## (Part II—Proceedings other than Questions and Answers)

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### LOK SABHA

Wednesday, 29th February, 1956.

The Lok Sabha met at Eleven of the Clock.

[MR. DEPUTY-SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(See Part)

**12 NOON** 

### PAPER LAID ON THE TABLE

BUDGET ESTIMATES OF THE DAMODAR VALLEY CORPORATION

The Deputy Minister of Irrigation and Power (Shri Hathi): On behalf of Shri Nanda, I beg to lay on the Table a copy of the budget estimates of the Damodar Valley Corporation for the year 1956-57 under sub-section (3) of section 44 of the Damodar Valley Corporation Act, 1948. [Placed in the Library. See No. S—70|56.]

# COMMITTEE ON PRIVATE MEMBERS' BILL AND RESOLUTIONS

FORTY-FIFTH REPORT

Shri Altekar (North Satara): I beg to present the Forty-fifth Report of the Committee on Private Members' Bills and Resolutions.

### SECURITIES CONTRACTS (REGULATION) BILL

Presentation of \*Report of Joint Committee

Shri C. C. Shah (Gohilwad-Sorath): I beg to present the Report of the Joint Committee on the Bill to prevent undesirable transactions in securities by regulating the business of dealing therein, by prohibiting options and by providing for certain other matters connected therewith.

### SALES TAX LAWS (VALIDATION) BILL—Concld.

Mr. Deputy-Speaker: The House will now resume further consideration of the Sales Tax Laws Validation Bill. Out of 4 hours allotted for this Bill, 2 hours and 30 minutes have already been availed of. This leaves 1 hour and 30 minutes.

After the disposal of this Bill, the House will take up the Life Insurance (Emergency Provisions) Bill till 4-30 P.M. when the House will adjourn to reassemble at 5 P.M. in connection with the presentation of the Budget by the Minister of Finance.

Shri Heda will now continue his speech on the Sales Tax Laws Validation Bill.

भी हेडा (निजामाबाद) : कल मैं यह भर्ज कर रहा था कि भाम तौर पर यह स्थाल फैला है कि हुकूमत चाहे जो करे वह भपने काम को निभा कर ले जा सकती है। इस सिलसिसे में मुझे एक भाभ चीज भीर भर्ज करनी है।

कल जब इस विधेयक के उपर हाउस (सभा) में बहस हो रही थी तों उसके दौरन में एक सदस्य ने दिरयाफ्त (मालूम) किया था कि जिस कम्पनी ने यह दावा दायर किया भौर जिसके हक में यह फैसला हुआ, क्या उस कम्पनी की सेल्स टैक्स (विकोकर) देना होगा भौर भगर देना होगा तो उसको यह सारा झंझट मोल मेने से क्या फायदा हुआ ? उसके जवाव में उसी वक्त कहा गया था कि उसको यह सन्तोष मिलेगा कि फैसला उसके हुक में हुआ। लेकिन में उन को यह बतलाना चाहुंगा कि केवल सन्तोष मात्र वह बतलाना चाहुंगा कि केवल सन्तोष मात्र हिंसी व्यापारिक संस्था के लिए काफ़ी नहीं हो सकता। दर असझ इसमें वह कहावत चरिताई होती है कि नेकी कर और दरया में बाल'।

<sup>\*</sup>Published in the Gazette of India Extraordinary, dated 29-2-1956, pp. 11. 1—12 Lok Sabha

[श्री हेडा] उन्होने एक दावा दायर किया, एक प्वाइंट किलि-यर (स्पष्टीकरन) कराया लेकिन खुद उन्हें उससे कोई फायदा नहीं हुआ और उनके सामने जो एक समस्या थी, जो एक सवाल था वह ज्यों कात्यों बनारहा भीर वह हल नही हो पाया । दूसरी तरफ जब हम हुक्मत की पोजीशन स्थिति का स्याल करते हैं तो उसके सम्बन्ध में एक दूसरी कहावत चरितार्थ होती है ग्रीर वह यह है कि चितभी 'मेरी भ्रौर पटभी मेरी जो काम हम ने किया वह ग्रगर ठीक था ग्रौर दस्तुर के तहत (ग्राघीन) था, तब तो चलिये ग्रच्छा हुमा लेकिन ग्रगर वह दस्तुर के तहुत ठीक भी नहीं थातब भी ग्रागे चल कर हम यहां ग्राकर उसको रिट्रोस्पेटिव एफक्ट (भ्तलक्षी प्रवाह के साथ) ठीक करा सकते हैं। वहलहाल प्रम लोग में स्थाल फैल रहा है कि हकूमत चाहे कोई काम कर ले ग्रौर वह चाहे कानुन दस्तुर के तहत जायज हो या न हो, उसके खिलाफ़ कोई चारेकार हासिल नहीं है। इस सिलसिलें में मेरा केवल इतना निवेदन है कि कम से कम वह सेल्स टैक्स जो ग्रभी वसूल नहीं हुमा है, उसके बारे में हुकूमत (सरकार) को ग्रौर तरीके से गौर करना चाहिए ।

इस विधेयक के एम्स एंड ग्राब्जेक्टस दिखा कर उद्देश्य के मन्दर जो शब्द लिखे हैं भौर बिल (वि-भेयक) की बाड़ी के ग्रन्दर जो शब्द लिखे हैं, उनमें जरा सा फ़र्क है। एम्स एंड ग्राबजेक्टस् के **धन्दर'लै**वी एंड कलैक्शन'(ग्रारोपण ग्रौर संग्रहरा) इस तरह से एंड (ग्रीर) शब्द डाला हुन्ना है जब कि बिल की बाडी में 'हैव बीन लैबीड ग्रौर कलेक्टैड' (भ्रारोपित या संग्रहीत) यह बाब्द डाले हुए हैं। एम्स एंड श्राबजैक्टम की देखने के बाद ऐसा मालुम होता है कि जो इंटर स्टेट सेल्स टैक्स (भ्रंतरराजीय विकी कर) भ्रायद हो चुका, लैवी हो चुका और वसूल हो चुका वह तो बसूल हो चुका भौर उसको भव जायज कर दिया गया है लेकिन वह टैक्स जो सिर्फ ग्रायद हुआ है धौर धभी वसूल नहीं हुआ है उसके बारे में एक ऐसा स्थाल पैदो होता है कि शायद उसको वसूल वहीं किया जायेगा। लेकिन बिल का जो दूसरा क्लाज (खंड) है उसको देखने के बाद स्पष्ट तौर पर मालुम होता है कि जो ग्रभी बसूल नहीं हुआ है उसको वसूल किया जा सकता है भौर उसकी भदायगी से नजात या माफी नहीं मिल सकती । इसके बारे में में भर्ज करूंगा कि जिन से सेल्स टैक्स वसूल हो चुका है भौर जो रक्तम सरकार के पास मौजूद है, उसके बारे में मुझे कुछ, जास कहना नहीं है और वास्तव में यह काफी मुशकिल हो जाता है कि एक बार जो पैसा हुकूमत के पास चला जाये, वह उससे वापिस लिया जाये....

भी यु॰ एम॰ त्रिवेदी सरकार रिफंड (वापिस करा) देती है।

आ हेडा: सरकार के पास चलें गये पैसे को वापिस लेने के लिए बड़ी दिक्कत भ्रौर दुश्वारी पैदा होती है ग्रौर किसी भी तरह की वसुली हो, तगावी हो या दूसरे महसूलात हो, हमने देखा है कि हांलाकि सरकार इनकी वसुली करते वक्त यह कह देती है कि भाई इनकी ग्रादायगी कर दो, मुमकिन है कि ग्रागे चल करके हमें इससे कोई नजात मिल सकेगी और यह माफ हो जायेंगे ग्रौर यही वजह है कि जो ग्रादमी ऐसा समझ कर महसूल वगैरह भ्रदा कर देता है, वह तो भागे चल कर नुक़सान में रहता है लेकिन जो भ्रादमी भ्रदा नहीं करता भ्रौर कोई न कोई हीले बहाने बना कर उसकी ग्रदायगी को टालता जाता है, उसको भ्रागे चल कर किसी मौके पर फायदा पहुंच सकता है जिसका मतलब यह हुआ कि जो न्याय होता है वह उलटा हो रहा है। जो ठीक तौर पर भ्रदा करता है वह तो नुकसान में रहता है ग्रीर जिस ने ठीक तौर पर **ग्रदान करके किसीन किसी तरीके से उसकी भ**दायगी को रोके रक्खा वह फायदे में रहता है। इस सम्बन्ध में मै यह अपील करूंगा कि कम से कम जो सेल्स टैक्स आयद हो चुका वह तो हो चुकालेकिन जो धभी तक वसूल नहीं हुन्ना है उसको वसूल करने की कार्यवाही न की जाये ग्रौर ऐसा करके हम यकीनन सुप्रीम कोर्ट का जो इस सम्बन्ध में डिसिशन (निर्णय) हुन्ना है, उसकी इज्जत करेंगे। यहां पर कहा गया था कि सुप्रीम कोर्ट की इज्जल तो हम करते ही हैं भीर हम उनके फैसले की भी इज्जत करते हैं भौर उसी के लिए तो यह बिल हम हाउस की मंजूरी के लिए लाये हैं। भापका ऐसा फरमाना बजा है लेकिन में यह कहे बगैर नहीं रह सकता कि यह इज्जल महज टेकनिकल (परि-भाषिक) है जब कि ग्राप यह कहते हैं कि सुप्रीम कोर्टने जो एक हमारे रास्ते में ग्रहंगा लगाया था, उसको हमने दूर कर दिया है । इस तरह की यह जो भावना है भौर इज्जल है, जिस तरीके से पूरी इज्जात होनी चाहिए थी वह नहीं हो पाई है। मभी जैसा कि श्री बंसल ने कहा मौर एक दूसरे साहब ने कहा कि इससें बहुत बड़ा क़दम उठाने का सवाल नहीं है खाली तीन, चार करोड़ रुपये का सवाल है भौर मैं तो कहता हूं कि जो हम भालरैंडी (पहिलेही) वसूल कर चुके, उसके सम्बन्ध में कोई कार्यवाही न करें, लेकिन जो मभी बसूल होना बाकी है, और वह बहुत छोटी रक्तम निकलेगी भीर उसमे नुकसान की कोई खास बात नहीं है, उसको हम घव वसूल न करें। जिस क़ानून को सुप्रीम कोर्ट ने नाजायज ठहरा दिया है उसको हम रिट्रास्पेक्टिव (भुतलक्षी) सौर पर जायज करार देकर बकाया की वसूलयाबी न करे और हमारा ऐसा करने से कम से कम कुछ लोगों को राहत मिलेगी भीर ऐसा करके हम सुप्रीम कोर्ट की मंशा के मुताबिक भ्रमल करेंगे भौर में समझता हूं कि हम इससे मुल्क के भन्दर खुशनुदी (सद्भावना) हासिल करेंगे। इन्हीं चन्द एक भ्रत्फाज (शब्दों) के साथ में भ्रपना भाषण समाप्त करता हूं।

पंडित ठाकूर बास भागेंव (गुड़गांव): उपाध्यक्ष महोदय, यह जो भ्रापके रूबरू (सामने) ग्राज कानुन मौजूद है, इसके जब मैं ने एम्स एंड माब-जेक्ट्स (उदेश्य) को देखा तो मैं यह समझता था कि चंकि यह मुश्किल है कि जो रुपया कलैक्ट (जमा) हो चुका है वह किस को वापिस किया जाये । मिडिलमेन (दलाल) को धगर बापिस किया जाय तो कंज्यूमर्स (उपभोक्ता) कों उसका फायदा नहीं मिलेगा ग्रौर इस वजह से मानरेबल फ़ाइनान्स मिनिस्टर (माननीय वित्त मन्त्री) साहब का यह कहनाथा कि चूकि ग्रसल **भ**शस्त्रास (व्यक्तियों) को जिनसे कि यह रूपया बसूल किया गया है उनको नहीं मिलेगा । बल्कि ऐसे अशलास को मिलेगा जो फ़िलवाक़य (यथार्थ मे) इसके हक़दार नहीं हैं भौर इस दलील में कुछ जवाज या कि उस रुपये को वापिस न किया जाता, गो कि मै यह समझता हुं कि गवर्नमेंट का फ़र्ज इतना ही है कि ग्रगर किसी शस्स से उसने नाजायज तौर पर रुपया बसूल किया है तो गवर्नमेंट को बह रुपया उसी शस्स को वापिस दे देना चाहिये जिससे कि उसने वसूल किया हो । यह इक्बैटी (भावना) कि जिस से गवर्नमेंट ने रुपया वसूल किया भीर जिस शस्स ने कंज्युमर्स से वसुल किया भौर उनके मार्वन है यह दिक्कत पैशाधी कि वह किस को दें ग्रौर किस को न दें, **जहां** तक गवर्नमेंट का ताल्लुक़ है, यह रुपया जनको मिलना चाहिए जिनसे कि गवर्नमेंट ने बसूल किया, मैं इस डेलिकेटनेस (बारीकी) **भानरेबुल मिनिस्टर के फ़ाइन टेप्परामेंट (अच्छी** प्रकृति प्रौर डेलिकेसी आफ ला (कानून की बारीकी) की उनकी दलील को समझने को तैयार हं कि घसल शस्स को धगर रुपया नहीं पहुंचता तो प्रच्छा है कि वह रुपया गवर्नमेंट के पास ही रह जाये, यह मिनिस्टर साहब का नुक्तेनिगाह (द्वष्टिकोण) या नो कि मैं इसके

