

benefit from the mistakes made anywhere else. I remember when we started the Ministry in United Provinces in 1937—and the province remains the same today—we functioned with six ministers. Of course, now the work has changed enormously. This food business, this rationing business, the idea of a welfare state, the work of planning and development etc. have all increased enormously. But supposing you can do with less, and have economy, I am certain that the Andhra people who will take every matter into consideration, will show among themselves and to the rest of India a fine example of united effort. I hope not one discordant note shall be heard from Andhra Desh, not one single individual from Rayalaseema will come and say that in this new Andhra State, his interests have been neglected and have not received proper attention.

With these words, I beg to commend my motion for the acceptance of the House.

Mr. Deputy-Speaker: It now remains for me to put the motion to the vote of the House.

Shri S. S. More: I think it will involve some amendment to the Constitution, and a particular majority will be needed. I am just asking you the position.

Mr. Deputy-Speaker: Article 4 of the Constitution provides that so far as this matter of carving out a new State is concerned, it shall not be deemed to be an amendment to the Constitution.

Shri S. S. More: The Schedules will have to be amended in the Constitution.

Mr. Deputy-Speaker: Article 4(2) of the Constitution reads:

"No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of Article 368."

So, there is no difficulty in the matter.

Before putting this motion for the vote of the House, I want to express my thanks personally, for all the members, on all sides, the Government as well as the Opposition members, for the harmonious manner in which they have conducted the deliberations here, though this is a Bill which would naturally evoke admiration on the one side, and on the other provoke comments and discussion in a heated manner. Ultimately after the full picture is drawn, the old lines and crawls have already faded out. I hope the same kind of mentality will prevail in the other House, and ere long this will become an accomplished fact, and on the 1st of October, the new Andhra State will come into existence. It is my great pleasure now to place this Bill as amended, before the House, for its acceptance.

The question is:

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

The motion was adopted.

THE ESTATE DUTY BILL—Contd.

Mr. Deputy-Speaker: The House will now proceed with the clause by clause consideration of the Bill to provide for the levy, and collection of an estate duty, as reported by the Select Committee.

May I suggest that clause 2 may stand over, because it is the definition clause?

Shri C. D. Pande (Naini Tal Distt. cum Almora Distt.—South West cum Bareilly Distt.—North): Before you proceed further, may I know the programme of this discussion, clause by clause? On that depends the length to which an hon. Member will speak.

Shri Gadgil (Poona Central): They should not speak at all.

Shri C. D. Pande: Why not?

Shri N. C. Chatterjee (Hooghly): So far as I remember, at the conference with the hon. Minister, it was agreed that we would get 10 days for the discussion on the clauses, and two days for the third reading. That was accepted.

Shri C. D. Pande: Today should not be included in those ten days.

Mr. Deputy-Speaker: I thought there were two more days for the general discussion, and that there were ten days allotted for this on the whole.

The Minister of Finance (Shri C. D. Deshmukh): It is a matter of record as to what was said.

Mr. Deputy-Speaker: I shall find out what exactly has been agreed upon.

Shall we proceed with clause 2, or shall we take it up towards the end?

Shri C. D. Deshmukh: It will be more convenient if clause 2 is taken up now.

Clause 2.—(Definitions.)

Shri Telkikar (Nanded): Sir, I beg to move:

In page 1, line 24, at the end add "and "dying" and "death" include legal death, as in the case of a Sanyasin renouncing the world:

Shri Mulchand Dube (Farrukhabad Distt.—North): Sir, I beg to move:

In page 2, omit lines 1 to 4 and renumber subsequent parts accordingly.

Mr. Deputy-Speaker: I will first of all put all the Government amendments to the vote of the House. Thereafter I will consider what the other amendments are, whether they are barred if these are carried; if they are not carried, I will allow them. Shri Deshmukh.

Shri C. D. Deshmukh: Sir, I beg to move:

(1) In page 2, for lines 1 to 4, substitute:

"(8) 'executor' means the executor or administrator of a deceased person;"

(2) In page 2, for lines 16 to 20, substitute:

"(12) 'legal representative' means a person who in law represents the estate of a deceased person, and includes—

(i) an executor,

(ii) as regards any obligation under this Act, any person who takes possession of, or intermeddles with, the estate of a deceased person or any part thereof, and

(iii) where the deceased was a coparcener of a Hindu family, the manager for the time being of the family;" and

(3) In page 2, after line 46, insert:

"(16A) "public charitable purposes" means relief of the poor, education, medical relief and advancement of any other object of general public utility, but does not include a purpose which relates exclusively to religious teaching or worship;"

Now, I shall take the first and second together. In the original draft of the Estate Duty Bill, 1946, there was no definition of "legal representative" presumably because most of what the term conveyed according to the definition had already been included in the definition of 'executor'. Consistently with this definition, the framers of the original Bill used the expression 'executor' in clause 48 which is the present clause 51, when dealing with the liabilities and duties of accountable persons. The Select Committee of 1948, however, thought it advisable to insert a

definition of 'legal representative' on the lines of a corresponding definition in the Civil Procedure Code and made certain consequential changes in clause 49, which corresponds to the present clause 48. Now that Committee stated that such a definition was necessary for the purpose of making it clear that 'legal representative' of the deceased shall be accountable for the whole of the estate duty on the property passing on death, but shall not be liable for any duty in excess of the assets of the deceased which he actually received or might have received but for his own neglect or fault. Now, we have examined these two definitions and we find that there is a good deal of overlapping between the two. As at present defined, both 'executor' and 'legal representative' include persons who intermeddle with the estate of the deceased. In the U.K. law, which we have generally followed, the expression 'legal representative' does not appear at all. The only expression there used is 'executor' and he includes not only the administrator but any person who intermeddles with the estate of the deceased.

Now, the main difficulty which seems to have confronted the Select Committee of 1948 is the special nature of the laws of succession and management of Hindu undivided family property, and in particular the position of the *Karta* of such families. We think the proposed amendments rectify the overlapping, but at the same time do not exclude from their scope the liabilities of all categories of accountable persons for the purpose of section 51. That is why in the definition of 'legal representative' you will find "legal representative" means a person who in law represents the estate....and includes an executor.." (which we have defined before). Then "as regards any obligation under this Act, any person who takes possession of, or intermeddles with, the estate of a deceased person or any part thereof", and particularly (iii) "where the deceased was a coparcener of a Hindu family, the

manager for the time being of the family". Therefore, the two together I think, make it comprehensive.

Then on the third amendment, I will speak afterwards, because that is entirely on a different subject.

Mr. Deputy-Speaker: Very well. Amendments moved:

(1) In page 2, for lines 1 to 4, substitute:

"(8) 'executor' means the executor or administrator of a deceased person;" and

(2) In page 2, for lines 16 to 20, substitute:

"(12) 'legal representative' means a person who in law represents the estate of a deceased person, and includes—

(i) an executor,

(ii) as regards any obligation under this Act, any person who takes possession of, or intermeddles with, the estate of a deceased person or any part thereof, and

(iii) where the deceased was a coparcener of a Hindu family, the manager for the time being of the family;"

Both these amendments are now before the House. Mr. Kilachand.

