, be meeting the Commissioners of Income-tax and this is one of the things that I propose to tell them, that while we are considering the question of checking evasion we have, at the same time, to be careful in regard to avoiding any harassment which is unnecessary. I shall not lose any occasion to hammer this down to the minds of the officers concerned. And I think if anybody feels that he has been taxed more than what he ought to pay, he immediately comes up and questions the intentions of the officer, though it is not always the case. It is true that I am myself offended sometimes when there is an arbitrary element in taxation or interpretation of taxation. But that

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is normal. In fact, if we are injured we always try to rationalise. There is a story in my part of the country that a very rich moneyed man, who was ignorant, had gone to the court, as most of those people of those days were litigants, and he lost the case. He called his clerk and asked him the result of the case and he was told that he had lost it. He immediately asked: "What? Did the lawyer not urge the merits of my case?" The clerk replied: yes, the lawyer spoke for three days. Then he asked: is the judge a fool? Because, according to him, if the lawyer did his best and still he lost the case, the judge must be a fool. That is the logical answer. It is an inherent trait of human nature to rationalise everything when we think something has gone wrong. But, nevertheless, I do not rule out the possibilities of there being a case of harassment here or there, where something is being done in a hasty or abrupt manner. But, by and large, most of these officers are not bad. They may also be harassed sometimes; they may be over-worked or worried or afraid of pressures. Today their position is very difficult. Often many income-tax officers come and tell me that they have been told that unless they do this, or that, they are going to be reported. Of course, once you report against a person there is no relief. The report will come and it will have to be enquired into. So, the other side of the picture should also be understood by the hon. Members.

In regard to one matter raised by my hon. friend, Shri Banerjee, on the question of arrears, may I tell him that as against the budgeted figure of Rs. 440 crores the collection last year was Rs. 524 crores? The collection in the last month was so heavy that the collections in the subsequent months are limping. So there has been an enormous amount of effort and there has been a considerable amount of increase in the collections. I think the collections during the last

month amounted to Rs. 139 crores. And I may tell him that while the book arrears of income-tax in March this year was about Rs. 290 crores, quite a lot of it are amounts which are not going to be recoverable. The effective arrears are about Rs. 170 crores in regard to income-tax, Rs. 6 crores in regard to wealth tax, Rs. 4 crores in regard to estate duty and Rs. 81 lakhs in regard to gift tax. In the totality of collection of about Rs. 524 crores, I think these Rs. 200 crores is not very heavy.

Of course, as I watch the drawals from the Reserve Bank week by week, naturally, I have also to think in terms of what the collections are. And it is very queer that sometimes watching these collections also gives you a certain amount of uneasiness. I have found that the customs revenue is going up, growing up rather fast. When I analysed this, I found that a major item happens to be kerosene. Of course, it is a good thing to have more kerosene because it means a little more supplies. At the same time, it means a certain amount of erosion into the limited foreign exchange that we possess. It is a matter which we have to watch. I do not think the position is really unsatisfactory by itself.

There was one particular point on which hon. Members raised perhaps their protest, or their disagreement or their disapproval, and that is in regard to clause 5, exempting gifts and donations to a particular charity. Some hon. Members said it is something new and one or two hon. Members also averred that when Mahatma died and a fund was started for the purpose of commemorating his memory, no such thing was done. Unfortunately, there they are wrong. I think in 1949 an amendment of the Income-tax Act was undertaken and in the Act, as it stood until 1953 in



section 15(B), there is a proviso to sub-section (2) which reads thus:

"Provided that where any sum paid during the previous year as donation to the fund known as Gandhi National Memorial Fund is in excess of the limits prescribed in this section, the exemption granted under this section shall apply to the whole of that sum."

**Mr. Speaker:** Yet, Shri Banerjee, was sure of his position. One ought not to be so emphatic, particularly when something is brought to his notice. There is always the possibility that one might not know certain facts. So, one should be cautious that there is a possibility that something might not be within his knowledge. When Members make assertions, though they might be doing them with confidence, when it is brought to their notice that "no, that is not correct", or something different has happened, they ought to exercise some caution, because it is just possible that they are wrong or misinformed.