साथ एग्रीमेंट (सहमत) में नहीं हुं, ताहम इसमे कुछ जवाज या लेकिन जब जनाव के तशरीफ से जाने के बाद एक दो सवाल उठे तो पता लगा कि इसके भन्दर इतना ही नहीं है बल्कि जो आज ऐसे क़ानून मौजूद हैं जिनकी कि बाबत सुप्रीम कोर्ट ने करार दे दिया कि वह दुरुस्त क़ानुन नहीं है भीर लालेस लाज (विधिरहित कानुन)हें ग्रीर उनके ग्रन्दर कोई एलिमेंट आफ जस्टिस (न्याय तत्त्व) नहीं है जिसकी कि बेसिस (भाधार) पर उनको क़ायम रख सकें ग्रीर उनके तहत किसी को भस्रत्यार नहीं था कि उस रुपये को वसूल करता, उन लाज के मातहत जो शस्स मभी तक टैक्स देने के लिए लाएबिल हैं, उनसे ईस टैक्स को मभी वसूल किया जायेगा, तो ऐसी हालत में भानरेबुल मिनिस्टर साहब की जो भसली दलील थी कि गवर्नमेंट कैसे उस टैक्स की रकम को सही लोगों को वापिस दे जिनसे कि उसने वाक़ई में वसल किया था, वह दलील बेमानी हो जाती है भौर वह दलील दरभसल इस क़ानून के वास्ते नहीं पेश की जा रही है बल्कि वह दलील तो गवर्नमेंट की तरफ से उस इकट्ठा किए हुए रुपये को हजम करने के वास्ते पेश की जा रही है। गवर्नमेंट को यह बखुबी मालूम है कि जिन लोगों से इस टैक्स का रुपया वसुल नहीं हुमा है भौर जो इसकी जद (सीमा) में ब्राते हैं, ब्रगर गवर्नमेंट उनसे रुपया बसल न करे तो ठीक मानों में यह सुप्रीम कोर्ट के हुक्म की इज्जात करनी होगी। सुप्रीम कोर्ट के फैसले के बावजद ग्रीर बावज्द इसके कि हमारी राय में बह कानून दुरुस्त नहीं है, वह इल्लीगल (ग्रवैध) टैक्स है, ग्रगर फिर भी हम वसूल करते चले जायें तो में समझता हूं कि यह हैविसिटी ग्राफ ला (विधि की ग्रवहेलना) है **ग्रौ**र गवर्नमेंट हरगिज जस्टिफाइड (न्याय संगत) नहीं है कि उन लोगों से एक ऐसे क़ानून के मातहत जो कि दुरुस्त नहीं है, उस के मातहत भ्रगर कोइ लाए-बिलिटी (दायित्व) पैदा होती है तो मैं भर्ज करता हु कि वह इल्लीगल इक्जैक्शन है भीर भने अस्टिफाइड इक्जीक्शन है। एक ऐसे क़ान्न के मातहत जो कि इल्लीगल क़ान्न ठहराया गया है उसके मातहत लाएबिलिटी को कलैक्ट करना मेरी समझ में इनजस्टिस को परिपच्छट (ग्रन्याय को बढावा देना) करना है।

फिलवाक जब मैं ने इस भासपेक्ट (पहलू) को सोचा तो मुझे मालूम हुमा कि यह मुनासिब नहीं है कि कानून इस तरह की इजाजत दे भीर हम दिन दहाड़े ऐसा काम करें जो कि

[पंडित ठाकर दास भागव] कतई नाजायज है। इस वास्ते में ने दो श्रमेंडमेंट (संशोधन) हाउस की खिदमत में भेजे हैं। उनमें से एक यह है कि लफ्ज 'लैवीड ग्रीर कलेक्टेड' (भारोपित भ्रथवा संग्रहित) के वजाय 'लेवीड एंड कलेक्टेड' (ब्रारोपित ब्रौर संब्रहित) समझा जाये। फिर मैं ने सोचा कि इतने लफ़्ज़ इस्ते-माल करने की भी जरूरत नहीं है और इसलिए मैं ने भ्रपने भ्रमेंडमेंट पर एक भ्रमेंडमैंट दिया जिसमें मैं ने यह कहा है कि जहां कहीं भी लफ़्ज 'लेवीड भ्रार' हों वहां से उनको हटा दिया जाये भौर सिर्फ लफ्ज 'कलेक्टेड' रखा जाये । हालांकि में इसके हक में भी नहीं हूं क्यों कि इस रुपये का रखना नाजायज होगा। ग्रगर ऐसा किया गया तो इसका साइकालाजीकल (मनोवैज्ञनिक) नतीजा यह होगा कि लोग टैक्स इवेजन (कर से बचना) की बात सोचेंगे श्रीर ऐसा करने में वे भ्रपने को जस्टीफाइड समझेंगे क्योंकि यहां पर ऐसा कानून है जिसके मातहत टैक्स वसूल नहीं हो सकता लेकिन उसके मातहत जो टैक्स लिया गया उसको दुरुस्त करार दिया जाता है। मैं समझता हंकि प्रगर ऐसा किया गया तो यह देश केलिए एक बड़ी भारी मिसफार्च्यन होगी । हम एक इम्मारल (भ्रनैतिक) कानुन के मातहत इम्मारेलिटी (भनैतिकता) की जवाज दे रहे हैं। इसलिए में चाहता है कि यह भल्फाज 'लेवीड भार' खत्म कर दे ने चाहिएं।

मुझे उस मामले में स्टेट गवर्नमेंट (राज्यसर-कारो) से भी हमदर्दी नहीं है। प्राज जब हमारे सामने सैकिंड फाइव इग्नर प्लान (द्वितीय पंच वर्षीय योजना) मौजूद है, कोई शख्स ऐसा नही होगा जो चाहेगा कि गवर्नमेंट के रिसोर्सेज संसाधन)कम किये जायें। भगर गवर्नमेंट को चार पांच करोड रुपया ऐसे तरीके से मिलता है जो कि जायज है तो हर एक चाहेगा कि उस रुपये से फाईनेन्स मिनिस्टर का खजाना पर हो ताकि वह फाइव इमर प्लान को से चला सकें। भाज २६ फरवरी को में समझता हं कि हमारे ऊपर कई करोड़ का टैक्स ज्यादा लगाया जायेगा जो ४५० करोड़ रुपया सैकिड फाइव इम्रर प्लान के लिए टैक्सों के जरिये वसल करना तै किया गया है, झाज उसकी पहली ५० या ६० करोड़ की किस्त लगायी जायेगी । मैं उन टेक्सेज की सपोर्ट (धनमोदन) करुगां। लेकिन में इन तीन चार करोड रुपये के टैक्स को सपोर्ट नहीं कर सकता क्यों कि यह हमारे मुल्क के स्ट्क्चर (क्षांचे) को जो कि मारल मौर ला पर विधि (तीन चार पर

है ठेस पहुंच जायेगा भीर वह स्ट्क्चर कायम नहीं रहेगा ।

कल आत में ने उस बहस की पढ़ा जो कि दफा २७४ ए० बी० ग्रीर दफा ३०१ ग्रीर ३०२ ग्रीर २६४ पर गौर करते वक्त कांस्टीट्यूएंट ध्रसेम्बली (संविधान सभा) में हुई थी। उस वक्त मैं ने दफा १६ को, जो कि फंडामेंटल राइट्स (मूलभूत अधिकार)के मुतालिक है, करने के लिए कोई बीस अमें अमें उमें ट पैश किये से क्योंकि में समझता था कि यह कानुन दफा १६ के उसल (सिद्धांत) के खिलाफ था। मैं चाहता था कि ग्रगर हम हिन्दुस्तान को एक मुल्क बनाना चाहते हैं तो उसमें हर एक इन्सान को इंटर स्टेट ट्रेड भौर कामर्स (भ्रन्तरराष्ट्रीय व्यापार भौर वानिज्य का हक होना चाहिए । मैं ने उस वक्त बहस के दौरान में कहा था कि हालत यह हैं कि पंजाब के जिले हिसार में चना ६ रुपये मन बिकता है तो वही चना मद्रास में २२ रुपये ग्रौर कलकत्ते में २० रुपये मन विकता है। मैं ने कहा था कि ग्रगर ग्राप इस मुल्क को एक बनाना चाहते हैं तो इस तरह की सहलियत होनी चाहिए कि एक जगह की पैदावार ग्रौर खुशहाली का दुसरे हिस्से भी फ़ायदा उठा सकें। श्रव एस. ग्रार. सी.रिपोर्ट पर बहस के दौरान में मालुम हुन्ना कि (खंड) बनायेंगे। तो क्या म्राप म्राप जोन रीजन वार (प्रदेश वार) टैक्स लगायेंगे। मैं समझता हुं कि ऐसे टेक्स ठीक नहीं हैं। धगर एक स्टेट की पैदावार दूसरी स्टेट में जाती है तो उस पर टैक्स लगाना वाजिव नहीं है । ऐसी कार्यवाही से देश की एकता नहीं बढ़ सकती। इसी लिए में चाहता था कि दफा १६ एबसोल्युट हो। उस वक्त जो नोजवान ग्रशस्त्रास थे जैसे श्री शिब्बन लाल सक्सेना श्रौर प्रभूदयाल हिम्मत-सिहा वगैरह उन्होंने मेरी बात को सपोर्ट किया लेकिन जो बडे बडे बजुर्ग थे जसे श्री टी० टी० कष्णमाचारी भौर श्री भलाडी कृष्णस्वामी उन्होने इस चीज को पसन्द नहीं किया भीर यह मोजुदा चीज पास हुई जो कि भ्रब मौजूद है। लेकिन जो मब मौजूद है उस पर भी नहीं हो रहा है। उस वंक्त में ने यह भर्ज किया

"But in relation to these articles also my humble submission is that if the provinces are allowed to have their own way to impose restrictions upon the citizens of any other State, then this one-Nation talk, this unity and this one-Government and one-country talk will mean nothing."

मैं भदब से भर्ज करना चाहता हु कि भगर भाप चाहते हैं कि यह उसूल देश में कायम हो कि सारा हिन्दुस्तान एक है तो इससे बढ़कर कोई भण्छी चीज नहीं है कि जो कानून भापने बनाया है उस पर भ्रमल करें। जो कानून हमने बनाया था भगर उसका मुकाबला हम उस कानून से करें जो कि हम इस बिल के जरिये बनाना चाहते हैं तो हम पायेंगै कि यह कानून उसके सस्त बाला लाफ है। हमने कांस्टीट्यूशन की दफा २६६ में लिखा है:

"Except in so far as Parliament may be law otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of any goods where such sale or purchase takes place in the course of inter-State trade or commerce."

जनाब वाला, इसके झलावा इसमें एक प्रावाइजो भी है जिसकी तरफ कल तवज्जह नहीं दी गयी। वह इस तरह से हैं:

"Provided that the President may by order direct that any tax on the sale or purchase of goods which was being lawfully levied by the Government of any State immediately before the commencement of this Constitution shall, notwithstanding that the imposition of such tax is contrary to the provisions of this clause, continue to be levied until the thirty-first day of March 1951."

कल जनाब वाला ने यह करार दे दिया कि जिस बीज को हाउस प्रास्पेक्टिवली (आविल्प के लिये) पास कर सकता है उसको रिट्रास्पे- किटवली (भृतलक्षी) भी पास कर सकता है। यही बात एटानी जनरल (महान्याय वादी) साहब ने भी फरमायी थी। हो सकता है कि यह बात दुष्ट्स हो। लेकिन में घदब से मर्ज करना चाहता हूं कि ग्रगर किसी ऐक्ट की नेचर (प्रघोनियम के प्रकार) से यह जाहिर हो कि उसके लिए यह उसूल लागु नहीं किया जा सकता तो मेरी राय में उसमें इस उसूल की केद नहीं लगायी जानी चाहिए जैसी कि लगाने की कोशिश की जा रही है।

यह जो प्रोबाइजो (पस्तुक) है वह जाहिर करता है कि वह कानून जो कि उस वक्त मौजूद चे जब कि हमने यह प्रोबाइजो रक्खा था, उन पर इस प्रोबाइजो की रू से कुछ रेस्ट्रिक्शन (प्रतिबन्ध) लग गये। यानी ३१ मार्च, १६५१ तक यह कानून जारी रहेंगे भीर उस के बाद इस कानून की रू से वह जारी नहीं रहेंगे। वह कानून 'टु देट एक्स्टेंट रिपील'(उस सीमा तक रह<u>े)</u> हो क्यायेंगे । में धर्ज करना चाहता हूं कि धगर गह दुरुस्त है तो कोई सवाल रिट्रास्पेक्टिव का पैदा ही नहीं होता। हमें ग्रस्त्यार नहीं है इस कानुन की रूसे कि हम किसी कानुन को रिट्रा-स्पेक्टिव एफेक्ट दे सकें । कल कंस्टीटय्शन की दफा २० का हवाला दिया था, लेकिन यहां मौज़द है कि इस प्रोवाइजो की रू से पहले जो कानून थे वह खत्म हो गये धौर जब वह **खत्म हो गये तो वह वैलिडेट ( मान्य ) नहीं** हो सकते। ३१ मार्च, १६५१ को जो चीज मौजुद नहीं थी उसे हम वैलिडेट नहीं कर सकते। भौर मुझे डर है कि भगर यह कानून हम ने पास कर दिया तो सुप्रीम कोर्टके अन्दर जा कर यह उसुल वैलिड नहीं करार दिया जायेगा भौर यह कहा जायेगा कि इस ला के हम पावन्द नहीं हैं।

इस के घलाबा जैसा मैंने घर्ज किया कि जो दफा २०६ है उस के झन्दर नेचर झाफ प्राविजन (उपबंघ का प्रकार) कुछ ऐसा है कि उस को हम रिट्रास्पेक्टिव एफेक्ट नहीं दे सकते । उस के झन्दर लिखा है कि झाइन्दा के वास्ते जो कानून बनेंगे, इस कानून के झन्दर तरमीम की गई, एक वह कानून जो मौजूद थे और एक वह जो झाइन्दा बनेंगे। जो मौजूद थे उन के बास्ते प्रोवाइजो बना कि वह खत्म हो जायेंगे ३१ मार्च, १६५१ को भौर जो झाइन्दा बनेंगे उन के लिये यह कहा गया कि जब पार्लियामेंट (संसद) यह प्रोवाइड (उपबंध) कर दे कि स्टेट ऐसा कर सकती हैं तो वह ऐसा कर सकेगी। तो वह तो फ्यूचर (भविष्य) के बास्ते थे।

From the nature of the provision, it could only refer to the future; it could not by any stretch of imagination refer to the past. The liability of retrospective effect is inherently contradicted herein.