Shri Tulidas (Mehsana West): I could well understand what the hon. the Finance Minister was saying. But I would like to let him know the difficulties apprehended in this particular change in definition. The same difficulty was also there when the old definition was there. The effect of the amendment is to include the definition of the executor in the expression 'legal representative'. "An executor" is "any person who takes possession of the estate of a deceased person"; the obligation of an executor is under clause 55 of the Bill, and that obligation is only if he applies for a grant of representation. A person appointed as executor is not bound

[Shri Tulsidas]

to act as such, nor is he bound to renounce. If somebody else applies for a grant of representation, the court would require him to obtain a renunciation from an executor appointed by will, and only in such cases would a renunciation ordinarily be taken from an executor.

[SHRI PATASKAR in the Chair]

Therefore, it is not proper, in my opinion, that an executor who has not taken possession of the estate or not done any act as representing the estate, should incur any liability under the Bill. I have not got an amendment on this, but I would like to request the hon. the Finance Minister to take this into consideration: whether the amendment which he has moved to clause 2(8)—if put in this manner—would not solve the difficulty which I have pointed out, i.e. "executor" means the executor who has applied for a grant of representation or administration of a deceased person". I would like the Finance Minister to let me know whether the difficulty which I pointed out would be met under the new definition which has been sought for.

Shri N. C. Chatterjee: May I point out one thing, Sir? I hope the intention of the Finance Minister is not really to make a departure from the English law. Under the English law, 'executor' includes a duly constituted executor and it also includes any person who takes possession of or intermeddles with the property of the deceased. I take it, Sir, that it is not the intention of the Finance Minister to really impose any further obligation. Supposing a man dies nominating 5 persons as executors and then some of them have got nothing to do with the estate and they never accept the responsibility of executorship, never apply for probate or never apply for any kind of administration or representation and they do not intermeddle with the estate, then I take it that there is no

intention to go in for them in any shape or form. I take it that the intention is that when he applies for probate under section 55, then some responsibility is to be put upon him. He must specify all the chargeable property with the usual affidavit of valuation or if he does not do it and still intermeddles with the estate, then he becomes 'executor de son tort'. Simply because a person is named in the will no responsibility should attach to him. I think it is rather dangerous to accept my friend's suggestion because, simply because a man applies for probate, I do not think he should be saddled with all the obligations. I may apply for the probate of a will but, at the same time, it may be thrown out on the ground that there was no testamentary capacity or for some other cause. Therefore, I do not think an executor should mean a duly constituted executor unless it is one to whom probate has been granted by a testamentary court or when he functions as such and takes upon himself the responsibility. I think it should be made clear by the hon. Finance Minister that there is no intention to cast any liability on any person simply because he has been named as executor in the will. You do not put any obligation on him; either he must apply or he must intermeddle with the estate and then the liability should come.

Shri C. D. Deshmukh: That is right, Sir. There is no intention to cast any further obligation on an executor than is contained in the U.K. law. That is why we have brought this definition of an executor. Any person who intermeddles may not be an executor and yet he may be brought in as legal representative. That is why we have taken out from the original definition of executor, 'any person who intermeddles etc.'

Shri S. S. More (Sholapur): The definition suggested or sought to be amended now has to be read with clause 55. I am trying to understand

what is in the mind of the Finance Minister. It means that the moment somebody has applied for the grant of probate, that is enough to cast the obligation. If there is more than one person named in the will, the obligation should be only on those who accept to play the role of the executor. I support Mr. Chatterjee in saying that if a man has shown his willingness to act as executor by any such overt act, then alone he should be saddled with the responsibility. Suppose a man on the eve of his death names half a dozen persons from distant places as his executors, they may not be knowing anything of the property. I may be wrong..

Shri Gadgil: But there is no obligation on them to accept that position.

Shri S. S. More: But, I think there is no provision to that effect.

You have to read the amended definition along with clause 55. You cannot take the definition separately from clause 55. You must read them together and the result will be that the burden will be thrown upon those persons who are not keen on taking the responsibility or who have been appointed as executors. There is no law that the executor shall be appointed only with consent like our election agents. Any person can, without informing any other person, name him as an executor. Suppose a man mentions A, B, C and D as his executors and B, C and D do not choose to take that responsibility—they may not be even at the place where the estate is. It is very complicated. I would rather request the Finance Minister to precisely define the ambit of what he means.

12 Noon

Shri K. K. Basu (Diamond Harbour): Sir, I should also like to point out one difficulty so far as this definition is concerned. It often happens that some 6 persons are named as executors in a will. But the grant of probate is made only in favour of one or two. The rest may not

renounce. But, if these two die they may apply later on. So, I think we should explain this position. We must know who will be liable. At first he may not renounce but subsequently he may renounce in writing. There is no obligation in law that an executor should renounce if he does not want to act as such.

Shri Gadgil: He must act with ordinary caution.

Shri Tek Chand (Ambala-Simla): There is one difficulty which I foresee and that is when a testator executes a will. Take it that A or B has been appointed as executor. They may not be aware of it at all, till the contents of the will are made known to them and they agree to undertake the responsibility of the executor. The definition, as it stands is indicative of the fact that as soon as the testator dies making A his executor, the result will be that A stands named as the executor though A may not be aware of that fact even.

Shri C. D. Pande: And he may not be willing to accept.

Shri Tek Chand: And when he becomes aware of the fact, he may not like to undertake the responsibility of executorship. Executorship cannot be fastened on a person willy-nilly. He has to be agreeable to undertake the responsibility.

Shri N. C. Chatterjee: He must function.

Shri Tek Chand: Therefore, it is very desirable that when we are considering the name of an executor and fastening him with responsibility, it must be made known to him that he is an executor under the will. He must have undertaken the responsibility willingly. It may be as I just heard it observed that it is open to him to renounce. But the responsibility is already there and a subsequent renunciation may not absolve him from the responsibility that he has already got to shoulder in view of the definition.

Shri C. C. Shah (Gohilwad-Sorath): I think there is no difficulty at all. A definition does not create any obligation. A definition says what an executor or a legal representative means. The obligation of the executor comes under clause 55 and that of a legal representative under clause 51.

Now, under clause 55, the only obligation of an executor is to file the account as prescribed thereunder. The obligation will fall upon the executor who applies for probate. It cannot possibly fall upon any executor, who does not apply for a probate. A person may be named as executor, but...

Shri S. S. More: What is the basis of this particular suggestion?

Mr. Chairman: I will also draw the attention of the hon. Member to the case in which the grant of representation is applied for within 6 months of the death.

Shri C. C. Shah: In the case in which a grant of representation is applied for within 6 months, the executor has to file the accounts. It is the obligation only upon the person who has applied for that grant. That obligation cannot fall upon any other person who has not applied for the grant. It is abundantly clear from the clause as it stands. If there are 6 executors named in the will, only the executor who applies for the grant is under an obligation to file the accounts; or a person who has inter-meddled with the estate and is an executor *de son tort*. All the executors have the opportunity to apply for probate. If they have taken advantage of that opportunity, then the obligation falls upon them. But the definition does not mean that every person named in the will, even though he has not applied for the grant himself, must necessarily file the account. It cannot by any stretch of imagination mean that and I think there is no apprehension of any kind whatever that it throws upon an executor an obligation which he does not wish

to undertake, either when he renounces the executorship or when he does not know. It makes no difference. It is only when he applies for probate that the obligation is thrown upon him to file the account. The definition of both 'legal representative' and 'executor' as they stand at present are perfectly clear and there is no further obligation. The definition of 'legal representative' is an inclusive definition; that is to say, it includes an 'executor' as well as the other two categories of persons who in law are executors *de son tort* or who intermeddle with the estate, or as managers of a joint family co-parcenary, because the obligation to pay estate duty under clause 51 is on the legal representative. So far as the executor is concerned, under clause 55 the only obligation is to file the account under section 19-I of the Court Fees Act. Therefore, the definition of 'legal representative' must be wider to include every category of persons on whom obligation to pay estate duty falls. In either case no obligation is sought to be cast on any person who either does not apply for probate or inter-meddles with the estate.