**Shri Bade:** May I submit that the hon. Minister is quoting from the Act as it stood in 1953? Could he quote it from the Act as it stood in 1963?

**Shri T. T. Krishnamachari:** I am sorry, I am quoting from a text-book of income-tax. This was repealed in 1953. I am merely mentioning this.

**Shri S. M. Banerjee:** It is not in the present Act.

**Shri T. T. Krishnamachari:** That is true. It has been repealed in 1953.

**Shri S. M. Banerjee:** We looked into whatever Act was available. We found a reference to the National Defence Fund but not to the Gandhi Memorial Fund and hence the comments.

**Mr. Speaker:** My remark was in general terms; not in relation to any particular instance. When a Member is asserting something, when once it is brought to his notice that what he is saying is not correct, or the position is

slightly different, he should exercise certain precaution before asserting it again and going still further. Because, there is always a possibility that some facts may not be within one's knowledge.

**Shri T. T. Krishnamachari:** I just appreciate the position. I had the advantage or disadvantage of having been in this House for a long time. I was here at the time when this amendment was moved in 1949. The concession that given is roughly of the order of 50 per cent; that is to say, whatever money they give, 50 per cent they might get concession in tax.

**Mr. Speaker:** I am not talking of the merits or otherwise.

**Shri T. T. Krishnamachari:** I am going into that matter. Therefore, it means that the money received from that is only 50 per cent. I can tell you when I was thinking of this matter, I was wondering because the only purpose of the fund that we have started in memory of the late Prime Minister is going to be a purely public purpose. I shall not come to this House and tell them that I should contribute an amount equal to that which has been contributed by the people. That is one of the things that I thought of. Finally I was told it would involve a lot of procedural delay and so on that I should accept the position that has been tried in a previous instance. I am merely mentioning this. I am not claiming any more justification then to say that this is a matter which is covered by a precedent and nothing more.

**Shri S. M. Banerjee:** Sometime later you will come to this House and repeal it.

**Shri T. T. Krishnamachari:** It is possible that I may not happen to be here at the time when a repeal would be necessary. All the same, if I happen to be here after 1967 and the hon. Member is also here, he might remind me about that.

**Mr. Speaker:** Let us hope that both of you will be there.

**Shri T. T. Krishnamachari:** It will be a punishment in my case; it might be a benefit in his case.

**Shri S. M. Banerjee:** Great men think alike.

**Shri Yashpal Singh:** You will remain here.

**Shri T. T. Krishnamachari:** The hon. Member, Shri Dandekar, spoke about this Bill. I must say that I should be hesitant to say anything about any remarks which he made about this Bill and try to controvert it for the reason that while I am only a Finance Minister he has been a man who administered these taxes for a number of years and knows them so well. In fact, I think, he must know more about how these taxes are administered and how these taxes are evaded much more than I. I am not saying it in the sense that he is a businessman but as a person who was member of the Central Board of Revenue in charge of income-tax. We have a very high opinion of his acumen and knowledge of this tax. Therefore I think, while all that he said he said as a person who now occupies a different position, I have no doubt that he realises that the area of evasion is there. Of course, there are cases of harassment which is inevitable when we try to check evasion. When we put that in the rules, it make the position a little more difficult. Ultimately, he would recognise that it is a case of pull devil, pull bake; sometimes the devil wins, sometimes the baker does. Therefore he will not mistake me if I do not attempt it. I accept his compliments in respect of the Bill, not in respect of the Finance Minister; but, at the same time, I would like to suggest that the defects in the working of the Income-tax Act generally have been there even in the time when he was administering it are there when I am the Finance Minister and will continue until the process goes on all the

time when we try to amend it here and there, partly to check evasion and partly to lighten harassment. That process has to go on. I do not think any Finance Minister can say that he has produced an income-tax act which is absolutely perfect. In fact, no legislation can ever be perfect.