इस के भ्रन्दर भपने भाप दर्ज है कि रिटा-स्पेक्टिब एफेक्ट नहीं दिया जा सकता । मैं भर्जाकरना चाहता हं कि यह उसूल क्या था। जो उसूल हमारे सुप्रीम कोर्टने करार दिया वह यह था कि पालियामेंट को introduction (निषेधाज्ञा) हटाने का हक है और ग्रगर पालियामेंट कानून बना देगी तो फेटर जायेगी भीर कानून बन सकेगा लेकिन भ्राप तो कहते हैं कि हम फेटर हटने का नाजायज फायदा मेंगे भौर जनाव फैसला भी दिया। जहां तक कानुन बनाने an I पार्लियामेंट इस

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पिंडित ठाकुर दास भागेव के ऊपर टैक्स लगाने का या उसके बारे में कोई कानून बनाने का हुक ही नहीं। तो जिन 🕏 बास्ते हमें कानुन बनाने का हक नहीं है उन के मताल्लिक कानुन को हमें वैलिडेट करने का भी हक नहीं हो सकता। फिर इस के सिवा में जनाव की खिदमत में म्रर्ज करूंगा कि टैक्सेशन कानुन के बारे में यह दर्ज है कि टैक्स के प्राविजन्स को इन फेवर ग्राफ दि सब्जेक्ट इंटरप्रेट (विषयों के समर्थन में निर्वचन) किया

Sales Tax Laws

All things being equal, tax laws must be interpreted in favour of the subject.

तो यह एक मुसल्लमा उसूल (माना हुन्ना सिद्धांत) है। इस के सिवा दूसरा उसूल यह हैं कि जिस चीज को हम डाइरेक्टली (प्रत्यक्ष रूप में) नहीं कर सकते उस को हम इन्डाइरेक्टली (भ्रप्रत्यक्ष रूप में) भी नहीं कर सकते । भ्रगर हम डाइरेक्टली कोई टैक्स नहीं लगा सकते है तो फिर हम उस टैक्स के इन्डाइरेक्टली बसूल करने की इजाजत भी नहीं दे सकते। इस लिये किसी भी नुक्ता निगाह से जनाव गौर फरमायें, यह जो ला है उस को इस हाउस को पास (पारित) नहीं करना चाहिये। भगर इस के लिये हाउस को पावर्स (शक्तियां) भी हो, तो भी उस को ईसे नहीं पास करना चाहिये।

कल हमारे फाइनेन्स मिनिस्टर साहब ने बतलाया था कि एक वक्त था जिस वक्त, उन्होने भौर हमारे प्राइम मिनिस्टर साहब ने लोगों की तकालीफ को देख कर स्टेट्स को लिखा था कि इस तरह से टैक्स का वसूल करना मुनासिब नहीं है, लेकिन उस पर स्टेट्स ने क्या जवाब दिया? कई स्टेट्स ने तो कहा कि बहत भ्रच्छा हम भ्राप की राय को कबल कर लेते हैं, लेकिन कई स्टेट्स ने कहा कि हम तो सप्रीम कोर्ट के जजमेंट को देखेंगे घौर टैक्स लगाते चले जायेंगे। जो शख्स जान बुझ कर चले प्राइम मिनिस्टर साहब भीर हमारे फाइनेन्स मिनिस्टर साहब की एडवाइस को कबूल नहीं करता, माज वही यहां पर यह चाहता है कि हम यहां पर यह पास कर दें कि वह लोग नाजायज रूपया ग्रपने पास रक्खें। में ग्रदब से गुजारिश करूंगा कि यह कलई जायज नहीं होगा धौर इस को पालियामेंट को हर्गीज नहीं मानना चाहिये। किसी भी इल्लीगल (भवैध) चीज को लीगलाइज (वैध बनाने) करने से सारे देश में यह चीज फैल जायेगी कि इस देश घन्दर सिर्फ रूपया वसूल

का कानून है, और कोई कानून नहीं है। मैं नहीं चाहता कि थोड़ी सी रकम के वास्ते इस तरहका रूयाल लोगों के भ्रन्दर पैदा हो। भ्रगर भ्राप भ्राज १०० करोड़ रूपया टैक्स लगा दें तो वह हिन्दुस्तान खुशी सें देने के लिये राज़ी हो जायेगा, लेकिन खुदा के वास्ते भाप मुल्क के ग्रन्दर यह साइकोलोजी (भावना) न पैदा कीजिये जिस के ग्रन्दर लोग समझें कि गलत तरीके से टैक्स कलेक्ट (इकट्टा) करना जायज है ग्रौर हमारी पार्लियामेंट एक ऐसे पर ग्रपनी मुहर लगा सकती है, उस के कलेक्शन की इजाजत दे सकती है, न कि कानून जो नाजायज है, जो लगाना नहीं चाहिये था, जिस के लगाने के बाद एक एक पैसा जो वसूल किया इंटरस्टेट ट्रेड या किसी भी ट्रेड से, वह देश की एकता के बिखलाफ इस्तेमाल किया गया । मैं मर्ज करूंगा कि इस टैक्स के नेचर को देखते हुए, इस की सारी वैकग्राउंड (पृष्ठभूमि) को देखते हुए, इस चीज को देख कर कि ग्राज के दिन हम एक काइसिस (मुसीबत) में फंसे हुए हैं, एक ऐसी चीज पर हमें भ्रपनी महर लगायें जिस से देश की एकता में फर्क भ्राये, जिस के भ्रन्दर वर्गर पार्लियामेंट की मंजूरी के स्टेट श्रंधाधुंध टैक्स लगाये, यह मुनासिव नहीं है।

भाज दो तीन बरस इसी तरह का एक प्रावि-जन हमारे कृष्णमाचारी साहब ने पेश किया था जिस के भन्दर जो कोई टैक्स गलत तरीके से लगा दिये गये भौर गलती से वह वसूल होते रहे थे, उन को लीगलाइज करने के दास्ते कहा गया था। उस वक्त भी मैं ने यही हुज्जत की कि ऐसा रूपया जो टेन्टेड मनी, जो दफा२६५, के बर्खिलाफ है, दफा २६४ में साफ तौर प**र** लिखा हमा है।

No tax shall be levied or collected except by authority of law.

अब यह ग्रथारिटी आफ ला (विधि का प्रधिकार) हम बनाने चले हैं। हम जान बृझ कर ऐसा ला बना सकते हैं जो लालेस ला हो, धौर यहां पर उन को वैलिडेट कर देने में भी बड़ा फ़र्क है। लेकिन कुछ लाज ऐसे हैं, जो बाद बन नहीं सकते हैं। उन के ग्रन्दर कोई फेटर्स (रोक) हों, उन को हम हटा सकते हैं। ला बनने के बाद इनवैलिडेट (ग्रामान्य) हो सकते हैं, लेकिन जो पहले के (विधियां) हैं, जो कान्स्टिट्यूशन हके **वजूद** में ग्राने के पहले थे वह सब के सब नाज-एग्जिस्टेंट (अविद्यमान) हो गये, इल्लीगल हो

गये। घव जो चीज कायम नहीं रही, उस को बज्द में लाने का किसी को ग्रस्त्यार नहीं है ग्रीर यह चीज जायज नहीं होगी कि हम ऐसे फेल करें जो कि एक तरह से लीगली ममनू (प्रति-बन्धित) है, भौर ममनू न भी हो लेकिन जो ऐबसोल्युटली इम्मारल (नितांत धनैतिक) हैं। जहां तक इस ला का सवाल है, हमारे लिये यह मुशिकल है कि हम करार दें कि जो नाजायज्ञ ला है वह यहां कायम रहे। हमारे फाइनेन्स मिनिस्टर साहब फरमाते हैं कि सन् १९५३ तक यह जायज था। जब कि सुप्रीम कोर्ट ने भ्रपना फैसला दिया। में श्रर्ज करना चाहता हं कि जो कुछ सन् १६५३ में किया गया वह भी ग़लती से किया, लेकिन जो ग़लती हो गई वह किसी श्रीर की नहीं हमारी ग़वर्नमेंट की थी। हमारे प्राइम मिनिस्टिर साहब भौर फाइनेन्स मिनिस्टर साहब ने कहा कि भ्राखिर भ्रब क्या किया जाये, चाहे किसी भी बिना पर हो वह तो वसूल हो ही गया । इस के वास्ते मुझे कोई हमदर्दी नहीं है। मै चाहता हुं कि वह सारा रुपया गवर्नमेंट श्रपने खजाने से वापस करे। श्रगर गवर्नमेंट ईमानदारी की बात करती है तो उस के लिये यही रास्ता है। यह रुपया इल्लीगल ला के बमुजिब वसूल किया गया है, ईमान्दारी का नहीं है, हमें इस को भ्रपने पास नहीं रखना चाहिये। हां श्रगर इस का वापिस करना मध्किल है, जैसी कि दलील हमारे फाइनेन्स मिनिस्टर साहब ने दी कि यह रुपया भ्रसल भादमी को नहीं जायेगा, तो उस के साथ मेरी हमदर्दी है, यह दलील कुछ, वजन रखती है, ग्रगर इस रुपये को ग्राप रखना चाहते हैं तो उसे रख लें, लेकिन ग्राइन्दा इस रुपये को वसुल करते जायें भौर टैक्स कलेक्ट करें, इस डिस्क्रिमिनेशन (पक्षपात) को मैं नहीं समझा । भगर कोई उज करना है कि फलां भादमी तो छुट गया, मुर्झ पर यह रकम क्यों लगाई जा रही है, तो क्या डिस्क्रिमिनेशन का सवाल नहीं है। टेक्स वाला कहता है कि हम से क्यों डिस्किमिनेशन करते हो, हम तुम को यह टैक्स नयों दें, तो न्नाप को चाहिये कि न्नाप उस टैक्स को मंस्रख कर दें। पर धगर जिन से वसूल किया गया है उस का पता न चले तो यह बात दूसरी है। लैकिन यहां पर डिस्क्रिमिनेशन का सवाल नहीं है। जिन से ग्राप टैक्स वसूल करना चाहते हैं उन से उस कानून की बुनियाद पर टैक्स वसूल करना जिस का कोई वजूद न हो, यह जायज नहीं है। जान बुझ कर हम उस पर अपनी मुहर नहीं लगा सकते । इस बारे में मेरी फीलिंग इतनी जबर्दस्त है कि में घाप सें धर्ज नहीं कर सकता । इस कानून के धन्दर

मगर यह मार्गुमेंट (तर्क) दिया जाता है कि कोई भी भादमी लायबुल है तो यह इस कानून में लैकुना (बुटि) है। जब कोई लाय-बिलिटी (दायित्व) किसी पर रक्खी जाती है तो वह कानुन की रूसे रक्सी जाती है, वरना कोई लायबिलिटी किसी पर नहीं हो सकती है भौर सरकार कोई रुपया वसूल नहीं कर सकती है। फर्ज कीजिये कि एक कम्पनी ने द्याप के ऊपर दावा किया दस लाख रुपये का । ग्रदालत ने उक्म दे दिया कि वह रूपया लौटा दिया जाये। ऐसी हालत में घाप के वास्ते काई रास्ता नहीं था कि भाप उसे लोटाते नहीं। मैं तो फाइनेन्स मिनिस्टर साहब की बात सुन कर हैरान हो गया कि जिस शस्स ने रूपया क्लेम किया है वह भुठी शाहादात लायेगा । भगरभाप समझते हैं कि वह झुठी शाहादात लाया हैतो भाप का फर्ज है कि भाप कहिये कि यह ग़लत है उस से कोई रकम बसुल नहीं की गई घौर उस को डिगरी ब्राज्ञाप्ति का फायदा नहीं होना चाहीये यह कहना मैं समझता हं कि ग़लत है। भ्रगर उसके फेबर में डिगरी है तो रुपया रिफ्यूज करना ठीक नहीं है। जहां तक उस भादमी का सवाल है ग्रगर यह शक्ल बन जाये कि उस के हक में डिगरी हो जाये तो उस को द्याप से उस डिगरी के रुपये को हासिल करना चाहिये । ऐसी सुरतों में भ्राप चाहते हैं कि जजमेंट (निर्एाय) की डिग्री को भ्राप भ्रपने कानुन से बेकार कर दें। लेकिन में नहीं चाहता कि ब्राप सुप्रीम कोर्ट के फैसले के बर्खिलाफ चलें। मैं नहीं चाहता कि जहां यह लाक हता है कि सारे का सारा ला ३१ मार्च, १६५१ को खत्म होगा, वहां पहली भप्रैल को वह दिखाई दे भीर कायम रहे। हम ना उस को बिगाइ सकते हैं घौर न वैलिडेट कर सकते हैं। इस ला को वैलिडेट करना कांस्टिट्ट्शन (संविधान) के खिलाफ होगा । मैं नहीं समझता कि कांस्टिट्यूशन के बर्खिलाफ कोई कान्न लागुरह सकता है। नतीजा यह होगा कि भगर हम यह पास करेंगे कि यह कानून कायम रहे तो हमारे ऊपर यह इल्जाम होगा कि हम ने भांख खोल कर ऐसा फैसला किया जिस को हमें नहीं करना चाहिये था। मैं निहायत भदव से श्रर्श करना चाहता हुं कि हाउस इस को न माने, जितना क्लेम (दावे) का ऐमाउंट (राशी) है उसे वापस देना मुनासिब समझे या न समझे, धगर नहीं समझता तो वापस न दे, लेकिन हाउस हर्गिज हर्गिज इस बात की पार्टी न बने कि कांस्टिट्यूशन के बर्बिसाफ भी इस कानून को जायज करार दे भीर जो फिलवाक्या जायज नहीं है उसे पर भपनी मंजुरी की मृहर

[पंडित ठाकूर दास भागव]

लगा दे। जो उसूल यहां पर रक्खा जा रहा है मैं उस की सख्त मुखालिफत करता हूं।

Shri C. D. Pande (Naini Tal Distt. cum Almora Distt.—South-West cum Bareilly Distt.-North): I listened yesterday with great attention and respect to the learned and lucid exposition of law by Mr. Setalvad. I think this Parliament has the competence and the power to legislate a measure of this nature. No lawyer of his importance and eminence was required to prove that. Every Member here knows that this House has the power to pass a Bill of this nature.

An Hon. Member: Contradictory nature.