Shri S. S. More: I wish with due deference to the Treasury Benches to submit that the intention should be brought very clearly in the Bill itself. This is a new piece of legislation. It is, therefore, much better to err on the side of superfluity. If we lay it down that an executor means an executor who has accepted the responsibility or who has been appointed, or granted representation, whatever you may call it and that person alone shall be responsible, then all these difficulties will be removed. I would in this connection draw the attention of the Finance Minister and his Deputy to sub-clause (a) of clause 55 which says:

"the executor .. shall ... deliver a copy of the affidavit with the account to the Controller."

It is a categorical obligation.

Shri N. C. Chatterjee: There is some point in Mr. More's observation. I want in this connection to draw the attention of the hon. the Finance Minister to the definition of "executor" in the Indian Succession Act. Under section 2 (which as you know in the definition section) an "executor" means "a person to whom the execution of the last will of a deceased person is by the testator's appointment confided". Therefore, if a man appoints A, B, C, D, and E as executors, names them in the will, they become automatically executors under the Indian Succession Act. Although only A, B and C are willing to function and apply, and D and E do not wish to function and intermeddle, they may be saddled with some obligation. Obviously, the intention of the Government is to make the executor who is actually applying to file the affidavit of valuation and to make disclosures to the best of his knowledge. That should be made clear. Otherwise it may be that a non-functioning executor, simply because he is named in the will, will be held responsible. So, clause 55 should be so worded as to make it clear that although they may be all called executors under the Indian Succession Act, the liability under clause 55 is only limited to the functioning executor who wants to make an application.

Shri C. D. Deshmukh: The definition of the executor in the original Bill was wrong. Now we rescued the executor from that. We say an executor is an executor, which does not define, but which certainly clarifies. Then we say that the legal representative includes an executor, a person who intermeddles and the karta of an Hindu Undivided family. In clause 51 certain persons are held accountable, including an executor. Clause 55 goes on to say how an executor becomes accountable. Now, if there is some doubt as to which of these executors is meant of all those who become accountable under clause 51, then I think one could think of some clarification in the language of clause 55, to make that clear. But I think we can proceed with this.

Mr. Chairman: There is no difficulty so far as 'definition' is concerned. We shall deal with it when we come to clause 55. I will now put the first amendment to the House:

The question is:

In page 2, for lines 1 to 4, substitute:

"(8) 'executor' means the executor or administrator of a deceased person;"

The motion was adopted.

Mr. Chairman: I will now put the second amendment to the House.

The question is:

In page 2, for lines 16 to 20, substitute:

"(12) 'legal representative' means a person who in law represents the estate of a deceased person, and includes—

- (i) an executor,
- (ii) as regards any obligation under this Act, any person who takes possession of, or intermeddles with, the estate of a deceased person or any part thereof, and
- (iii) where the deceased was a coparcener of a Hindu family, the manager for the time being of the family".

The motion was adopted.

Shri C. D. Deshmukh: Sir, the third amendment moved by me reads:

In page 2, after line 46, insert—

'(16A) "public charitable purposes" means relief of the poor, education, medical relief and advancement of any other object of general public utility, but does not include a purpose which relates exclusively to religious teaching or worship.'

In the proviso to clause (8), relating to gifts within a certain period before death, of the original Bill of 1946, the

[Shri C. D. Deshmukh]

words used were "public or charitable purposes". The Select Committee of 1948, substituted those words by the expression "public charitable purposes" with a view to restricting the application of the proviso to gifts made to public charities only. The revised expression has, however, not been defined anywhere in the Bill, although it has been used in several clauses.

Now, doubts have been expressed as to its exact scope and meaning. Some are of the view that the expression as it stands at present may have the unintended effect of not covering gifts to certain public purposes. It is, therefore, better, we thought, to define the expression so as to remove any ambiguity as to its meaning. I said in my speech on the 20th August 1953 that it was our intention to express the same meaning, or attach the same meaning to this term as is given in the Charitable Endowments Act or the Income-tax Act. The proposed amendment broadly gives effect to this intention and has been inserted in the definition clause and not in clause 9, because the expression appears in more than one place in the Bill.

Now there are two broad features of this definition to which I wish to draw attention. Firstly, it specifically excludes a purpose which relates exclusively to religious teaching or worship. In other words gifts for temples, mosques or churches will not be included in 'public charitable purposes'. This is the position in the United Kingdom law as well as in our own Income-tax Law. In the latter, although incomes of public religious trusts themselves are excluded from the tax, donations to such religious institutions are not exempt from tax at all.

Such exemption to donations applies only to those for public charitable purposes.

Now the expression "general public utility" is also used in the Income-Tax Act and thanks to a very large number of judicial decisions its scope is

now adequately defined. Thus "general utility" would include contributions for the making of public parks, museums or Dharamashalas.

Again the word "public" has to be construed properly and the mere fact that the number of beneficiaries is considerable cannot raise private benefaction into the class of "charitable gifts". The real test is whether the charity is for the benefit of the community or of an appreciably important class of the community. The inhabitants of a town or any particular class of inhabitants may, for instance, be the objects of such a gift but private individuals or a fluctuating body of private individuals cannot be. A trust for the benefit of the members of a club or the employees of a company or a factory would fail to satisfy the criterion of public charity because it is merely for the benefit of a fluctuating body of private individuals. In short to satisfy the test, the object need not be for the benefit of the whole of mankind or of all the persons living in our country or in a particular State. It is sufficient if the intention is to benefit a sufficiently large section of the public as distinguished from specified individuals.

Now it has been urged by some members that "public purpose" as distinguished from "public charitable purpose" should also be entitled to the concession proposed for "public charitable purpose". But in view of the explanation given, it would be appreciated that all the objects of "general public utility" are covered. If the concession is given also to purely "public charities" as such, then the rulings in the United Kingdom indicate that these will cover gifts to political party funds, regimental mess funds etc. Now it is not our intention to extend the scope of this to that extent and, therefore, such charities have been excluded.

Now, I should like to emphasise that at the moment we are concerned

neither with prohibiting nor restricting certain charities nor directing them to certain other channels. So far as this Bill is concerned, all that happens is that if a certain gift falls within this clause then the statutory period for exclusion is a shorter one i.e. instead of two years you have six months and I am inclined to think, Sir, that although the matter is a difficult one, for this limited purpose the definition proposed is both reasonable and adequate. I have considered whether it was possible to translate here the definition used in section 15(b) of the Income-Tax Act but the whole pattern of that Clause is different. It starts with saying "all the charitable purposes". Then it goes on to refer to donations to certain institutions and then it goes on to specify the institutions to exclude some. We found this explanation too unwieldy to be introduced into this Bill. That is why we have adopted this alternative.