The hon. Member, who has very good intention which I appreciate, spoke about the difficulties of the agriculturists. We know it; but it is neither the forum nor the measure which could help. The hon. Member suggested as to why not I reduce the duty on diesel oil. It is merely for the reason that the agriculturist consumes only a very small portion of the diesel oil; other people consume more. Ultimately, if you want to do any good to the people then diesel oil has to be taxed until we reach the time when we have no tax at all which, I think, will be very good and then you will have no Finance Minister at all which will be equally good. Those kind of halcyon days will never occur. I think, in the days as we go on the Government will become more and more complicated; Finance Ministers will become more and more harassed persons and, of course, hon. Members will have to criticise them and they have to adjust their sights from time to time.

But essentially I agree that there are a lot of things that could be improved in the State sphere. I hope, the hon. Member who has spoken will stand for election as a member of the State Assembly next time in which case, I think, he can make his influence felt in regard to an area of administration which concerns the people Assembly.

**Shri D. C. Sharma:** They like the Lok Sabha much more than the State Assembly.

**Shri Bade:** He wants that he should become Lord Krishna.

**Shri T. T. Krishnamachari:** The only trouble about it is that instead of 64 I should have been 16; then I would have appreciated all this. But I cannot do it. Therefore, it is amusing, interesting and also good from a Member who feels kindly towards the Finance Minister. I thank him for it; but I can say no more about it.

I think, I have more or less covered the points. About amendments that have been given notice of in order to improving the Bill, of course, all amendments merit consideration but there is one particular amendment which my hon. friend, Shri Morarka, has given notice of in regard to the provision of appeal. I find that if I accept it, I have to do something in regard to section 230 where similar provisions in regard to different types of people obtain. All that I can promise is in regard to the question of harassment, as regards the question of allowing a person opportunities, we will frame the rules and the rules will come before the House. In regard to the question of appeal, this is a matter which I will examine and find out because if I do anything here, I have to touch section 230. Therefore I will beg of my hon. friend to bear with me for some time. I will have the matter examined and, if necessary, we will bring it up in another amendment. There is always an annual amendment of the Income-tax Act and we will bring it up then.

I would also like to tell my hon. friend one thing. I prefer this three-year limit to be there. As I said, we have to have a limit. He may say: Have two, three or four, but you cannot do without a limit because the moment people know that the company is likely to be acquired, as is the case in the case of electricity companies, then the obvious reaction is, "Why should we declare a dividend this year; we will just put it in the reserves?"; all that you have to do is to pay. Capital Gains Tax provided the area of the spread is something

considerable. Therefore, if the hon. Member had suggested that I should not have the limit as three but as two, I would have perhaps agreed; but since he wants a removal of it, I am unable to accept the removal of the period. As I said, it is a matter of judgement whether two is good or three is good; probably they mean more or less the same. So, hon. Members will please bear with me if I do not accept these amendments; but I will certainly examine the position. If by reason of something like these amendments being incorporated would benefit the assessee, then, I think, I will think about it.

**Shri Kashi Ram Gupta:** May I put one question to him? The hon. Finance Minister has not been kind enough to answer my point raised about the assurance given in this House at the time of passing the Finance Bill that the late filing of returns will not be penalised in the ordinary way and directions will be sent to the ITOs.

**Shri T. T. Krishnamachari:** I have said that we have done that. If there are instances where people are being harassed because the instructions are not followed and if any of these instances are given to me, I will follow it up. We have sent the instructions to the Income-tax Officers. What is being done is as a matter of routine. Any assurances given here are incorporated and it goes out as letters. I have been assured by my officers that it has been done. But if hon. Member has any instance in which he feels that it is not being followed, I am quite prepared to take it up if he will give me the information.

**Shri Yashpal Singh:** The State Governments are running under the control of the Central Government. He cannot avoid the question by simply saying that they are independent. They are running under their control.

**Shri T. T. Krishnamachari:** No, they are not.

**Mr. Speaker:** May I put one question myself? The question is:

"That the Bill further to amend certain laws relating to direct taxes, be taken into consideration."

*The motion was adopted.*

**Mr. Speaker.** The House will now take up clause-by-clause consideration of the Bill. Clause 2 . . . Are there any amendments to it?