Shri C. D. Pande: But that is not important. There is something which is more important to consider while deciding whether it should be taken up or not. According to the petty, legal quibblings, it may be correct to do so. We should see from the moral standard whether it is desirable to do so.

In every democratic set-up, judiciary has a place. I am not concerned with the refund of the money or with the harassment. (Interruptions) I am only concerned with the place of the judiciary in our country. Are we justified in nullifying the judgment of the Supreme Court? Is it in consonance with the principles of democracy?

An Hon. Member: Have we not done so on so many occasions?

Shri C. D. Pande: There have been occasions and there have been cases where the pronouncements of the Supreme Court were nullified by Acts of Parliament. Every time I raised my voice that it was not proper; we should not wantonly use that power that way so that the aggrieved party who went to the highest authority in the land got a judgment which was later on nullified.

The Minister of Finance (Shri C. D. Deshmukh): Is it parliamentary to say that Parliament makes 'wanton' use of this power?

Shri V. G. Deshapnde (Guna): We ourselves are saying it; it is not against any other body or any particular individual.

Shri C. D. Pande: My point is only this. If you want to maintain the dignity of the judiciary of this country, let there be fewer such occasions when we may have to nullify their judgments.

**Shri K. C. Sodhia** (Sagar): What about the contradictory judgments of the Supreme Court?

Shri C. D. Pande: The latest judgment is in question. This House had done it many a time!

Mr. Deputy-Speaker: I am not interested in the general discussion. I am only here to hear. But so far as the judgment of the Supreme Court is concerned, let no wrong impression be created. It was held yesterday that the judgment was not on all fours here. The matter was decided that without the Parliament enacting a law empowering a State to impose this tax, the tax could not be levied or collected. Yesterday it was argued that retrospective effect could not be given. Now, that is not the point that came up for decision there. This point is not covered by the judgment of the Supreme Court. there are cases where the Supreme itself says that under Court as it exists certain law things not be done. The Supreme Court has not said that Parliament ought not to pass such a law. Under those circumstances, it is not necessary to say that Parliament wantonly does this or that. It would never do such things 'wantonly'. It has always got regard and respect for the judgment of the Supreme Court. It is bound to do so. Due to some inadvertence or without addressing oneself to the articles of the Constitution, a tax was levied. But it could have been validated if Parliament had passed a law earlier; if earlier Parliament had passed a law, it would have been valid. I just want to avoid any impression being created either by any act that is done here or by any speech of any hon. Member here, that there is any inten-tion on the part of Parliament to override or at any rate to do anything in conflict with the judgments or which might be disrespectful to the judgments of the Supreme Court.

Shri Bansal (Jhajjar-Rewari): May I say that the Supreme Court itself has suggested that Parliament should pass a law in order to give restrospective effect—there is such an understanding. That understanding, in my view, is not correct.

Mr. Deputy-Speaker: Order, order. It is not as if it is the business of the Supreme Court to say what kind of legislation we have to pass here. All that I said was this. The Supreme Court had not decided the issue as to whether it is competent or legal or illegal under the constitution to give retrospective effect to

such a legislation. If this matter arose there and the Supreme Court had said that no such law could be passed retrospectively as the Constitution stands at present, then certainly they would not have brought this law and we could not pass such a law.

The Minister of Legal Affairs (Shri Pataskar): Not only that. For the information of the hon. Members I might state that this was brought to the notice of the Supreme Court and they did take into account that it might result in upsetting the economy of the States to that extent. The second paragraph on page 682 will clearly bear that out. It reads:

"It is pointed out that all States are realising sales-tax in respect of sales or purchases of goods where the goods are actually delivered for consumption within their respective boundaries on the faith of our previous decision and a reversal of that decision will upset the economy of the States and will indeed render them liable to refund moneys already collected by them as taxes. This circumstance, it is pressed upon us, should alone deter us from differing from the previous decision. We are not impressed by this argument. It has not yet been decided by this Court that moneys paid under a mutual mistake of law induced by a wrong judicial interpretation of a statute or the Constitution must necessarily be refundable as money had and received. If, as contended, moneys so paid are in law refundable the States cannot complain any more than a private individual in similar circumstances could do. Finally, if the State economy is upset the appeal must be made to Parliament which under Article 286 (2) itself has ample power to make suitable legislation."

And that is what is being done here.

Shri U. M. Trivedi: Suitable legislation is legislation to remove the fetter and not giving restrospective effect.

Shri C. D. Pande: Let there be no impression in the minds of the public that this Parliament is going to derogate the authority of the Supreme Court. We should not bring before this House measures which upset the judgments of the Supreme Court. There has been at least four or five cases in which with all the good motives we had to legislate

and that offended to a great extent the susceptibilities of the Supreme Court. There was the case of compensation; there was then the case of some investigation commission.

Shri S. V. Ramaswamy (Salem): Is the sovereignty of the Parliament conditioned by the feelings of the Supreme Court?

Shri C. D. Pande: That is true. But the legislative wing of the Constitution is as important as the judiciary. After all, the Supreme Court is our creation. But, that creation has to be respected because democracy imposes certain restrictions on our liberties. Of course, we can pass any law. I was going to tell you that we can pass any legislation. We can amend the Constitution. We can abolish the Supreme Court itself. We have got that power, but we will be....

Mr. Deputy-Speaker: Order, order. It is unnecessary to drag the Supreme Court here. It is not as if we are doing anything in which the Supreme Court is interested. The Supreme Court has only said that for want of previous sanction of the Parliament, for want of a law passed by the Parliament, the law passed by the State is illegal and therefore no levy could be made. We are passing that law. It was also said that there are powers under article 286 (2). Therefore there is no good again and again trying to make it appear as if there is conflict between the Parliament and the Supreme Court and we are trying to do this to upset the judgment and all that. Hon. Members may address themselves to the propriety of this Bill. Thakur Das Bhargava pointed out that inter-State commerce and trade should be free. If the House can take an exception under article 286 (2) then the Parliament itself takes power to decide that matter. In that case inter-State trade and commerce need not be free. Now, it is a matter for the House to decide on these issues of policy as to whether on this particular matter we ought to just validate it or not. There is no good dragging the Supreme Court as if we are doing something contrary to their decision.

Shri C. D. Pande: What I was going to tell the House was, when a citizen of India feels or a combination of citizens of India feel aggrieved they go to a court of law and then to the highest court of law. There they get a judgment. That judgment somehow or other we find is inconvenient for us. So, whether it is desirable under the law to take a

### [Shri C. D. Pande]

recourse to this method is the only thing I wanted to point out. It is up to the judgment of Parliament to decide whether we should go on amending the Constitution off and on and whether we should go on making legislation that upsets the judgment of the Supreme Court. I think it is not a desirable practice. In future at least we should give more consideration to all such measures of legislation where judgments of courts are involved.

Shri S. V. Ramaswamy: Mr. Deputy-Speaker, I whole-heartedly support this measure. The previous speaker and the speakers who preceded him and spoke on those lines, evidently were suffering under a conflict of thoughts. The point simply is this. What is it that the Supreme Court did? They gave a decision on the existing law. They merely said that this collection is wrong and it is not in conformity with the law. They said that there ought to have been a prior legislation by Parliament to autho-rise this collection. That is all what the Supreme Court said. My friend Shri C. D. Pande says that we must accept that. Does the hon. Member mean thereby that it is only then that we will be paying respect to the Supreme Court? No. The question of dignity or offence of the Supreme Court does not arise at all, nor are we upsetting the decision of the Supreme Court. As a matter of fact, we are respecting the decision of the Supreme Court and bringing the law in conformity to their decision. We are doing nothing more. What else are we here for? What else is the sovereignty of the Parliament for except to rectify the mistakes? To err is human. Something has gone wrong. Some collection of taxes has been made which is not legal. Now, it is for us to review the position and see what can be done.

There are two points, the question of legality and the question of practical difficulty which this Parliament is bound to attend to. The question of legality is this. Article 286 (2) has been read out so often, but I will also just read a small portion :-

"Except in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax... and so on."

The main point which the Opposition and some hon. Members on this side have urged is that there has been no prior law, there has been collection

made and therefore we are not going to validate an illegal collection. Now, it is not merely by strictly legal things that we must go but we must put common-sense interpretation also. If the Parliament is empowered to enact a law to authorise any State to collect a tax it can very reasonably be interpreted to mean that this Parliament also has power to validate what has been illegally collected. There are no restrictions upon the powers of the Parliament. The question then is the question of propriety; is it moral or is it immoral. The tax has been illegally collected. Why should the Parliament validate an illegal collection? It is here that the question of practical difficulty comes. Collections have been made and thanks to the decision of 1953 in the United Motors Case the country has been thrown into utter con-fusion. People have been called upon not merely to submit the returns for that particular year but they are called upon to give returns for 1950-51 which they have lost sight of. Each State had its own different method of taxation. Each State had its own form.

Shri T. S. A. Chettiar (Tiruppur): Why did not the Parliament take it up before?

Shri S. V. Ramaswamy: I shall come to that. These were the difficulties that had arisen. Now, my friend says that we must respect the decision of the Supreme Court. Are we to respect the decision of 1953 or 1955? In two years they have changed fronts.

Shri Nand Lal Sharma (Sikar): The latter decision.

Shri S. V. Ramaswamy: True. But, before the decision of 1955 was given, you would have said that we must respect the decision of 1953. So, the difficulty arises and we must as practical men here solve the difficulty that has arisen by legislating in the sovereign Parliament. They have levied the taxes rightly or wrongly. They have collected the taxes. How is that to be redistributed? Some hon. Members said: let us redistribute the amount. To whom are we to redistribute it? How can it be done? What will be the effect of it on the finances of the States? These are the practical considerations on which must bestow our thought and bring to bear out commonsense on this issue. We should not look at it from a merely legalistic point of view. About Rs. 4 crores or Rs. 5 crores of money have been collected. So many States have budgeted on the basis that they will be

entitled to have this sum. Now, if you should return suddenly say that they the money are you going to upset the budgets of those States? You may say it is immoral. True. It may be moral or immoral. It has been collected rightly or wrongly. But, it has been taken into account in the budgets that have been prepared in some States. Certain plans and other things have been framed on that basis. Now, if you ask them to return the money because the Supreme Court passed a judgment what are the practical consequences? You must take into account the practical consequences. It would be difficult to trace the parties to whom it is rightfully due. You will be returning the money to those people, if at all you trace them, from whom you directly collected the money, namely the merchants and middle-men. Are you going to return the money to them? If you do so it would be immoral again to return to them the money you have collected. They are not the persons who paid the taxes out of their pockets. They collected it from several purchasers. Are you going to trace every purchaser and give one anna or two annas? These are the practical difficulties and it is to solve those difficulties that this legislation has been brought.

From a legal point of view it is quite clear that this Parliament has got power because if it can authorise a State it can as well validate an invalid Act, an illegal collection. With regard to the question of practical difficulties I am sure there can be no two opinions that it would be impossible to return money. It will have very adverse consequences on the budgets of some States. It is because of these considerations that this Bill has been brought. There no question of conflict with the Supreme Court or offending the dignity of the Supreme Court. We are only respecting it. They have pointed out an illegality. They have not said that we do not have the power to validate the Act. In fact, it would not be within the jurisdiction even of the Supreme Court to say that it is not within our power to give retros-pective effect. If they would have indi-cated that in their judgment then it would have been wrong; it would have been an infringement on the sovereignty of the Parliament. They have carefully said that the collection of taxes is illegal. They have stopped there and have said nothing more. It is up to us to calculate and find out the consequences of the decision.

Now, supposing, after the Sholapur case we had kept quiet. They have

given a decision as to what compensation means. Supposing, in order to respect the Supreme Court, we merely abided by their definition of compensation, namely, that it should be the market value, where would all our schemes of development go? Where would all our schemes for the establishment of a welfare State go? They will all flounder on the rock of the decision. That is the consequence. It is the consequence that we must look into. The judges are not concerned with the consequences of a decision. Judges are there only to show the point of law, to show what is law, what is legal and what is illegal. They are not concerned with the consequences of the decision. We are concerned with the consequences as a Government. We are dealing with the consequences that will ensue from a decision of the Supreme Court. If we keep quiet with the Sholapur case, I am sure we can scrap the Five Year Plan, because we have not got money to pay according to market value, by way of compensation. That is why we came to this House for amending the Constitution. It is not, as Shri C. D. Pande said: "You are upsetting the judgment of the Supreme Court. They have resented it. This is an introduced the Supreme Court. inroad upon the Supreme Court. This is an undignified affront to the Supreme Court." All this argument is irrelevant. They do not arise at all. The Supreme Court has pointed out the legality or ilegality of a particular thing. Certain consequences flow from the decision. If we do not take note of those consequences and rectify and devise means for getting over those consequences we shall flounder and we shall never carry on with the Government. Here is where the sovereignty of Parliament comes and it is within the jurisdiction of this Parliament to rectify, and to meet the consequences of a judicial decision, and see that the law is brought into conformity with the realities so that the Supreme Court may not then say that the law is not illegal. Hereafter, it would not be possible for the Supreme Court to say that this is illegal, if by any chance, any case is taken to the Supreme Court on this issue. Anyway, there is time enough to consider it.

The practical difficulty seems to be that several parties have issued notices to Government to refund the amount. It might, of course, benefit many lawyers. Court-fees may come in, and the States can increase their revenue. But what the consequences? Hundreds of thousands of such cases will come up-

[Shri S. V. Ramaswamy]

all over the country. It is an unimaginable difficulty. The Governments the States will have to face all this private litigation. How they will do it, I do not know. Decisions then will vary from State to State and from court to court. There will be a medley of decisons.

Sales Tax Laws

Mr. Deputy-Speaker: Please finish

Shri S. V. Ramaswamy: I will take only one more point before I finish. I will take this opportunity of voicing the feelings of merchants who pass through an agony as a consequence of the 1953 decision of the Supreme Court. They have been subjected to utmost difficulties as each State is calling for records in a different manner and almost simultaneously. I do not wish to talk upon the anticipation, which the Minister said he would legislation, in hon. Finance introduce. All that I wish to say is, in bringing forward a legislation, there should be circumspection. The interests of the merchants must be taken note of. They are not to be bullied. They are as much our citizens as anybody else.