Mr. Chairman: Amendment moved:

In page 2, after line 46, insert—

'(16A) "public charitable purposes" means relief of the poor, education, medical relief and advancement of any other object of general public utility, but does not include a purpose which relates exclusively to religious teaching or worship;'

श्री बी० पी० सिंह (मुंगेर-सदर तथा जमुई):
मैं कहूंगा कि इस धारा में रिलिजस टोबिग क अर्थ बहुत संकीर्ण दायरे में लिया गया है। इसलिये इसके सम्बन्ध में मैं थोड़ा प्रकाश चाहता हूँ।

Shri Telkikar: Sir, I beg to move:

In the amendment proposed by Shri C. D. Deshmukh, after "exclusively" insert "or predominantly".

Mr. Chairman: Amendment moved:

In the amendment proposed by Shri C. D. Deshmukh, after "exclusively" insert "or predominantly".

Shri S. M. More: Sir, I beg to move:

In page 2, after line 46, insert—

'(16A) "Public charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility but does not include a purpose which relates exclusively to religious teaching or worship or a purpose which is communal unless the gift is for the benefit of the backward communities and scheduled castes and tribes;'

Mr. Chairman: Amendment moved:

In page 2, after line 46, insert—

'(16A) "Public charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility but does not include a purpose which relates exclusively to religious teaching or worship or a purpose which is communal unless the gift is for the benefit of the backward communities and scheduled castes and tribes;'

Shri C. D. Deshmukh: Sir, I accept the amendment moved by Shri More.

Pandit C. N. Malviya (Raisen): I have given notice of two amendments, Sir.

Mr. Chairman: I am sorry the notice has been received only today and unless the Government is prepared to accept them I am not prepared to allow them.

Shri C. D. Deshmukh: I am not prepared to accept them.

Shri N. P. Nathwani (Sorath): Sir, my amendment is covered by the

[Shri N. P. Nathwani]

amendment moved by Shri More but, I want to speak on it.

Mr. Chairman: Yes.

Shri N. P. Nathwani: In my amendment which I wanted to move but which I have not moved I asked to omit caste or communal charities from the definition but as the Government has now shown its willingness to accept the amendment moved by Mr. More I will deal with that amendment.

This amendment seeks to exclude from the category of public charities the trusts created exclusively for religious teaching. I do not know what is the occasion for excluding trusts created for religious teachings. I could understand that trusts created for religious worship might be exempted at this stage in the present set-up of our society. It might be considered that there are enough temples and other places of worship and no encouragement should be given to these kinds of trusts. As far as I can see and my suspicion is that the definition is adopted from the Charitable Endowment Act, where the purpose was not to interfere with the trusts for religious teaching and worship, these two kinds of trusts were omitted. For our present purpose we should consider whether we should eliminate trusts for religious teaching. So far as I can see, any trust which is created for the spread of religious teaching is bound to promote humanity and kindness—of course if its teaching is imparted in a proper manner and so as not to engender a narrow or a bigoted outlook. My humble submission is that this amendment should be dropped out altogether. As I say, this definition is given in the Charitable Endowments Act of 1890, and that Act was meant to control other types of charitable trusts and the intention of the Government was not to govern or regulate trusts for religious teaching.

Again, I am afraid that if you retain the word "exclusively" it can be circumvented.

The Deputy Minister of Finance (Shri M. C. Shah): Exclusively or predominantly.

Shri N. P. Nathwani: My submission is that Mr. More's amendment should be amplified on the lines of the provisions contained in the Finance Act, 1953. I cannot understand on what principle a line of distinction is sought to be drawn between exemptions which are given there and exemptions which are sought to be given here. Income-tax and Estate Duty, both of them are taxing statutes. As some writers have observed, estate duty is an income-tax backwards. Therefore in the interest of consistency also you should adopt the language which is set out in the Finance Act, 1953. I refer to the language embodied in section 15B where a certain Explanation is given which says that trusts or donations meant "for the benefit of scheduled castes, backward classes, scheduled tribes or of women and children shall not be deemed to be an institution or fund expressed to be for the benefit of a religious community within the meaning of clause (ii)."

You will recollect that under the amended Section 15B of the Income-tax Act certain donations are exempted from income-tax provided they satisfy certain conditions. One of the conditions is that such trusts should not be expressed to be for the benefit of any particular religious community. That is to say, it should not be of a communal nature. By that Explanation certain kinds of trusts are sought to be excluded. As recently as April 1953 the Government has formulated this policy.

Therefore, both on principle and in the interest of consistency and uniformity you must adopt the same language here.

Lastly, I have to suggest a small drafting change and it is about the word 'public'. I cannot understand the expression 'public charitable purposes', why the word 'public' should occur in the expression. Every lawyer

member in the House knows that in order to be charitable, a purpose must be public. In law there is nothing like private charitable purpose or private charity.

Shri S. S. More: Are there not private charities?

Shri N. P. Nathwani: In law they are not "charity". It is not a "charitable purpose". The word "public" is redundant in my submission. Secondly, I submit that even in the Income-tax Act you have not used the words "public charitable purpose". I submit that the same language must be used in both the Acts because both the Acts are kindred and both are taxing statutes. Cautious lawyers might pounce upon the word "public" or the provisions might be misunderstood. That is why I submit that the word 'public' should be dropped from the proposed definition.

Shri V. P. Nayar (Chirayinkil): Sir, I beg to move:

In page 2, after line 46, insert:

'(16A) "public charitable purpose" includes medical relief to the indigent, education or relief to the poor irrespective of communities or any other benefit for the public, but does not include a purpose for the promotion of religious teaching or worship or anything for the advancement of a religious or communal cause.'

Sir, it is almost the same as the amendment of Mr. More, but with this difference that while charities exclusively for these purposes are sought to be excluded by Mr. More's amendment, I would have it that charities which have anything to do with the advancement of religious or communal causes also should be excluded.

Shri M. C. Shah: We are agreed to "exclusively or predominantly".

Shri V. P. Nayar: My point is that all charities which have even the remotest connection to anything religious

should be excluded. I think the Deputy Finance Minister understands the point. You know all of a sudden tax-dodgers have a religious feeling. Overnight they become devotees, and you find the worst black-marketers in the Gandhinagar finding ants to feed because there are no other persons! Such people will have charities created. Therefore, when you exclude this type of charities which are for religious or communal causes you must exclude charities which have anything to do with religion or any communal cause.

Mr. Chairman: Amendment moved:

In page 2, after line 46, insert:

'(16A) "public charitable purpose" includes medical relief to the indigent, education or relief to the poor irrespective of communities or any other benefit for the public, but does not include a purpose for the promotion of religious teaching or worship or anything for the advancement of a religious or communal cause.'

Shri C. D. Pande: There is a lot of confusion in this. I want to make a few observations in this regard. In India, particularly among Hindus the intermingling between religion and culture is so much that it is very difficult to make a demarcation as to where there is religion and where there is culture and learning. I will give you a few examples as to how the difficulty will arise. How will you classify a trust for Gita Prachar? It is purely spread of knowledge and philosophy. Many people will think that Gita prachar is a religious function. May I ask the Finance Minister whether any contribution to the Vedanta Society will be a religious charity or a non-religious charity? In the same manner suppose there is one man who wants to establish a Sanskrit Pathasala. It may have something to do with religious sentiment. But the mere learning of Sanskrit is not religion at all. How will you classify it? Because a section will not go there you

[Shri C. D. Pande]

can say it excludes certain communities. There are Gita Prachar Samities. Will charities made to such institutions be considered religious or cultural? (*An Hon. Member:* There is Ramakrishna Mission.) What I say is there is great intermingling between religion and culture. Let there be no restriction on charities and let true religion prosper because real religion and culture are one and the same thing.