**Shri Morarka:** There are amendments in my name and in the name of my hon. friend, Shri Varma, but in view of the assurance given by the hon. Finance Minister I do not propose to move any of them?

**Mr. Speaker:** They are not being moved. Then, the question is:

"That clause 2 stand part of the Bill."

*The motion was adopted.*

*Clause 2 was added to the Bill.*

**Mr. Speaker:** Is any amendment being moved to clause 3?

**Shri Chandrabhan Singh (Bilaspur):** In view of the assurance given by the hon. Finance Minister I do not wish to move my amendment.

**Mr. Speaker:** The question is:

"That clause 3 stand part of the Bill."

*The motion was adopted.*

*Clause 3 was added to the Bill.*

*Clauses 4 to 9 were added to the Bill.*

**Clause 10—(Insertion of new section 230A)**

**Shri Bade:** Sir, I beg to move:

(i) Page 4, line 9,—

for "fifty thousand" substitute—  
"one lakh".

(ii) Page 4,—

after line 24, insert—

"Provided that the Income-tax Officer shall grant the certificate within fifteen days from the date of the application and if no certificate is granted and no reply is given within fifteen days from the date of the application it will be presumed that the certificate is granted." (2)

Sir, this amendment is to clause 10. In clause 10, there are some restrictions put on registration of transfers of immovable property in certain cases. My submission here is that instead of Rs. 50,000 it should be made Rs. 1 lakh and this amendment should be made:

"Provided that the Income-tax Officer shall grant the certificate within fifteen days from the date of the application and if no certificate is granted and no reply is given within fifteen days from the date of the application it will be presumed that the certificate is granted."

The hon. Finance Minister has just assured now and also he did in the beginning of his speech that he will mention the time-limit in the rules. But instead of mentioning the time-limit in the rules, why does he not mention it in the Act itself?

15.31 hrs.

[SHRI KHADILKAR in the Chair]

Sir, I have seen cases under the Indian Registration Act where the people try to avoid the duties and the court fees. Instead of valuing the

property at Rs. 50 lakhs, they make sub-divisions as part 1, part 2, part 3 and so on of the same building and value them at Rs. 50,000 and Rs. 30,000 and Rs. 20,000 and like that. They avoid the court fees and they avoid the registration also. So, my suggestion here is that instead of Rs. 50,000 it should be made Rs. 1 lakh. Then, Sir, here they have to obtain the clearance certificate from the Income-Tax Officer. I have seen cases under the Wealth Tax Act where whenever a certificate is required from the Income-Tax Officer that no arrears for the last year are pending, they are pending for two years or three years or even four years and then there is no registration if there is no clearance certificate from the Income-Tax Officer. I think that will be harassment and the persons who want to purchase the property and the persons who want to raise money by selling the property will suffer by this. So, there should be some time-limit fixed, that is, if not 15 days, 30 days or it may be two months. We know that in the Income-tax offices there are heaps of cases pending, one thousand to two thousand cases. When the man goes there, the clerk finds out the file and he puts it before the Income-Tax Officer and then after 15 or 20 days the man again goes to the office and comes back. There is a proverb:

“खिसा हो बम और जूता हो तंग,  
तब आता है रंग, मुकद्दमे में।”

अर्थात् पाकिट फुल होनी चाहिये, पैसा भरा होना चाहिये और चूँकि उन के दफ्तर में चक्कर खाते, खाते जूता ढीला हो जाता है इस वारते जूता तंग होना चाहिये। जब ऐसा होता है तभी इनकमटैक्स के आफिस में मुकद्दमा ले कर जाने में मजा आता है। This is the proverb. So, I think, some time-limit should be given. Only the assurances will not do. Some time-limit should be fixed so that the persons may know that they will get the clearance certificate within the month or two months or three

months, whatever the time-limit the hon. Finance Minister wants to fix. He gave an assurance in the beginning and today also he has given an assurance. That means, he realises the difficulties. But I do not know why he does not accept my amendment—if not 15 days, let it be 30 days.