Mr. Deputy-Speaker: You are going away from the point. This is not an occasion for a general discussion of what a sales-tax ought to be and whether there should be a central authority, etc. The hon. Member will have an opportunity later on.

Shri S. V. Ramaswamy: What I submit is this: when we bring forward such a measure, I hope that the authorities will pay the utmost consideration to the difficulties that are being experi-enced by the merchants and see that while collecting the taxes, the merchants are not subjected to difficulties

Mr. Deputy-Speaker: I now call upon Shri C. C. Shah to speak. Hon. Members will be short. We will have to close the debate by 1.15.

Shri U. M. Trivedi: Yesterday, it was said that we would be sitting more time for this Bill. There are many more Members to speak.

There is no-Deputy-Speaker: thing more to be said. Money has been collected and appropriated. How it can be refunded is a practical difficulty.

Pandit Thakur Das Bhargava: ther collection should be stopped.

Mr. Deputy-Speaker: I think there is a period fixed here, after which time there will be no collection.

Shri N. R. Muniswamy (Wandiwash): Will the hon. Minister give an assurance that the sale-tax on inter State trade will not be collected after 6th September, 1955 by any State?

Shri C. D. Deshmukh: I shall deal with it in my reply.

Mr. Deputy-Speaker: All right. Shri C. C. Shah will speak now.

Shri C. C. Shah (Gohilwad-Sorath): This Bill has a limited purpose, limited in the sense that it seeks to meet a situation that has arisen out of the recent judgment of the Supreme Court. The objection to this Bill is on two grounds, namely, that of legality and of propriety. So far as legality is concerned, I have no doubt, and I respectfully agree, that this Parliament has competence to pass this legislation. The question is only of propriety—whether it is proper for Parliament to exercise its undoubted jurisdiction to pass a legislation of this character. The issue boils down to this: that it is a retrospective piece of legislation and particularly when it concerns a taxation measure, whether it is right and proper for this House to pass a retrospective measure for a tax which is already declared to be illegal. Generally speaking, I should say that retrospective legislation is undesirable. Unless we are driven to it, or a situation has arisen which cannot otherwise be remedied, we should not resort to a retrospective legislation. Therefore, my submission briefly is that whether a case has been made out for a retrospective Act of this nature. That we have a right to pass a retrospective legislation is undisputed. The only issue is—and we have done so previously under article 31B of the Constitution—has a case been made out to pass a retrospective legislation of this nature. There I would dispose of one argument. There is no question of any disrespect to the Supreme Court. Any argument based upon this, namely, that it is a disrespect to the Supreme Court to pass a legislation of this nature is entirely based on a misconception of the functions of the legislature and of a court. Therefore, I submit that that argument has no validity.

Now, what is the position? Article 286 is not an article which permits the imposition of sales-tax. It merely imposes restrictions on the imposition of sales-tax by the States. It imposes four

restrictions. The first restriction is that it should not be a sale which has taken place outside the State. The second restriction is that it should not be a sale in the course of import or export. The third restriction is that it should not be a sale or purchase in the course of inter-State trade or commerce. The fourth res-triction is in respect of essential com-modities. We are concerned principally with inter-State sales tax at present What was the position as regards inter-State sales? Under article 301 of the Constitution, subject to the other provisions of Part XIII, inter-State trade and commerce shall be free. That was what we have put down in the Constitution, but we also agreed that in certain circumstances it may be permissible to a State to levy a tax on an inter-State sale. But it can be done only if the Parliament permitted it and to the extent to which Parliament permitted it, and not otherwise. In the proviso under article 286 (2), in order to meet a situation that we may not pass such a law immediately, we provided that the President may issue an order which would be valid until 31st March, 1951 to validate the existing laws which enabled the States to levy a tax on inter-State sales and purchases. Therefore, it was clear that after 31st March, 1951, if there was no law passed by Parliament, no State could make a law imposing a tax or authorising the imposition of a tax on a sale or purchase which was of an inter-State character. That was what Parliament wanted. After 31st March, 1951, Parliament has not passed any law which authorises the imposition of a tax on inter-State sales.

#### 1 P.M

Therefore, this Parliament by implication did not consider it necessary to authorise any State to pass a law which permitted a tax on inter-States sales and purchases. Therefore, this much is clear that from 1st April, 1951 no State can pass a law which permitted a tax on inter-State sales and purchases, or, if there was any such law it was bad and Parliament did not think it necessary to pass any legislation, nor did any such legislation.

Pandit Thakur Das Bhargava: Perhaps no tax was recovered in respect of such sales.

Shri C. C. Shah: I am coming to that. Therefore, from 1st April 1951 no State thought of levying a tax on inter-State sales and purchases and no State could possibly have had a law which permitted the levy of such a sales-tax.

Now in 1953 there came a Supreme Court judgment which, it is said, permitted such a tax. What exactly was the Supreme Court judgment? Let us understand the judgment of 1953. judgment did not and could not possibly authorised a tax by a State on inter-State sales and purchases; it could not possibly have done so, because it would be contrary to the express provisions of article 286. All that that judgment said was this: in interpreting the explanation to sub-clause (1), it said, that if the delivery took place in another place, then the receiving State was entitled to treat it as a sale within its boundary. But it did not say that inter-State sales and purchases can be taxed by any State. That was not the meaning of that judgment at all.

Now what does the Supreme Court in its recent judgment say? All that it was that the interpretation which the Supreme Court put previously was wrong, and the receiving State cannot tax a sale in which the delivery has taken place within that State. After the 1953 judgment all States which were until then not collecting any tax on sales which had taken place outside the State, but where the delivery took place within the State began to collect taxes. Therefore, by implication from 1st April, 1951 until the Supreme Court judgment, no State thought of collecting any tax on sales which took place outside its territory, but where the delivery took place within its territory. I take it therefore that there was no collection of any tax by such States until the Supreme Court judgment.

- Shri C. D. Deshmukh: That is not correct. There were a few cases.
- Shri C. C. Shah: It would not be of an inter-State character.
- Shri C. D. Deshmukh: That was the point in issue throughout. It was never clear to anybody what was an inter-State transaction and what was not and how to differentiate either kind of sale which is inside or outside a State from an inter-State transaction. The same transaction could be regarded in one way or the other, but the transaction was there.
- Shri C. C. Shah: I agree, the two are of an overlapping character. What is an inter-State sale can also be said to be an intra-State sale, but in most of

[Shri C. D. Pande] the cases, as far as I know, from 1st April, 1951 until the judgment of the Supreme Court in the United Motors case, very few States thought of collecting tax on sales and purchases which took place outside their territories. The Supreme Court judgment only said that such sales must be deemed to be sales which have taken place within that territory, if delivery took place within that place.

Shri C. D. Deshmukh: What happened was that many States were encouraged to bring within their sales-tax laws a large number of transactions on the fiction that they came under that explanation and therefore validated by that judgment.

Shri C. C. Shah: I entirely agree. But what did we think of the judgmnet? What did the mercantile community think of the judgment? What did Government think of the judgment? The mercantile community was put to any degree of harassment. Government itself thought that that judgment created great hardships and therefore requested many of the States—the Prime Minister himself appealed to the States—not to implement that decision and not to impose that tax. Now the Supreme Court has corrected its own judgment; the Supreme Court has seen what I may call the justice of the grievances of the mercantile community resulting from the United Motors case and, therefore, has reversed that judgment. They have done what we thought was the right thing to do, namely, not to put the merchants to harassment.

What is it that we are doing by this measure? We are exactly validating the United Motors case. Not only are we validating the United Motors case, we are validating all laws which impose inter-State sales tax. This goes much wider than the United Motors case ever did. The United Motors case could never have validated or permitted tax on inter-State sales. All that it said was that a sale where delivery took place within another State, though it partook the character of an inter-State sale was exempted by the explanation. But it was of a very limited character. by this Act we are validating and authorising all States to levy taxes on inter-State sales. Therefore, my submission is that this Act goes much beyond even the necessity of the situation. All that we need today do is that where the States are levying taxes by reason of the United Motors case only and no

more, that may be validated. But what we are validating is any law of a State imposing or authorising the imposition of a tax which partakes of a character of an inter-State sale, which really means that what we did not do from 1st April 1951 till today, what we did not think it necessary to do under sub-clause (2) we are doing today merely because the Supreme Court judgment has rectified its own error. Supposing a State today passes a law that for the period from 1951 to 6th September 1955

Mr. Deputy-Speaker: My feeling is that this matter was disposed of yesterday.

Shri C. C. Shah: I am only considering the implications of this Act; I am not disputing the validity of this Act. I concede it is competent for this House to pass this Act.

Mr. Deputy-Speaker: It is only a question of validating the levy and collection of the tax during a particular period. Yesterday a wider matter was disposed of. The only point for consideration now is whether we ought to do it, or not. That is a matter of policy. The hon. Minister has never said that this is a law for all time. Even if the tax collected were to be returned, the benefit would not go to the consumer.

Shri C. C. Shah: This Act goes much farther than what the situation requires.

Mr. Deputy-Speaker: Not only the situation in Bihar but in other States also. The hon. Member must conclude now; he need not go into the general question of law once again.

Shri C. C. Shah: I am not going into that.

What I am submitting is: has the Government made out a case in order to enable us to pass a law of this character? Some States have collected taxes after the United Motors case until today. In order to obviate the difficulty of refunding such amounts is it necessary to pass a law which is so wide as this? Now, supposing, for example, a State passes a law today imposing a tax on all inter-State sales for the period from 1st April, 1951 to 6th September, 1955? Such a law, even if it is passed today, would be valid under this Act. Therefore, my submission is that this Act should have been restricted in a much greater degree.

No doubt, I realise the difficulties of the Government. The difficulties of the

Government may be that it has to refund to a large number of dealers and it may upset its economy. But that by itself would not be sufficient ground for passing this Bill. But what I feel is that if the dealers have collected taxes from a large number of consumers, it is not fair that the dealers themselves should be permitted to retain the amounts which they have collected. That is the point which makes me support this Bill. But in doing that, is it necessary for us to give a wide scope to all the States to pass laws imposing taxes on inter-State transactions? What was said in the United Motors case was, "wherever delivery has taken place in your State, you can tax it". The United Motors case did not allow all the States to tax all the inter-State transactions. My submission is that the Government may reconsider this matter. This Bill goes much farther than what we ever contemplated. What we did not do for five years, we are doing today on the ground that the Supreme Court has given a judgment which merely corrects its own previous judgment. I request the Government to reconsider the matter.

Mr. Deputy-Speaker: Does the hon. Finance Minister want to say anything before I call another hon. Member?

Shri C. D. Deshmukh: I would only say that if the hon. Member is worried about existing laws and future laws, he should have given notice of an amendment saying that "no existing law of a State" etc. shall be invalidated. It is for him to consider and suggest a suitable amendment. That is all.

Mr. Deputy-Speaker: The period has been restricted from 1951 to 1955. That is sufficient.

Shri C. D. Deshmukh: If he thinks that a State may, on the force of this Act, tomorrow have a retrospective amendment of the same law that we are validating now..

Mr. Deputy-Speaker: How can they collect the tax now?

Shri C. D. Deshmukh: In my view they cannot, but if he wants, he may suggest an amendment.

Pandit Thakur Das Bhargava: Mr. Deputy-Speaker, while you were absent yesterday, 1 put the question to the hon. Finance Minister whether the effect of this Bill will be that further collections will be legal. He said, "yes, we propose to collect them".

Shri C. D. Deshmukh: I am not talking of collections under the existing law. The point raised by the hon. Member is a fresh point. He seems to think that as soon as we pass this law, it will be open to any State to amend its law, add other varieties of goods to it and regard that as a valid tax under article 286 (2). I suggest that that cannot be. But, if he wanted to urge that point, he could have put in an amendment inserting the words "no existing law". Nobody is interested in a State passing future laws under the guise of this Bill.

Shri C. C. Shah: My point is this. All inter-State sales and purchases are covered by this Bill. What the *United Motors case* permitted was to tax sales where the delivery had taken place within that area. What this law permits is taxing all inter-State transactions, sales and purchases. This is wider than what the case permitted.

Pandit Thakur Das Bhargava: If we all agree that future collections be stopped, it is all right.

भी भुनभुनवाला (भागलपुर-मध्य ) : उपाध्यक्ष महोदय, जो बात मभी हमारे मित्र शाह साहब ने बतलाई है यह हमें भी दिक़ कर रही थी। मैं तो यह समझता हूं कि जिस प्रकार का ला बनाया जा रहा है उससे किसी भी स्टेट को यह म्रस्तियार हो जाता है कि वह भी कोई ला बना ले भौर उसको रिटोस्पेक्टिव इफेक्ट (भुतलक्षी प्रभाव) दे दे । जहां पर कभी टेक्स नहीं लिया जाता था. कभी कोलेक्ट (कट्ठा) नहीं किया जाता था, कभी ग्रसेस नहीं किया जाता था वहां की गवर्नमेंट को भी भव यह भस्तियार हो जाएगा कि वह भी इस ला के मुताबिक एक नया ला बना ले घौर उसकी रिट्रोस्पेक्टिव ईफेक्ट दे दे घौर कोलेक्ट करना भीर भसेस करना शरू कर दे। इस से कितने सोगों को हैरानी होगी, कितनी तकलीफ उसकी होगी, इस चीज को भ्राप समझ सकते हैं।

श्री संत्येन्द्र नारायण सिंह (गया-पश्चिम) : नया ऐसा हो सकता है कि जहां पर यह पहले ही से एप्जिस्ट (विद्यमान) न करता हो वहां पर भी इसे पहले से ही ईफेक्ट दे दिया जाए ?