Shri Gadgil: The amendment moved by Mr. More is accepted by the Government. I am suggesting for the consideration of Government whether they should not accept amendment moved by Shri Telkikar.

Shri C. D. Deshmukh: We accept that.

Shri Gadgil: Otherwise, if the word "predominantly" is not there and it remains only as "exclusively", advantage may be taken of this, and one rupee for other purposes and ninety-nine rupees for religious purposes will be the best expedient adopted to avoid being subject to tax.

Mr. Chairman: The suggestion is that amendment moved by Shri Telkikar should also be accepted.

Shri C. D. Deshmukh: We are accepting it.

Shri S. S. More: Are you accepting both the amendments?

Shri C. D. Deshmukh: Yes.

Shri N. C. Chatterjee: Is the hon. Finance Minister accepting amendment moved by Shri More?

Shri C. D. Deshmukh: I am accepting it with a slight drafting change. For the words "purpose which is communal unless the gift is for the benefit of..." it will be "purpose which is communal unless the purpose is one for the benefit of...". That is only grammatical.

Shri N. C. Chatterjee: I am pointing out that really this amendment should not be accepted. I shall say why. So far as we know, the hon. Minister's amendment is based upon the Indian Income-tax Act and the Charitable Endowments Act. That is the assurance that he gave to the House and he has incorporated all the provisions there. If you look at the rulings under the Indian Income-tax Act, you will find the position is this. Supposing in a predominantly Hindu area you make a gift for building a hospital for Hindu widows, you do not specify anything else, you only say, I am giving two lakhs for this kind of charity, building a hospital for Hindu widows, what happens? According to Mr. More's amendment that would be shut out.

Shri C. D. Pande: For Maharattas it is all right.

Shri N. C. Chatterjee: For non-Brahmin Maharattas it is all right. What I am pointing out is, according to the judgment of the Privy Council in the Tribune case and according to the judgment of the Calcutta High Court in Shrimati Charusila Dasi's case, if you give it to some charitable institution or hospital or something like that, Tol or College, for all the Members of the Hindu community, that is perfectly a good public charitable trust. That trust should be allowed. What I am submitting is this. By accepting Mr. More's amendment, you will be penalising that kind of thing. Just see what Mr. More says. He is asking the House to accept Mr. Deshmukh's first portion. It would include relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not include a purpose which relates exclusively, I take it also, or predominantly, to religious teaching or worship or a purpose which is communal unless the gift is for the benefit of the backward communities and scheduled castes and tribes. Suppose in a predominantly Muslim area, a Muslim gentleman says, I give it to all Muslims; what will happen?

He does not say any group or sect or portion of Muslims. Take for instance, the Governor of my province. He is giving large donations for all Christians. These are public charitable purposes. Under the Indian Income-tax Act, it has been held both by the Privy Council and all the High Courts that it is a good public charitable trust.

Shri C. D. Deshmukh: For what purpose? Not for purposes of 15B.

Shri N. C. Chatterjee: It has been held by the Privy Council that if you give to all members of the Hindu community, it will be a perfectly good charitable trust.

Shri C. D. Deshmukh: For the purpose of exempting the income from taxation. I am referring to 15B which we amended recently. That excludes donations to a trust and that refers to religious community.

Shri N. C. Chatterjee: What I am pointing out is this. You are now going to define public charitable trusts. That is the idea. The hon. Finance Minister said, that was his assurance or what he said in this House, I am going to put in what is in the Indian Income-tax Act.....

Shri C. D. Deshmukh: In 15B.

Shri N. C. Chatterjee:.....and also what is in the Charitable Endowments Act. His amendment, as he has tabled it, is in perfect consonance with that assurance. I submit he should stop there. If he accepts Mr. More's amendment, what will happen? No Hindu can say, I make this donation for building a Home for Hindu widows. You cannot do it.

Shri C. D. Deshmukh: He can do it. Only he has to postpone his death for two years.

Shri N. C. Chatterjee: You should not take away this benefit from him. I give it for that sole purpose. You should not penalise that. You are conferring a benefit. It would not be right or fair to make this provision. As the Finance Minister was saying

some time ago, the judicial decisions have now settled the law. You know the ambit and contour of the donations to be protected. Why add to it? If you give the benefit to scheduled castes, or backward communities, I am perfectly happy. Why penalise this kind of thing?

Shri S. S. More: May I say a word in reply, Sir?

Mr. Chairman: Let us hear what the other hon. Members have to say. Then, you can reply better.

Shri Tek Chand: The hon. Finance Minister has expressed his willingness to accept Mr. More's amendment. So far as the essential features of his amendment are concerned, I have no dispute. Some of them I approve of. Instead of the word 'means' he has substituted the word 'includes'. That is very laudable. About the 5th line, he says, 'or predominantly to religious teaching or worship'. I submit that possibly a *via media* could be found for religious teaching to enjoy exemption, but not religious worship, because, religious teaching contains more or less the accepted and universal truths. Therefore, if there is an endowment or charity for purposes of religious teaching, you may be pleased to exempt that; but if it is exclusively for religious worship, then, of course, you may not. That is one *via media* I submit.

The second point that I wish to urge in connection with this amendment is this. The wording here is "...or a purpose which is communal". The word 'communal' has acquired lately a derivative sense which we in this country understand. But, all English-knowing people do not take the word 'communal' as we understand it, but use it in its wider sense. Therefore, the moment you use the word 'communal' in the dictionary meaning, it is intended to cover the entire Indian community. But, what we understand in our country, lately, by the word 'communal' is a derivative meaning, that is, of a particular religious denomina-

[Shri Tek Chand]

tion. Therefore, the word 'communal' not being the subject of any definition is apt to confuse when it comes to deciding matters. Therefore, if instead of 'communal' it could be denominational or pertaining to a religious denomination, that would be in the interests of clarity, because 'communal' as I see it, embraces the entire community.

Then, there is another suggestion that I wish to make. That is only for the purpose of drafting. As the provision stands, it will create considerable confusion and difficulty: I refer to the two 'and's. The wording is: "unless the gift is for the benefit of the backward communities and scheduled castes and tribes". The difficulty may be that the gift must cover all the three in order to earn the exemption. My suggestion therefore is that it should read like this: "for the benefit of the backward communities, scheduled castes or tribes". That is to say, if the object of the gift is any one of these three, that should earn its exemption: not that all these three things must be there. Therefore, the omission of the two 'and's and the substitution of the second 'and' by 'or' would be extremely desirable. Otherwise, if you take the literal sense, it will mean that the gift is for A only, that is, for the first category namely, it is not for scheduled castes. Therefore, my suggestion is that the first 'and' should be dropped and instead of the second 'and' there should be 'or': that is to say: for the benefit of the backward communities, scheduled castes or tribes.