**Shri T. T. Krishnamachari:** Sir, I mentioned that the question of time-limit will be covered by the rules and the rules will come before the House. They will be placed on the table of the House. So far as the raising of the limit is concerned, from Rs. 50,000 to Rs. 1 lakh, he himself has mentioned that limit and there are various cases where the limit is much lower. Having said that, I do not think one could ask for the limit to be raised. I am unable, therefore, to accept the amendment.

**Shri Bade:** What will be the time-limit?

**Shri T. T. Krishnamachari:** We will mention it in the rules and we will place them on the table of the House.

**Mr. Chairman:** Now, I shall put amendments No. 1 and 2 moved by Shri Bade to the vote of the House.

*Amendments No. 1 and 2 were put and negatived.*

**Mr. Chairman:** The question is:

“That clause 10 stand part of the Bill.”

*The motion was adopted.*

*Clause 10 was added to the Bill.*

**Mr. Chairman:** There are no amendments on clauses 11 to 17.

The question is:

“That clauses 11 to 17 stand part of the Bill.”

*The motion was adopted.*

*Clauses 11 to 17 were added to the Bill.*

15.31 hrs.

श्री बट्टे : I beg to move.

"Page 7,—

after line 39, insert—

"(4) Before imposing the fine the Commissioner shall serve the contractors with notice to show cause why he should not be fined and after hearing him the Commissioner will make an order."

**Explanation**—"contract" means the contract as defined in the Contract Act 1872." (3)

मैं ने अपने इस अमेन्डमेंट में यह चाहा है कि कमिश्नर कंट्रैक्टर को 50 रुपया पर डे फाइन करने से पहले उस को शो काउज नोटिस दे कर बुलाना चाहिए और उसे अपनी सफाई देने का मौका देना चाहिए। उसे नोटिस दे कर पूछा जाय कि वह यह बतलाये कि उस पर यह फाइन क्यों न इम्पोज कर दिया जाय? यदि इस प्रकार का कोई नोटिस नहीं होता है तो मैं ने देखा है कि एक्सपार्टी जजमेंट हो जाता है। जब तक कि वह वकील को फ्रीस आदि दे कर उन के सामने जाता नहीं है कोई उस को नहीं सुनता है। यह कह दिया जाता है कि तुम ने कंट्रैक्ट कर लिया है। चूँकि एक महीने के अन्दर तुम ने अपने रिटर्न्स नहीं दिये इस वास्ते तुम पर यह फाइन इम्पोज किया गया है। मैं चाहता हूँ कि इस में शो काउज नोटिस की व्यवस्था होनी चाहिये। कानून का यह साधारण नियम है कि जब किसी को सजा दी जाती है तो सजा देने के पहले उस को सुना जाता है और उस से पूछा जाता है कि वह बतलाये कि उसे वह सजा क्यों न दी जाय। उस को सुनने के बाद ही कोई सजा दी जाती है। पैनल बसाव होने के

कारण उस को सुनने की जरूरत है। मैं समझता हूँ कि फाइनेंस मिनिस्टर साहब यह देखेंगे कि इन बी इंटरेस्ट ऑफ बिजिटिस उस को पहले नोटिस दे दिया जाय और बगैर उसे सुने पैनलाइज करना ठीक नहीं है।

कंट्रैक्ट के बारे में इस में यह दिया हुआ है :—

"285A. (1) Where any person (hereinafter referred to as the contractor) enters into a contract for the construction of a building for, or the supply of goods or services . . ."