श्री सुनझुनबाला : इस में लिखा हुआ है कि इस पीरियड के लिए ला बन सकता है भीर इस के मृताबिक वह स्टेट ला बना सकती है। भगर इस पीरियड के लिए ला बनाया जा सकता है तो इस पीरियड में जितनी भी ट्रंसकझंड

[श्री झनझनवाला] (सौंदे) हुई हैं वह सब वैलिड (मान्य) समझी जायेंगी घीर उन पर टेक्स लिया जा सकेगा। यदि यह बात ठीक है, हमारे फाइनेंस मिनिस्टर साहब तो कहते हैं कि यह ठीक नहीं है, लेकिन भगर ठीक है में समझता हू कि भगर इसको ठीक कर लिया जाए तो भ्रच्छा है। मैं इसमें कोई एतराज की बात नहीं समझता क्योंकि शाह साहब ने या किसी भौर मैम्बर ने इस बारे में **ध**र्मेडमेंट नहीं दी । इस लिए इसको माना नहीं जा सकता है। इस लिए में गवर्नमेंट से प्रार्थना करूंगा कि वह इस विषय में सोच ले भौर जो ठीक समझे वही करे, नहीं तो लोगों को बहुत हैरानी होगी ग्रौर उनको बहुत सी दिक्कतों का सामना करना पड़ेगा । जो इंटर स्टेट ट्रांसेकशंज हैं उनके ऊपर ग्रगर यह सब चीजें लागु हो जायेंगी तो इसका उनपर क्या श्रसर पड़ेगा । कल जितनी भी बार्ते हुई उनसे गवर्नमेंट का ध्रभिप्राय, गवर्नमेंट की इंटेनशन्स क्लीयर (इच्छाए स्पष्ट) नहीं हुई। भ्रगर गवर्नमेंट की यह इंटेनशन नहीं है लेकिन यह चीज बिल से साबित होती है तो वैसी हालत में म प्रार्थना करता हूं कि भावश्यक सुधार करके इस को पास करना चाहिये।

Shri K. C. Sodhia: I will read one sentence from the Statement of Objects and Reasons:

"Pending such amendment of the Constitution, it is not considered desirable to validate the existing State laws prospectively but it became necessary to take immediate steps to validate the levy and collection of such taxes between 1st April, 1951 and 6th September, 1955."

This makes it clear that no further collections can be made under the existing State laws beyond 6th September, 1955.

भी शुनशुनवाला : हमारे मित्र ने स्टेटमेंट भाफ भावजेक्टस (उद्देश भीर कारणों के विवरण) को पढा हैं परन्तु यह तो ला नहीं है । जब यह ला बन जाएगा तो भगर कोई मामला कोर्ट में जाएगा तो कोई स्टेटमेंट भाफ भाव-जैक्टस को नहीं पढ़ेगा । वहां पर जो कुछ इस ला में लिखा हुआ है भीर जो इसके विडंग (शब्द) है उनको ही पढ़ा जाएगा ।

Mr. Deputy-Speaker: The wording in the Bill also is like that:

"a tax on the sale or purchase of any goods where such sale

or purchase took place in the course of inter-State trade or commerce during the period between the 1st day of April, 1951 and the 6th day of September, 1955...."

Shri Jhunjhunwala: It is mentioned here:

"... no law of a State imposing or authorising the imposition of, a tax on the sale or purchase of any goods in the course of inter-State trade or commerce...."

Mr. Deputy-Speaker: Why does the hon. Member omit the words, "during that period"? Whatever the law may be, that law will be validated to this extent, namely, that the collection of tax during that period is validated. "During that period" does not stand separately.

श्री सुनसुनवाला : मैंनें प्रपने दो एक श्राद-मियों से सलाह की है श्रीर उन्होंने भी वही बात कही है जो शाह साहब ने कही है श्रीर उन्होंने मुझे बतलाया है कि इसका यह अथ निकल सकता है। मैं तो कोई लायर (वकील) नहीं हूं। लेकिन मैं कहता हूं कि जो बातें शाह साहब ने बताई हैं उनका श्रगर यह श्रयं निकल सकता है तो ऐसी हालत में गवनमेंट को इस चीज को श्रच्छी तरह से देख लेना चाहिए ताकि इसके ऊपर फिर झगड़ा न हो।

दूसरी बात जो में कहना चाहता हूं वह यह हैं कि कल यह तय हो चुका है कि यह जो ला है यह सुप्रीम कोर्ट में जा कर नल एण्ड वायड (शून्य)हो जाएगा। मैं इसके बारे में कुछ ज्यादा नहीं कहना चाहता लेकिन प्रार्थना करता हूं कि गवर्नमेंट इस पर भी विचार कर ले।

तीसरी बात जो में कहना चाहता हूं वह यह है कि कोई व्यक्ति, यदि वह किसी कानून के खिलाफ काम करे तो कोई भी ऐसी चीज नहीं है. जो कि उसको बचा सके। लेकिन यदि स्टेट कोई ऐसा काम करे जिसके बारे में कि उसको काफी श्रक्तियारात हैं और प्रेजीडेंट को भीर पालिया- मेंट को भी प्रक्तियार हैं और इस तरह की खोटी खोटी बातों में कानून के खिलाफ जाय तो इसका नैतिक ईफेक्ट (प्रभाव)क्या होगा लोगों के ऊपर और स्वयं स्टेट के ऊपर, इसका ग्रंदाजा भाप स्वयं लगा सकते हैं। इस तरह के गैर कानूनी काम करना, मरे विचार में, स्टेट को शोभा नहीं देते हैं।

हमारे पंडित ठाकुर दास भागंव जी ने एक एमडमेंट दिया है जो कि लेवीड और कोलेक्टिड (लगाये और इकट्ठा किये गये) के बारे में है ॥ जो रकम वसुस हो गई है उसके बारे में तो यह कहा जा सकता है कि साहब इसको वापस करने में बड़ी विक्कत होगी। परन्तु लेबी (लगान) के बारे में ऐसा नहीं होना चाहिए। जो वसूल नहीं हुमा है वह मागे बसूल नहीं किया जाना चाहिए।

श्री के०सी० साथिया : बसूल तो हो चुका है।

Mr. Deputy-Speaker: Order, order. He has had his say. Let the hon'ble Member go on.

श्री मुनमुनवाला : मैं यह जानता हूं कि जो सुप्रीम कोर्ट का दूसरा जजमेंट (निर्णय) सन् १६४४ में हुआ उसके बाद बहुत से व्यापारियों ने सोचा कि जो टैक्स वे कलेक्ट कर रहे थे वह वे नहीं कर सकते थे । इसलिए उन्होंने उसको बापस कर दिया। प्रब धागे उन से वही टेक्स मांगा जायेगा जिसको कि उन्होंने वापस कर दिया है । इस प्रकार के बहुत से केसेज (मामले) हमारे सामने श्राये है और उनकी जानकारी हम को है । इसलिए मैं सरकार से निवेदन करूंगा कि जो कुछ वसुल हो गया है वह तो ठीक है परन्तु जो बसूल नहीं हुआ है उसे बसूल नहीं करना चाहिए । जो धमेंडमेंट ठाकुरदास जी भागव ने दिया है मैं उसका समर्थन करता हं।

Kumari Annie Mascarene: (Trivandrum): I rise to oppose this Bill for the simple reason that we people in Travan-core-Cochin State pay 25 per cent of our income from sales tax. A law like this, we are empowered to legislate, no doubt. But, we should always remember that we should be guided by certain principles of legislation and certain principles of taxation which stand far beyond convenience, exploitation and power. From time immemorial, legislation has always been subject to, no matter what kind of Government we have, autocracy, democracy or even tyranny, justice, equity and good conscience, and it has survived up till today. This piece of legislation has brought this legislature to a juncture where we are forced to consider a decision of the judiciary and the judiciary is also, at the same time, forced to consider whether a taxation was legal or not. Here is a juncture when the legislature and the judiciary are in a difficult position to justify their stand. When the judiciary commits an error of judgment, a higher court may repeal it. But, when a legislature committs an error, we repeal that law. Here is a law which would be justified for future. Prospectively, this law would have been justified. But, retrospectively, 2-12 Lok Sabha.

we have done a wrong thing. Unwilling to own it, on dignity, you want to pass it into law. That is what exactly we are doing here. My State gets 25 per cent of its income from sales tax. We pay multiple point sales tax. That is why I have reason to oppose this law. Of course, the common man has to pay the sales tax. The range of exemption is not at all wide in the Travancore-Cochin State. As the statement given in our Parliamentary papers shows, we pay 25 per cent, Bombay gives 29 per cent and per cent. Madras 20 We stand the second. Bombay and Madras, compared Travancoreto Cochin, are big. Our people pay such a heavy taxation. This is to validate a tax which has already been imposed and collected from the people, which in future also they will have to pay. Therefore, apart from the legal point of view, it is an injustice done to my State and the people and therefore I oppose it. I am really surprised that a democratic Government like ours should have taken up this piece of legislation. The Finance Minister, besides being the Finance Minister is also a representa-tive of the people and a part of democracy. If he could only fathom his conscience...

Shri K. K. Basu (Diamond Harbour): He has none left.

Kumari Annie Mascarene: and see whether this legislation is becoming of the Government of which he is a part, he will reconsider and will not allow this law to be passed. I oppose this Bill on the point of injustice. I oppose this law as unreasonable and as regarding the judiciary with the least respect.

Shri Satyendra Narayan Sinha: While I am in general agreement with the objects of the Bill before this House, I feel that there is considerable force in the amendment tabled by Pandit Thakur Das Bhargava.

I am really surprised that though the Supreme Court judgement was delivered on 6th September, 1955 this Ordinance was promulgated on 30th January, 1956.

Shri C. C. Shah: May I point out, Sir, that the amendment of Pandit Thakur Das Bhargava will not help the matter at all. With all respect I am submitting this because the last 3 lines, as the Finance Minister rightly pointed out yesterday, are only by way of abundant caution. Even if you omit not only the words 'levied or collected' but all the three lines, so long as the previous part

[Shri C. C. Shah]

of the Act remains, namely, you validate the Act itself, what follows from the Act, namely levy and collection, both are valid. Therefore, that amendment will not help the purpose which you have in view.

Shri Pataskar: That is not under discussion at all now.

Shri Satyendra Narayan Sinha: reason for supporting Pandit Das Bhargava's amendment is this. During this time-lag, it is possible that the dealers may have refunded the collected from the purchasers. In inter-State transactions, very likely the number of purchasers is not very large. Most of them are wholesalers and can easily be spotted. Therefore, I would like to know from the Finance Minister, what would be the position of such of the dealers who have already refunded the tax collected from the purchasers. Secondly after this judgment was delivered, what was the reason for this time-lag? Why should the Government have been sitting tight over this issue for such a long time and should not have taken steps immediately after the judg-ment? I seek from the Finance Minister clarification of these two points.

पंडित सी॰ एन्॰ मालबीय 🕻 (रायसेन) : इतनी बहस के बाद भी में यह नहीं समझ सका कि यह बिल इम्मारल (भनैतिक) या भनरीजने-बल (भयुक्ति युक्त) कैसे है। मेरे ख्याल से तो जो स्थिति बन गयी है उसके लिहाज से कानुन बिल्कुल जरूरी है भौर इसको पास होना चाहिए। में, श्री ठाकुर दास जी का जो झमेंडमेंट है उसका भौर जो भमडमेंट श्री शाह साहब ने दिया है उसका भी विरोध करता हूं, इसलिए कि जहां तक कानुनी पोजीशन का सवाल है वह तो साफ है, भौर जहां तक बेइन्साफी भौर इम्मारे-लिटी का सवाल है उसके मुताल्लिक में यह कहना चाहता हं कि जब सुप्रीम कोर्ट का इसस पहले एक जजमट है भीर पालियामेंट को इस बात का हक है कि वह इंटर स्टेट (ग्रन्तरार्ज्यिक) टैक्कस लगाने का कानून पास कर सकती है तो यह इल्जाम जो कि गवर्नमेंट के ऊपर लगाया जाता है कि वह सामोश बैठी रही घौर उसने कोई कदम नहीं उठाया, वह सही नहीं है। झाप टेक्सेशन इन्क्वायरी कमेटी (कर जांच समिति) की तीसरी वाल्युम (लंड) को देखें। उससे भापको मालुम होगा कि कांस्टीट्यूशन पास होने से पहर्ल सेल्स टैक्स की स्थिति क्या बी जीर उसके पास होने के बाद क्या स्थिति है। इसके बाद कछ मुकदमे प्रदालत में गये भीर

सुप्रीम कोर्ट के जजमेंट से कुछ राज्यों ने यह इंटरप्रिटेशन (निर्वेचन)निकाला कि जो माल उनके राज्य में इसरे राज्यों से भाता है उस पर वह टेक्स लगा सकते हैं भीर इस बिना (भाधार) पर उन्होंने दूसरे राज्यों के व्यापारियों से रिटर्न (विवरण) भौगना शुरू किया । इससे व्यापारियों को बहुत दिक्कत महसूस होने लगी भौर यह बात गवर्नमेंट के नोटिस में भाई। इस दिक्कत को दूर करने के लिए सन् १६५३ में एक कानफरेंस हुई भौर उसमे यह चीज हल की गयी कि ग्रगर कोई व्यापारी एक स्टेटसे इसरी स्टेट में माल भेजता है तो उससे रिटर्न न मांगा जाये बल्कि उसकी स्टेट में एसे स करके ही टैक्स झसेस कर लिया जाया करे। सवाल यह नहीं था कि वे एकदम लीगैलिटी (वैधता) में फंस जायें। डिमांड (मांग) यह थी कि जैसे भी संभंव हो सेंटल गवर्नमेंट भीर स्टेट्स गवर्नमेंटस् को इस फ़ाईव ईयर प्लान (पंच वर्षीय योजना) को कार्यान्वितं करना है भौर उसको धागे बढ़ाना है भौर जाहिर 🕯। कि उसके लिए हमें रुपये का इन्तजाम करना हैं और इसी सद्-उद्देश्य को लेकर यह टैक्स लगाया गया है। इसके साथ ही साथ जहां कि ऐसे लोगों के साथ हाउस में हमदर्दी दिलाई गई है कि जो सेल्स टैक्स को देते हैं। लेकिन मैं पूछना चाहता हूं कि जो इसकी भदायगी को इवड (ग्रावंचना) करते हैं उनके लिए ग्रापने क्या इन्तजाम किया है और मैं पूछना चाहूंगा धपने उन दोस्तों से जो कि इन इविडर्स के लिए चाहते हैं कि भव उनसे इस टैक्स की वसली न हो, उनकी सपोर्ट करके क्या वे इस इम्पीरेलिज्म (साम्राज्यवाद) को सपोर्ट नहीं कर रहे हैं स्रौर देश का महित नहीं कर रहे हैं ?