Shri Dhulekar (Jhansi Dist.—South): I wish to point out that the words that have been put in by the hon. Finance Minister are: "but does not include a purpose which relates exclusively to religious teaching or worship" are not necessary. Another amendment has been moved by Mr. More and the very object with which these words have been put in is frustrated. The object is to make

this Bill non-communal. When these words are put in, they make the Bill purely communal. If you stop here: "public charitable purposes means relief of the poor, education, medical relief and advancement of any other object of general public utility." If you stop there, you are quite non-communal because you define public charities as things which are for the public good. Now, you want to introduce these words "religious teaching or worship". Now you enter the domain of worship and religion. That means that you want to condemn either the Hindus or the Muslims or other people. No person can make a charity for a temple. Suppose I want to make a charity in favour of Raghunath Mandir at Ayodhya, you will call me communal because you have included the word "worship" here. I say when you introduce the word "worship" here, you become communal, not I, because you interfere with my religion. The country is secular. So, you should not touch any religion. If I give any money to a Gurdwara, I am called communal. Why? As soon as you exclude that Gurdwara, you are communal, not I. If I were to make a charity for Hindu widows, you say "you are communal". I say "No. Your Act is communal because you want to touch religion at every point."

I submit with all the force that I command that in showing and proving that you are non-communal, you become communal.

Shri C. D. Pande: Anti-religious.

Shri Dhulekar: When Mr. More says "unless it is for the sake of backward tribes", he introduces the communal question. What is meant by "communal". I say communal riots mean Hindu-Muslim riots in India. You cannot say "communal" has the dictionary meaning. My learned friend just now showed that "communal" is derived from "community", but in India, what is communal? A Brahmin and non-Brahmin question

is a communal question. A Sikh and non-Sikh question is a communal question. A Punjabi and non-Punjabi question is a communal question. How are you going to define it? So I say if this word "communal" has been accepted, it is certainly a very great wrong to the great community of India.

I say whenever you want to get through a Bill kindly don't try to become communal by saying and by making us believe that you are non-communal. You have defined already "public charities" as really "for relief of the poor, education, medical relief, advancement of any other object of general public utility". Why do you want to bring all these communal ideas? I say certainly that whoever introduces anything about communal gifts has something lurking, a suspicion at the back, and I say that he is communal. And I suggest to the hon. Finance Minister that whoever may have guided him to put in these words is also certainly communal. Because he has put in this amendment, and this means that certain people approached him, and he has put this amendment. That is why I say whoever approached him were certainly communal. And I also request Mr. More that he should take back his amendment. There may be a school for teaching Vedas. You will say that it is communal.

Shri C. D. Pande: They will say "religious".

Shri Dhulekar: Teaching of religion is not communal. People may teach the Quran, the Guru Granth Saheb, and you say they are communal people. After all the sacrifices that these "communal" people have made in freeing the country from the old slavery, you call them "communal". I believe Brahmins and all people combined to throw out the British domination, and we are called communal. I cannot believe this. You say that if I call myself a Brahmin, I am communal. No. I have got a great lineage. My forefathers did not commit any wrong. They gave the

Upanishads, Lilavati, Shankaracharya, Mayavati, Ramanujacharya and Ramakrishna Paramahansa. We have given all this, and if I call myself a Brahmin in India, you call me communal.

Shri Gadgil: Such things should have exemption.

Shri Algu Rai Shastri (Azamgarh Distt.—East cum Ballia Distt.—West): But some Brahmins have thrown away their threads.

Shri Dhulekar: My learned friend says that some Brahmins have thrown away their threads. But such person cannot, at any rate, become Member of the Scheduled Castes although he may have thrown away his thread. Still hon. Mr. Gadgil will remain a Brahmin and he will die a Brahmin. Nobody will take him as a Scheduled Caste. He cannot contest a seat saying: "Because I have thrown away my thread, I am a Scheduled Caste." They will say: "That may be so, but you are a Brahmin all right".

Shri N. C. Chatterjee: Once a Brahmin, always a Brahmin.

Shri Dhulekar: The point here is this. I request the hon. Minister not to go into it so much threadbare. You are talking of communalism everyday. Why? Public charity is public charity. Everybody knows it. If it is proved that it is not public charity, it will be thrown out, but certainly a person can make a gift for a school or for a temple. Do you believe that because you have put in this, people will not make their temples? Are you going to throw away all these temples? Are you going to eradicate everything that is temple-like in our minds also? If the temples of India were not in India, you will find that there will be nothing. If Ram is not there, if Krishna is not there, India will not be there.

Shri R. K. Chaudhury (Gauhati): What is the idea of "Ram Raj"?

Shri Dhulekar: If you go to a village, and if a temple is not there,

[Shri Dhulekar]

is it a village? I don't think it is. You say temple is a communal thing. What a fantastic idea! A Gurdwara is a communal thing, a Masjid is a communal thing. What a fantastic idea! This idea has been given by the British people, that all these emblems of purity and chastity are communal. Suppose I begin to teach people that our ladies, our women, our mothers of India, should be like Savitri and Sita and I dedicate something for this teaching, you will say this is communal.

Shri C. D. Pande: Religious.

Shri Dhulekar: Don't try to put into Acts things that cut at the root of our culture. Culture is religion and religion is culture. In India they are indivisible. Therefore, I request Mr. More not to put in all this. Let him take it back. I would request Mr. Deshmukh that he should end with the words "general public utility".

Shri Bansal (Jhajjar-Rewari): I beg necessary to the amendment of the to submit that no amendment is hon. Finance Minister. To accept Mr. More's amendment will create a number of difficulties. Some of these have already been pointed out, but I would like to refer to one particular difficulty. For example, this word "backward communities" is not defined anywhere. I do not think it is defined either in our Constitution or in this Bill or in any of our Acts. Scheduled Castes and Tribes, I think, are defined, but not backward communities.

Shri C. D. Deshmukh: Backward classes.

Shri R. K. Chaudhury: It is defined in the Constitution, I think.

Shri Bansal: It is "communities" here.

Shri C. D. Deshmukh: It should be "classes".

Shri Bansal: I am not sure even if that will satisfy me because recently

there was a conference here in New Delhi, and one gentleman from my constituency attended it. He happens to be the son of an ex-Raja. I asked him: "How do you happen to be in Delhi?" He said: "I came here to attend the conference of the Backward Classes." I said: "You do not belong to the Backward Classes". He said: "I am an Ahir, and Ahirs are a Backward Class". I may tell the hon. Finance Minister that in my constituency the Ahirs are the richest peasant proprietors, and they call themselves as a Backward community.

The Parliamentary Secretary to the Minister of Finance (Shri B. B. Bhagat): Not all over the country. That is only in your place.

Shri Bansal: In U.P. also. In U.P. and Punjab, Ahirs and Jats are the most privileged peasant proprietors. It is a fact I do not say that they are or they are not backward, but the fact remains that backward communities and classes must be defined somewhere if this word is to be retained here.

Shri B. R. Bhagat: The Backward Classes Commission will define it.

Shri Bansal: Therefore, in my opinion, if the clause remains, according to the amendment of the hon. Finance Minister, it should serve the purpose.