यह कंट्रैक्ट और एग्रीमेंट को लेकर बहुत झगड़ा होता है और बहुत फर्क पड़ता है। कोई कहता है कि यह कंट्रैक्ट है, कोई कहता है कि यह एग्रीमेंट है तो कोई कहता है कि यह एक्जीक्यूटिव कंट्रैक्ट है। इस के बारे में इनकम टैक्स ला में कोई साफ डेफिनीशन नहीं है और इसलिए यह आवश्यक है कि कंट्रैक्ट की परिभाषा दी जाय। अभी होता यह है कि जिनको टैक्स इवेड करना होता है वह 50,000 के कंट्रैक्ट को 25,000, 25,000 के दो टुकड़ों में शो कर देते हैं और उस हालत में उस को रिटर्न्स देने की जरूरत नहीं होती है। इनकम टैक्स ला में टैक्स इवेज्शन इसलिए भी मुमकिन होता है कि उसमें लूपहोल्स रख दिये हैं, दरवाजे और खिड़कियाँ रख दी हैं जिनसे कि यह टैक्स लोग इवेड कर जाते हैं। इस वास्ते मैं चाहता हूँ कि अनएकाउंटेबल मनी का जो सबाल फाइनेंस मिनिस्टर साहब ने उठाया है वह इन लूपहोल्स को प्लग करने से ही हल हो पायेगा। इस वास्ते मैं चाहता हूँ कि कंट्रैक्ट की डेफिनीशन की जाय और साथ ही साथ यदि उस को सजा देनी है तो उस के पहले उसे कम से कम शो काउज नोटिस अवश्य सर्व किया जाय। इसी गरज से मैं ने यह अमेन्डमेंट दिया है।

**Shri T. T. Krishnamachari:** I think the hon. Member does not realise that before a Commissioner proceeds to levy a fine under this section, he will certainly have to ascertain the facts to justify the levy of the fine.

The information is to be furnished by the contractor as prescribed by the rules and the provision will have to be made for various items for which information has to be furnished.

The facts relating to those items will be within the contractor's knowledge. I think, therefore, that there is no need for a specific provision here such as the one suggested.

Then, my hon. friend may probably be confusing penalty with fine. If it is a fine then the circumstances are different. That is why section 131 of the Act does not provide a specific appeal such as the one that is provided for penalty. However, a provision could be made in the rules requiring the commissioner to give the contractor a reasonable opportunity of being heard before levy of a fine. In the circumstances, I find myself unable to accept the amendment.

**Mr. Chairman:** I shall now put amendment No. 3 to vote.

*Amendment No. 3 was put and negatived.*

**Mr. Chairman:** The question is:

"That clause 18 stand part of the Bill.

*The motion was adopted.*

*Clause 18 was added to the Bill.*

*Clauses 19, 20 and 1, the Enacting Formula and the Title were added to the Bill.*

**Shri T. T. Krishnamachari:** I beg to move:

"That the Bill be passed".

**Mr. Chairman:** The question is:

"That the Bill be passed".

*The motion was adopted.*

15.44 hrs.

### PRESS COUNCIL BILL

**The Deputy Minister in the Ministry of Information and Broadcasting (Shri C. R. Pattabhi Raman):** I beg to move:

"That this House concurs in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Bill to establish a Press Council for the purpose of preserving the liberty of the Press and of maintaining and improving the standards of newspapers in India, made in the motion adopted by Rajya Sabha at its sitting held on the 15th September, 1964, and communicated to this House on the 17th September, 1964, and resolves that the following 30 Members of Lok Sabha be nominated to serve on the said Joint Committee, namely: Shri Peter Alvares, Shri C. K. Bhattacharyya, Shri N. C. Chatterjee, Shri Tridib Kumar Chaudhuri, Shri Yudhvir Singh Chaudhary, Shri C. Dass, Shri L. Elayaperumal, Shri Ansar Harvani, Shri T. D. Kamble, Shri Cherian J. Kappen, Sardar Kapur Singh, Shri M. K. Kumaran, Shri Nihar Ranjan Laskar, Shri Shiv Charan Mathur, Shri Mathura Prasad Mishra, Shrimati Sharda Mukerjee, Shri Mohan Nayak, Shri Man Singh P. Patel, Shri Kishen Pattanayak, Shri Shivram Rango Rane, Shri Sadhu Ram, Shri Shram Lal Saraf, Pandit K. C. Sharma, Shri Shashi Ranjan, Shri Vidya Charan Shukla, Dr. L. M. Singhvi, Shri Tula Ram, Shri S. Veerabasappa, Shri Virbhadra Singh, and the Mover."

In 1952, as the House is aware, the Government of India appointed a high-powered Press Commission to enquire into 'the state of the press and its present and future lines of development'. The House is also aware that this commission was presided