टैक्सेशन इनक्वायरी किमशन ने प्रपनी
रिपोर्ट के वाल्युम ३ में पेज (पृष्ठ) २४ पर
झाखिर में बतलाया है कि सुप्रीम कोर्ट के जो
कास्टीट्यूशनल रिस्ट्क्शंस (संविधानिक प्रतिबंध)
थे उनसे हमें दिक्कतें हुई हैं और में उनको बतलात
हुए हाउस का ज्यादा समय नहीं लेना चाहता
में केवल रेलेवेंट पोर्शन (संगत ग्रंश) पढ़े वेता
हुं जो इस प्रकार है——

Secondly, because of these restrictions, there was greater scope for avoidance of tax, entailing an indirect loss of revenue on almost all States. Traders in one State started to sell direct to unregistered dealers and consumers in another. Similarly, consumers of valuable commodities tried to get these from dealers in another State rather than buy the articles from their local dealers. The practice grew

for sales of goods within a State itself to be shown in the books of accounts as having been made to fictitious dealers outside the State and the goods having then been resold by those dealers to consumers within the State. For valuable commodities like motor vehicles, jewellery, watches, etc., this practice became very common. On transactions that could be shown to be in the course of inter-State trade, the 'exporting' State was prohibited under Article 286 from levying the sales tax; and if the goods delivered as a result of these transactions were shown to be received by individual consumers or unregistered dealers neither could any tax be levied on them by the 'importing' State. Thus, many of these transactions escaped sales tax altogether.

इस तरीक़े से एक स्टेट को रेवेन्युज से डिप्राइव करना (राजस्वों से वंचित) उसको महरूम करना भौर इस तरीक़े से खुद तरकीब निकाल कर मुल्क के बहुत बड़े विकास के काम को रोकना, यह इम्मोरेलिटी है या मुल्क के दूसरे फाईव ईयर **प्लान को कामयाब बनाने के लिए नेकनीयती** से भौर सुप्रीम कोर्ट के जजमेंट से गाईड होकर (शिक्षा लेकर) भौर उसके भ्रत्फाज का ठीक इंटरप्रेटेशन (निर्वेचन) निकाल करके एक ऐसा तरीका निकाला जाये जो सब दिक्कतों को दूर करने वाला हो, वह इम्मौरेल (ध्रनैतिक) हैं ? में पूछना चाहता हूं कि टैक्स को इवेड (ंग्रवंचन) करना भौर कानून की ग्राड़ लेकर बोलेटाजी की कोशिश करना क्या इम्मौरेल (घनैतिक) नहीं हैं ? में समझता हुं कि यह जो बिल पेश किया गया है बिलकुल मुनासिब है भौर साथ ही यह भी इम्मौरेल नहीं हैं जो हम इसे उस जमाने के लिए वेलिडेट (मान्य) कर रहे हैं। जाहिर है कि जो टैक्स दे चुका है उसको वह वापिस नहीं हो सकता भीर जिन डीलर्स (व्यापारीयों)ने टैक्स को वसूल कर लिया है वह भी उन्हीं के पास है भ्रौर वह गवर्नमेंट के पास नहीं आया है भीर सरकार की उसकी जरूर उनसे वसूल करना चाहिये । मेरी समझ में डिस्किमीनेशन (भेदभाव) तो तब होगा जब कुछ लोगों से तो टेक्स दसूल कर चुके हैं भौर जो बाक़ी रह गये हैं उनसे वसल न किया जाये । ईसलिए में समझता हूं कि इस बिल के जो मल्फाज है वह बिल्कुल दुस्स्त है भीर में उनका पूरे तौर से समर्थन करता हूं। इसमें ंको दफ़ाएं रक्की गई हैं, वह इंसाफ़ की बुनियाद 'पर क़ायम है। देश के हित को ध्यान में रखते 🚁 ए इस तरह का टैक्स वसूल करना इम्मीरल

नहीं है । घौर न ही इसमें सुप्रीम कोर्ट पर किसी तरह का रिफ्लेक्शन (कुप्रमाद) है । सुप्रीम कोर्ट ने झानूनी दिशा में हमारा मार्गदर्शन किया है घौर हम उसके दिखाये हुए मार्ग के धनुसार कानून बना रहे हैं घौर यह हमारे घितात्या ऐसी दक्षा नहीं पाता जिसके बारे में हमारे कुछ साहबान ने फ़रमाया है कि यह जस्टिफाईड (उचित) नहीं है। यह इम्मोरल या घनरीजनेबल नहीं है बल्कि में समझता हूं कि इसके खिलाफ जो घार्ग्मेंट्स (तर्क) दिये गये हैं वे इम्मीरल हैं घौर नेशन घौर देश के हित के खिलाफ हैं।

Shrl C. D. Deshmukh: It is obvious we are dealing with an extremely comp-licated matter. One might say in a sense that even when the Constitution made it may be that all that was in-tended by the framers of the Constitution was not embodied in the words of it. It may be that the various High Courts and the Supreme Court dealing with this matter have not been too sure from time to time, or at least Benches have not been too sure from time to time, as to what interpretation to put on the meaning of the words of this particular article. It often happens that a smaller Bench of a High Court may give a ruling and then a fuller Bench may give another ruling. One does not know what would happen even to this ruling. One could not rule this out that if the matter were to be considered again, perhaps some other aspect of it which is not clear to us might become clear then. Therefore, from time to time the duty falls on the legislature as far as possible to undo, shall we say, the mischief that arises from semantics, that is to say, man's incapacity to use words precisely in the way in which they ought to be used.

There are two methods. One is changing the Constitution itself, and the other, making any other laws that may be necessary. So far as the Constitution is concerned, I have no doubt that when we take up the substantive measure in regard to inter-State sales taxes, we may have to suggest some alteration in the Constitution itself. But that, as you have pointed out, is a separate issue which will have to be argued out then on its merits. And that applies to all this question of standardisation and various other matters of which certain hon. Members complained.

Now, reverting to the narrower issue of the language of the Constitution as it is and the interpretation put on it by

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the various courts, I would like to quote two important portions from the two The first is the State of judgments. Bomay and another vs. the United Motors (India) Limited and others, 30th March, 1956:

"We are therefore of the opinion that article 286 (1) (a) read with the explanation prohibits taxation of sales or purchases involving inter-State elements by all States except the State in which the goods are delivered for the purpose of con-sumption therein in the wider sense explained above. The latter State is left free to tax such sales or purchases which power it derives not by view of Explanation but under article 246 (3) read with Entry 54 of List II. We are of opinion that the operation of clause (2) stands excluded as a result of the legal fiction enacted in the Explanation and the State in which the goods are actually delivered for consumption can impose a tax on inter-State sales or purchases."

They made two distinct pieces of it, excised that from the general sphere of inter-State transactions, brought it under clause (1) and said since it was a sale inside the State it could be taxed:

Here is a second judgment, that is the Supreme Court of India in the case of the Bengal Immunity Co., Ltd., vs. the State of Bihar and others, September 6th, 1955:

"For all the foregoing reasons we are definitely of opinion that until Parliament by law made in exercise of the powers vested in it by clause (2) provides otherwise, no State can impose or authorise the imposition of any tax on sales or purchases of goods when such sales or purchases take place in the course of inter-State trade or commerce, and the majority decision in the State of Bombay vs. United Motors (India) Ltd., in so far as it decides to the contrary cannot be accepted as well-founded on principle or authority.'

And then they go on to say:

"The State of Bihar do forbear and abstain from imposing sales-tax on outer-State-dealers in respect of sales or purchases that have taken place in the course of inter-State trade or commerce even though commerce, even though trade or the goods have been delivered as a direct result of sales or purchases for consumption in Bihar.

In other words, they joined these two together, and made them inter-dependent.

So, the result seems to be that both these conditions have to be satisfied. There has to be a validating law by Parliament under article 286 (2); and the goods have to be delivered for consumption in the taxing State. Where both these conditions are satisfied, then the tax can validly be collected.

Now, so far as the first is concerned, of course that is a matter of location of where the delivery took place and where the consumption took place. That is a matter of establishing the facts. We are supplying the second lacuna, that is to say, the validity, because nevertheless it becomes an inter-State transaction, that is, trade transaction. We are now validating such transactions in order to make the levy and collection of these taxes legal.

In this view, I do not think there is any fear of States exceeding their authority. The goods must be delivered: the goods must be consumed; then only the State becomes capable of taxing that, where authority is existent in the form of a law of Parliament such as they will have if we pass this. Therefore, I do not share the apprehension of Shri C. C. Shah that States will now be encouraged to pass laws in future in order to widen the scope of this or to bring within the scope of their levy and col-lection transactions which they would not have thought of under explanation to article 286 (1), because the delivery and consumption must be inside the State. That is one condition imposed; and as long as that condition is fulfilled, provided there is authority, as we shall now give, there is no reason why a State should not tax it.

The next point is why we are taking these dates. That is a matter of amendment, but as it was raised, I might as well mention it here, It was asked: Why are we dealing with the period between 1st April, 1951 and 1st April, 1953, if it is correct that all the States started imposing these taxes only after the judgment was delivered? The fact is that the position was not very clear. think one can excuse the States and their legal advisers for not importing into it a greater clarity than was exercised, shall we say, by the various courts or their Benches that had handled this issue from time to time.

The material that we have gathered shows that practically all the States have been charging sales-tax on inter-State transactions from non-resident dealers only with effect from 1st April 1953that is correct—following the Supreme Court judgment in the United Motors (India) Ltd., vs. another. But there were one or two States which were bolder than the others. And where we understand sales-tax or purchase-tax on inter-State transactions was being levied under that explanation even before that date, there while the practical effect of this Bill when passed would be generally to validate collections made between 1st April 1953 and 16th September 1955, we cannot afford to have a lacuna for the period between 1st April 1951 and 1st April 1953. In these circumstances, it will not be desirable to accept that amendment; but we may come to it

There is also another factual matter which I should mention here, or clarify, and that is that we started addressing the State Governments, as I mentioned yesterday, only in August last year. But what we did after the first judgment of 1953 was to advise them to hold their horses, so to speak, that is to say, to temper the wind to the lamp which we now knew was going to be shorn as a result of that judgment. We knew that this practice of imposing a tax on inter-State transactions would multiply as a result of that judgment. We were also aware, and we were made aware, of the harassment that it might cause to a large number of traders all over the country. Therefore, we called an official conference together and induced most of the States to agree formally in regard to the administration of the Act. We could not prevent them; we advised them not to. As I mentioned, West Bengal was not interested in imposing or levying collecting this tax. But some of the other States thought that there was a great deal of money, in it, and they wanted to go forward with it, but most of them agreed to fall into line with the proce-dural matters that we had agreed with them.

Then came a stage when we were in possession of the recommendations of the Taxation Enquiry Commission. It was then that we thought that this matter now required a little more streamlining in regard to imposition of tax on inter-State transactions. So that we should have time to consider it, and so that the system may not get more tangled in the meanwhile, we advised the State Governments if possible to refrain from imposing the sales tax or to withdraw their legislation.

Some States, knowing what the recommendations of the Taxation Enquiry Commission were, agreed readily. Others were reluctant unless the Centre made up the loss of revenue, which we were reluctant to do, because it was a matter between them and the citizens. So, that was the state of affairs till August-September when this judgment came.

Of course, as soon as the judgment came, every State realised that it could not go on now imposing, levying or collecting these taxes, and gradually we received requests. We did not know what the position was. We did not know how much had been collected, whether they could afford to neglect it or whether a few thousands had been collected or not. It took us a little time to collect all this information. That is why it has taken a little time now to issue the ordinance. But we did issue the ordinance because we thought we had better not wait again till Parliament met. So, that is how I answer that charge of delay in this particular matter.

dealt with all this, I think Having there are only two more points that remain namely this levy and collection, and further assessment and so on. What we are doing here is removing a ban. We are not legislating afresh, originally so to speak, imposing various kinds of restrictions and putting some qualifica-tions and so on and so forth. What we are doing is that because of the stress of circumstances, we are taking all those laws together, and we say: "Well, whatever law you have passed, we shall revalid, we are not suggesting gard as that instead of six pies you must put five pies, instead of including this, you must exclude that and so on, because then that will make the situation still more complicated than it is today, or might make it worse."

Therefore, I admit that this is not the kind of thing that we would have done if we could have constructively done it four or five years ago. We might have then looked at the legislation that they intended to pass and might have made many changes. Now it is never possible to reconstruct that situation. Whether it is of 1951 or of 1953, there is such a large area of uncertainty in this matter that on the whole we think the ends of justice will be served if we validate things as they stand. And that is the only alternative open to us—either we reject this Bill or we pass this Bill. And if we pass this Bill, we have no means of compelling the States now to make any discrimination. We cannot say to them;

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'Please recover it on iron; but do not recover on cloth. Recover from those who have already collected, but do not recover from somebody else'. That is not a matter which we can impose on them by this Bill.

Mr. Deputy-Speaker: Is it the intention, if it was possible under the law, that it might be so done? Now, two things are apprehended, that future collections ought not to be made on the strength of this validating law, and whatever has been refunded ought not to be recovered.

Shri C. D. Deshmukh: I do not know what future collections are. It is a current transaction and current procedure. Dealers are either registered or unregistered. There are marginal cases where a dealer is not registered. Occasionally, it is found afterwards that he has become subject to a sales tax. Now, whichever way you do it, I have no doubt that there will be a few cases where some States might contend themselves with 'keeping their winnings' so to speak. A few States may either discover them or cases may come to their notice of some dealers who ought to be assessed to this tax, but these cases, I think, will be very marginal and very few. I do not think it is necessary for us in the interest of justice to have any refinement introduc-ed into this. But I do not deny that it is not possible; it may be possible. But I do not think that propriety of desirability demands this.

Now that leaves this last issue, of morality. I am astonished at hon. Members raising the issue of morality in this matter. I can understand their raising issues of legality. But it is because the legal position has been so confused that we want to make it certain.

Shri K. K. Basu: Morality is also in confusion possibly.