Then, the fear may perhaps be that this may debar charities for the benefit of Scheduled Castes and Tribes. But I should imagine that for the time being at least, any charity given to the Scheduled Castes and Tribes would be counted as a public purpose. Everybody realises that anything done for the benefit of Scheduled Tribes and Scheduled Classes is for a public charitable purpose, and I therefore think that it is not necessary to accept Mr. More's amendment which will, in my opinion, create a number of other difficulties, particularly the ones I have referred to, and also the one to which the previous speaker has referred in such

vigorous terms. After all why should we lay emphasis on the word 'communal'? The word 'communal' is again not defined anywhere.

I would therefore suggest to the hon. Finance Minister that he stick to his own amendment and not accept Mr. More's amendment.

श्री बी० पी० सिंह : मेरा ख्याल है कि अर्थ मंत्री ने रिलीजन शब्द का बहुत संकीर्ण अर्थ लिया है। रिलीजन का वह अर्थ है जो हमारा आध्यात्मिक उत्थान करे। मैं समझता हूँ कि मोरे साहब का जो संशोधन अर्थ मंत्री ने कबूल किया है वह गलत है और उनका जो संशोधन है उसकी प्रथम दो लाइनों ही यथार्थ हैं। उन से वह माने निकल आते हैं। हम जिन कम्प्यूनल शब्दों से भागना चाहते हैं, मोरे साहब के संशोधन मान कर हम उस को ही कबूल करते हैं।

धुलेकर साहब के सुझावों से मैं पूरी तरह सहमत हूँ। और मैं अर्थ मंत्री जी से यह निवेदन करूँगा कि वह अपने संशोधन की प्रथम दो लाइनों को ले लें और दूसरी दो लाइनों को निकाल दें, क्योंकि इससे सारा मतलब निकल आता है। धर्म से हमें घबराना नहीं चाहिये। उस के संकीर्ण अर्थ लगाने से ही हम कठिनाई में पड़ जाते हैं। हमें धर्म का वही अर्थ लेना चाहिये जिस से हमारा आध्यात्मिक उत्थान हो। जिस मार्ग पर चल कर हम सत्य मार्ग पर अग्रसर हो सकें वही धर्म का अर्थ होना चाहिये। जो धर्म हमें संकीर्ण बनाता है वह हमें नीचे गिराता है।

मोरे साहब का जो संशोधन है उस से यह होगा कि हम जिस कम्प्यूनल शब्द से भागना चाहते हैं उसी में हम पड़े रहते हैं और संकीर्ण विचारों वाले बने रहते हैं। इस लिये मैं कहूँगा कि अगर हमें लोगों की सेवा करनी है, अगर हमें मानवता की सेवा करनी है तो हमें अर्थ मंत्री के संशोधन की

प्रथम दो लाइनों को स्वीकार करना चाहिये और मोरे साहब का जो संशोधन है उसको न मानना चाहिये क्योंकि वह कम्प्यूनल भावना पैदा करता है। मूल संशोधन की पहली दो लाइनों को ही रखना चाहिये।

वंदित श्री० एन० बालवीर : इस संशोधन के सम्बन्ध में धुलेकर साहब ने और बनारसी दास जी ने जो कुछ कहा है उस से मेरा ऐसा ख्याल है कि बड़ी गलतफहमी पैदा हो गई है। मैं उन की इस विचार धारा से सहमत नहीं हूँ कि गवर्नमेन्ट ने या मोरे साहब ने जो चीज रक्खी है उस में खुद उन्होंने किसी कम्प्यूनल भावना का प्रदर्शन किया है। जो संशोधन रखा गया है उस को मानने के साथ 'एक्स्क्लूसिवली', लफ्ज़ को हटा कर 'प्रिडा-मिनेन्टली' का जो शब्द रक्खा गया है वह इस लिये रक्खा गया है कि जायदाद वाले जिस तरह से टैक्स को धर्म की आड़ लेकर हटाना चाहते हैं वह उस को न हटा सकें। धर्म की भावना का जो नाम लेते हैं उस धर्म के अर्थ से हम नफरत करते हैं। आज कौनसा धर्म हम और आप यहां पर देख रहे हैं जिस के नाम पर आज बहस की जाती है और बहुत से और काम किये जाते हैं। धर्म की उष्ण भावना का मतलब तो यह है कि सब कुछ त्याग दिया जाय। लेकिन यहां सब कुछ त्यागने को नहीं कहा जा रहा है। जो कुछ आप के पास है उस में से सिर्फ कुछ फीसदी गवर्नमेंट टैक्स के रूप में लेना चाहती है। इस से आप का दिल क्यों दुखता है? धर्म का मतलब तो यह है कि सब कुछ त्याग दिया जाय और जनता जनार्दन की सेवा में लगा दिया जाय। इस जायदाद का धर्म से कोई ताल्लुक मेरी समझ में नहीं आता।

दूसरी बात यह है कि धर्म के नाम पर जो ट्रस्ट किये जाते हैं, इस किस्म का जो रुपया ट्रस्ट या दान किया जाता है उस का धर्म के नाम पर दुरुपयोग किया जाता है।

[पंडित सी० एन० मालवीय]

मैं तो कहता हूँ कि जो इस किस्म के आदमी हैं जो दुकानों के अन्दर बैठ कर हर काम से, हर मजहब के आदमी से, तिजारत कर के रुपया कमाते हैं उन को क्या हक है कि वह एक धर्मशाला ऐसी बना दें जिस में एक ही जाति वाले रह सकें, दूसरी जाति वाले उसमें न घुस सकें, एक ऐसा स्कूल बना दें जिस में एक ही कौम के लोग पढ़ सकें और बाकी दूसरी कौमों के लोग न पढ़ सकें। मैं इन तमाम चीजों को यहां दोहराना नहीं चाहता। मैं आप को बता सकता हूँ कि आज देश के अन्दर ऐसी संस्थायें बढ रही हैं जिन में एक ही कौम के लोग पढ़ सकते हैं दूसरी कौम के आदमी नहीं पढ़ सकते, हालांकि उन में सारे देश का रुपया लगा हुआ है। आखिर, धर्म का मतलब क्या है? अगर आप धर्म की टीचिंग देना चाहते हैं, अगर आप धर्म की उच्च भावना को रखना चाहते हैं तो सरकार उसकी आड़ में नहीं आती, हम और आप उस की आड़ में नहीं आते। सेकुलर नाम तो उस की आड़ में नहीं आता। सेकुलर का मतलब तो यह है कि आप जिस धर्म को चाहियें मानिये, हम नहीं कहते कि आप किसी खास धर्म को मानिये। रामानुजाचार्य को मानने वालों को क्या हक है कि वह दूसरों से कहें कि आप हमारे सम्प्रदाय को ही मानें और शैव कहें कि शिव को ही मानिये या वैष्णव कहें कि आप विष्णु को ही मानिये। धर्म तो आजाद है। इस धर्म की अजादी पर गवर्नमेंट विश्वास रखती है, लेकिन सवाल यह है कि क्या इस किस्म की इजाजत होनी चाहिये कि किसी चीज के नाम से लोग टैक्स ऐवायड करें? सिर्फ कुछ फीसदी की रकम तो आप से मांगी जाती है और उस के लिये धर्म यहां पर आ जाते हैं। सिर्फ उसको बचाने के लिये सारी चीज कम्प्यूनल बन जाती है। आगरे में मैं जिस शहर में रहता हूँ वहां पर इस किस्म की पाठशालाएं हैं जिस में यह ह

कि सिर्फ फलां जाति या फलां धर्म के लोग ही पढ़ेंगे, दूसरे धर्म के लोग नहीं पढ़ेंगे, जब कि उन्होंने देश के रुपयों से उन को बनाया है। इस लिये मैं कहता हूँ कि धुलेकर साहब का या बनारसी दास जी का यह कहना कि यदि किसी दल का व्यक्ति या सरकार या हम में से कोई ऐसा संशोधन रखता है और इस चीज का विरोध करता है तो वह धर्म के नाम पर करता है या साम्प्रदायिकता के नाम पर करता है, यह ठीक नहीं है। उस का मतलब सिर्फ यह है कि आप अपने अपने धर्म में खुश रहें। अगर आप धर्म की उच्च भावना रखना चाहते हैं तो आप अपनी जायदाद को जाने दीजिये, उस को जनता जनार्दन को अर्पण कर दीजिये, कोई उस में रुकावट नहीं है। लेकिन इस फैसेले का जो कि जनता के हित में होने वाला है आप विरोध क्यों करते हैं। गवर्नमेंट का कोई आदमी इस रुपये को अपनी जेब में रखने वाला नहीं है।

इस लिये जो अमेन्डमेन्ट मैंने दिया था उसका मतलब भी वही था जो कि मोरे साहब के एमेन्डमेन्ट का था। वही उस का भी मफहूम था और मैं उन के संशोधन का समर्थन करता हूँ। मेरा ब्याल है कि कम्प्यूनल का मतलब तो आप सब लोग जानते हैं जैसे अगर कोई मारवाड़ी है अगर यहां कोई मारवाड़ी साहब हों तो मुझे माफ करेंगे, मेरा मतलब मारवाड़ी से नहीं बल्कि पूरी मानव जाति से है? मैं एक तिजारत करना चाहता हूँ या जमीन से कुछ रुपया कमाता हूँ और उस को इस तरह से खर्च करना चाहता हूँ कि एक स्कूल लो कर यह कह दूँ कि इस में सिर्फ मालवीय का ही बच्चा पढ़ेगा या इस में किसी जाति विशेष का ही बच्चा पढ़ेगा। तो यह ठीक नहीं है। एक कम्प्यूनिटी के लिये ही कहने का मतलब यह होता है कि जो रुपया आप पब्लिक से लेते हैं उसको एक जाति के लिये सीमित कर देते हैं। ऐसा आप नहीं कर सकते हैं। आप

रिलीजस टीचिंग के लिये पैसा खर्च करना चाहते हैं, करिये आप को कोई नहीं रोकना, आप को इस का हक है, लेकिन उस का थोड़ा सा हिस्सा सरकार के पास जायेगा। आप की सारी जायदाद आप से नहीं ली जा रही है, सिर्फ थोड़ा सा हिस्सा सरकार ले रही है, बाकी आप खर्च कीजिये। इस लिये मैं इस संशोधन का पूरी तौर से समर्थन करता हूँ और अपील करता हूँ हाउस के तमाम मेम्बरों से कि इस को स्वीकार करें।

जब कभी इस किस्म का सुधार लाया जाता है तो समाजों तथा व्यक्तियों की यह प्रवृत्ति होती है कि यह धर्म का नाम ले कर उसका विरोध करते हैं। इस तरह से धर्म का दुरुपयोग किया जाता है। ऐसे स्थान पर धर्म को नहीं लाना चाहिये। इस सवाल को भूल कर हमें इस प्रश्न पर विचार करना चाहिये। मैं तो कहता हूँ कि यह धर्म का उपयोग नहीं बल्कि दुरुपयोग है। इस में किसी की धार्मिक भावना को ठेस नहीं पहुंचती, किसी के मजहब का इस से हरण नहीं होता बल्कि सारे देश को, जिस देश को हम अच्छा रखना चाहते हैं, प्रगति की तरफ ले जाता है। यह आप की सम्यता, आप के कल्चर, आप की संस्कृति को नष्ट नहीं किया जा रहा है, बल्कि उस को आगे बढ़ाया जा रहा है। जो सारी खराबी फोड़े की तरह से देश के अन्दर बढ़ रही थी उस को हटाने की कोशिश की जा रही है न कि देश को बरबाद करने की कोशिश की जा रही है। हमें इस कोशिश की तारीफ करनी चाहिये और धर्म के नाम पर उस में रोड़ा नहीं अटकाना चाहिये।

इस लिये मैं पूरी तौर से इस का समर्थन करता हूँ और समझता हूँ कि यह हाउस यकीनन इस को मंजूर करेगा।

Shri Mohiuddin and Shri E. K. Chaudhary rose—

Shri C. D. Deshmukh: I think it might help the debate, Sir, if I make a statement. I have been trying to take note of the obviously deep feelings which many members of the House entertain on this matter, and I have been trying to find out some logical way out of the difficulties. Now, reference was made by Shri Chatterjee to my assurances. We had taken this definition from the Charitable Endowments Act and we had also in mind when I offered to accept Mr. More's amendment, the wording which we have introduced very recently in Section 15B of the Income-tax Act. Now, I find that the Charitable Endowments Act was passed in 1890 and it was in the British days when possibly they did not want to have anything to do with those kinds of charitable endowments which had something to do with religious worship and so on. Torn out of its context, it may be that that definition is not strictly what we have in mind. I find the House has debated at great length all the business of religious community, women and children, backward classes and so on. It seems to me that we ought to be at least consistent and we ought to try and reproduce in this clause what we introduced in Section 15B. Therefore, Sir, if you will permit me, I will put this revised form of the amendment including part of Mr. More's amendment before the House before the discussion proceeds...

Some Hon. Members: Yes.

Shri C. D. Deshmukh:... and that would be:

“‘public charitable purposes’ includes relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not include any purpose which is expressed to be for the benefit of a particular religious community”.....

[Shri C. D. Deshmukh]

Now, I repeat the words of Section 15B—

“unless it is for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or women and children”.

Now the result will be that this difficulty about Vedantic schools or Koranic schools will not occur. In other words, even if I am a Hindu, if I go to a Koranic school, well, I am welcome: it is not for the purpose of a particular religious community. Or if a Muslim wants to attend a Vedantic school, he will be allowed if there is such a school. In respect of this, obviously it will be education or something, but not a Vedantic school for the benefit of any particular religious community. Therefore, it seems to me that safety lies in following the wording of Section 15B which has been fully debated by us.

Shri K. K. Desai (Halar): What about castes' charity?

Shri C. D. Deshmukh: Whatever you have to say about religious communities or castes, here I am

trying to give the interpretation of what is contained in the Income-tax Act. I only wish to say that what is excluded is anything that inures for the benefit of a religious community and then from that we exclude certain things which after a great deal of debate we decided to exclude.

Shri S. S. More: May I make a submission, Sir?

Shri T. N. Singh (Banaras Dist.—East): The amendment may be circulated.

Mr. Chairman: It would be better if that amendment were circulated.

Shri C. D. Deshmukh: Yes.

Shri S. S. More: Let us have it before we carry on further discussion on this. Let us now adjourn, Sir.

Shri N. C. Chatterjee: Let us adjourn now.

Mr. Chairman: Let it be circulated.

The House then adjourned till a Quarter Past Eight of the Clock on Friday, the 28th August, 1953.