Shri Kamath (Hoshangabad): Amoral.

Shri C. D. Deshmukh: Quite right. We have to take an amoral view in this. We came along the legal position and you have been good enough to decide to put it out of the way. So far as morality is concerned, we should not allow our conscience to be burdened by this thought at all. I say that the State is entitled to collect what it could legally collect. When it was collected, it knew that it was collecting it legally.

Then another view was taken by the Supreme Court—and it is open to them to take such a view. After all, truth must

always prevail and, according to them, that was the truth. This situation having arisen, it is our duty to correct it. Therefore, there is no question of ethics or morality here.

I shall not refer to the question of nullifying judgments and so on. We are co-operating with the Supreme Court and indeed, along lines which they have indicated in their judgment itself. Now, the sum involved is quite considerable. There is that point which has weighed with you and other Members that we shall never know the ultimate home of this money when it is refunded, there is no reason why the community at large should not benefit from the collections which were legal and valid collections when they were made. Therefore, I see no objection whatsoever to our going forward with this Bill.

Shri S. V. Ramaswamy: May I know what is the total amount that may be collected as a result of the passing of this Bill?

Shri C. D. Deshmukh: Four or five crores of rupees.

Mr. Deputy-Speaker: The question is:

"That the Bill to validate laws of States imposing, or authorising the imposition of, taxes on the sale or purchase of goods in the course of inter-State trade or commerce, be taken into consideration."

The motion was adopted.

Clause 2—(Validation of State Laws etc.)

Pandit Thakur Das Bhargava: I beg to move:

Page 1, line 13, and wherever they occur—

for "levied or collected" substitute "levied and collected".

Then I had sent in another amendment which reads:

Page 1, line 13, and wherever they occur—

omit "levied or".

जो कुछ फाइनेंस मिनिस्टर साहब ने कहा है उसको में ने गोर से सुना है। इस चीज को सब मानते हैं कि जो कोलेक्टिड मनी (एकट्टी की गई राशि) है उसका वापिस किया जाना मुश्किल है क्योंकि अगर इसे वापस किया गया तो इससे जो मिडलमैन है उसी को फायदा होगा। इसमें भी कोई शक नहीं है कि जो मिडलमैन है उसक खिलाफ आम तौर पर लोग रहते हैं। इसमें मुझ कोई एतराज नहीं है । लेकिन में धर्म करना चाहता हूं कि १६५३ में जो द्रुष (सचाई) था वह झाज १६५५ में नहीं है । जो आज द्रुष नहीं है उसका किया जाना गैर कानूनी है। असल बात यह है कि जो कानून था वह दुरुस्त नहीं था । सन् १६५५ में यह फैसला किया गया कि जो कानून बना है वह दुरुस्त नहीं है भौर जो टैक्स झापने वसूल किया है वह ठीक नहीं किया । अब जब कि द्रुष झापको मालूम हो गया है तो मेरी समझ में नहीं झाता है कि झाप क्यों उससे भाग रहे हैं । जो वसूल हो चुका ह वह तो बापस नहीं किया जा सकता, इस चीज को में मानता हुं। लेकिन में पूछता ह कि झायंदा

Mr. Deputy-Speaker: The answer, as I understand it, is that the shopkeeper has already collected it from the other man. The same principle holds good. Are we now by this legislation allowing this money to continue in the hands of the man who wrongly collected it from the consumer?

के लिए भापका क्या फैसला है।

पंडित ठाकुर बास भागैव : मैं धर्ज करता हूं कि मुझे ऐसे केसिस मालुम है कि जहां पर जो टैक्स १६५१ के बाद उन लोगों को जिन से कि यह वसूल किया गया था, वापस कर दिया गया है । धभी धभी मेरे नोटिस में झाया है कि एक घादमी ने २५,००० रुपया वापस किया है ।

Shri C. D. Deshmukh: There are a few cases where the consumer, usually another petty dealer himself, who had continuous relations with the registered dealer himself deducted the amount from his next payment. That can be adjusted in the subsequent transaction.

पंतिक ठाकुर बास भागेंब : बहुत से केंसिस हैं जिन में लोगों ने यह समझकर कि धब सुप्रीम कोर्ट का फैसला हो गया ह, उन्होंने दूसरे लोगों को जिन से कि बसूल किया था, यह रूपया बापस कर दिया है। धगर यह बीख साबित हो जाए कि उन्होंने बापस कर दिया है तो धगर उनसे धब यह रूपया बसूल किया जाए तो यह क्या इन्नोसेंट (निर्दोष) भोगों के साथ बेइंसाफी नहीं होंगी। इसके धलावा मुझे यह भी नहीं मालुम है कि क्या १६५१ से १६५३ तक यह जो टैक्स है यह वसूल किया गया है या नहीं।

Shri C. D. Deshmukh: The answer is simple. They should not have refunded it until they had received a refund from Government.

Pandit Thakur Das Bhargava: The hon. Minister has not followed what I was submitting.

मापने बसूल करना है, मापने बसूल किया नहीं है। यह जो फैसला सुप्रीम कोर्ट का हुआ है इसके मुताबिक जिन लोगों ने बसूल किया है उन्होंने तो बापस कर दिया लेकिन मब इस कानून के पास हो जाने क बाद माप इसके मात-हत उनसे फिर इस रकम को बसूल करेंगे।

Mr. Deputy-Speaker: That is exactly what he has replied.

Shri C. D. Deshmukh: I am saying that when he collected it, he paid it to the Government. He had no business to refund it on the pronouncement of the judgment before he made sure of his own position vis-a-vis Government.

Mr. Deputy-Speaker: I understand him to address himself to marginal cases where it has been levied but not collected by the Government. All the same, the man who obtained it from the consumer returned it to the consumer.

Shri C. D. Deshmukh: Such cases must be infinitesimally small. Hard cases make bad law.

Pandit Thakur Das Bhargava: I know of one case where Rs. 25,000 were returned by one man from whom the tax has not been collected. There may be a few cases.

सेकिन उसूल यह होना चाहिये कि जो सोण बेगुनाह हैं उनको सजा नहीं मिलनी चाहिये चाहे उनकी तादाद कितनी घोड़ी क्यों न हो तो मैं धर्ज करता हूं कि जब सच बात मालूम हो गई है तो उन लोगों से इस टैक्स को बसूल करना, जो इसे बापस कर चुके हैं, क्या यह मारेलेटी (नैतिकता) है ? मुझे एक इलोक याद झा गया है :

सर्वेत्रेश विहिता रीति : धर्मस्य धनमाजाममीति :

इस में उनको मारेलेटी मालूम नहीं होती है। मैं मदब से पूछला बाहता हूं कि वफा २६४ का क्या बनेगा। जो बीज बाई ला (बिधि डारा) वसूल नहीं की जा सकती उसको बमूल करना बाजब नहीं। इससे लोगों का विश्वास उठ जाता है। मैं तो यहां तक कहने के लिए तयार हूं कि यह एक लालेस ला (विधिहीन बिधी) होगा। यह ला नहीं है जो हम बानाने जा रहे हैं और जिस की क से सब बीज जायज करार दी जारही है। यह कभी नहीं होना बाहिए। [Pandit Thakur Das Bhargava]
सके मानी यह हैं कि पालियामेंट की जो डिसकीशनरी पावर्ज (स्वविवेक शक्तियां) हैं मौर
जिन को उसे एक्सरसाइज (प्रयोग) करना
बाहिये था उनको उसने इस्तेमाल नहीं किया
है। यह सब फिकशन है, गैर कानूनी चीज
है भौर हमें इसे नहीं करना चाहिये!

हमारे पंजाब लैंड रेवेन्यू एक्ट में एक सैकशन है जिसमें लिखा हुआ है कि जो रेवेन्यू एक्ट में लिखा हुआ है उसको (सयत्ता का प्रमाण) प्रिजम्पशन माफ ट्रूय माना जाए। एक गांव है पंजाब में उसकी वजह तस्मिया में लिखा है जिसका नाम भुतन है कि एक भूत एक बांस पर चढ़ता भौर उतरता रहता था भौर इसी वजह से उस गांव का नाम भूतन रख दिया गया। वह प्रिजम्पशन थी। यह जो ला हम बना रहे हैं यह तो लालेस चीज है। भौर वे बुनयाद फिकशन पर कायम किया जा रहा है। न पहले पार्लियामेंट ने इजाजत दी भौर न दे सकती थी। मुझे तो एक कहानी याद ग्राती है। एक राजा था हमारे फाइनेंस मिनिस्टर की तरह का ग्रीर वह ग्रपने इलाके में घमने के लिए जाया करता था । एक बार वह घपने इलाके म एक गार्डन (बाग) में गाया भीर वहां जो माली था उससे उसने पीने के लिए पानी मांगा। उस माली ने एक भनार लिया भौर उसका रस निकाला जिससे कि गलास भर गया और राजा को देदिया। इससे राजा ने समझा कि जो मामला लगाया गया है वह कम है झौर उसने हुक्म दे दिया कि इसकी दर बढ़ा दी जाए। इसके बाद दुवारा जब वह राजा वहां गया भौर पानी मांगा तो उस माली ने फिर एक ग्रनार लिया भौर जब उसमें से रस निकाला तो उससे गलास का भाठवां हिस्सा भी नहीं भरा। उसने पूछा कि क्या वजह हुई तो माली ने कहा कि राजा की निगह ठीक नहीं है। 2 P.M.

म्रापका दावा है कि हमारा मारल मौर पीसफुल ऐप्रोच (नैतिक तथा शांतिपूर्ण दृष्टि-कोण) हैं भौर म्राप कहते हैं कि हम मारल स्टेंड हैं से दूर नहीं जाते भौर डाइसी की डेफीनीशन के मुताबिक ला पर चलते हैं। इसलिए माज भापको उसी ऐप्रोच (दृष्टिकोण) को कायम रखना चाहिए। तीन चार करोड़ रुपये की क्या बात है। माज मगर भाप जायज तौर से सौ करोड़ रुपये का भी टैक्स लगायेंगे तो उसको कोग राजी राजी देंगे। लेकिन माप डाउटफुल (संदेहपुक्त) तरीके से रुपया लेना चाहते हैं। जिसको कि भाप बुद कहते हैं कि ऐसा नहीं होना

चाहिए था । माप कांस्टीट्यूशन बनाकर उसकी हमारे हाथ से वेइज्जती करवाना चाहते हैं । माप यह कानून कांस्टीट्यूशन की दफा २०६ के पार्ट २ के खिलाफ बना रहे हैं। कल जो बहस हुई उसमें पार्ट १ पर ही ध्यान दिया गया पर पार्ट २ के प्रावीजन (उपबंधों) का ख्याल भी किया गया।

Mr. Deputy-Speaker: Wise men have also differed. One High Court held that article 286 (1) was independent and wherever it was inter-State that alone applied but the Supreme Court felt otherwise.

Shri C. D. Deshmukh: The Supreme Court itself on two occasions differed.

Shri C. C. Shah: The last judgment of the Supreme Court was by 4 judges against three and of those 4 judges there was 1 judge who took a different view in the previous judgment.

पंडित ठाकुर दास भागंव: That is not the right way. प्रगर इस तरह से माना जाय तो फर्ज कीजिये कि इस हाउस में एक कानून पास होता है और एक तरफ ४१ मेम्बर राय दते हैं और दूसरी तरफ ४६ राय देते हैं, उस हालत में क्या यह कहना ठीक होगा कि यह कानून दो प्रादमियों ने पास किया है। मेरे दोस्त कहते हैं कि चार जजों में से तीन की एक राय थी और एक की एक राय थी। लेकिन जो फैसला हो चुका वह तो सातिक (स्पष्ट) है। उस पर नुक्ता चीनी करना ठीक नहीं होगा।

रक्षा संगठन मंत्री (श्री स्थागी) : जो फैसला मुल्क के फायदे के लिए हो वही ग्रच्छा फैसला है।

पंडित ठाकुर वास भागंव : इसमें श्रेयस भौर प्रेयस का सवाल है । वह फैसला ठीक नहीं है जिससे नाजायज तरीके से रुपया भाता हो बल्की वह फैसला ठीक है जो मारल कोड पर बेस्ड (नैतिक सिद्धान्त पर भाषारित) है । जो दे चुका वह तो दे चुका । लेकिन मुझे जो खराबी मालूम होती है वह यह है कि आप भायन्दा भी वसूल करना चाहते हैं । खुसूसन उस शख्स से जो कि रिफंड कर चुका है । उससे आप ऐसा रुपया बसूल करना चाहते हैं जिसकी कि लैंड की हाइएस्ट जुडीशियरी (उच्चतम न्याय-पालिका) इजाजत नहीं देती । इसलिए में चाहता हूं कि भायन्दा वसूल न किया जाय । मैं उम्मीद करता हूं कि झायन्दा वसूल न किया जाय । मैं उम्मीद करता हूं कि हाउस भेर धमें डमेंट को मंजर करेगा

Shri C. D. Deshmukh: I do not share the apprehensions, fears and doubts and principles of the hon. Members. Therefore, I oppose the amendment.

Mr. Deputy-Speaker: The question is: Page 1, line 13, and wherever they occur—

for "levied or collected" substitute "levied and collected".

The motion was negatived.

Mr. Deputy-Speaker: I think the other amendment has been given only just now and the Government does not accept it. According to practice and convention, I do not put it to vote.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 and 1, the Enacting Formula and the Title were added to the Bill.

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

"That the Bill be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

#### BUSINESS OF THE HOUSE

Mr. Deputy-Speaker: The House will now take up the next Bill.

Shri Bansal (Jhajjar-Rewari): Sir, before you proceed with the next Bill, I would make an humble suggestion that the House be made to adjourn now. It is already 2-5. The hon. Finance Minister has been making one long speech after another since yesterday and he is likely to make another long speech now and then he will have to present the Budget at five. From the point of view of the House also it would be better if we adjourn now and come with a fresh mind at 5 o'clock to apply our minds to the Budget speech.

The Minister of Finance (Shri C. D. Deshmukh): I would rather make my speech now and have my lunch afterwards.

Shri K. K. Basu (Diamond Harbour): Let him not impose taxes on tired minds.

Mr. Deputy-Speaker: We are pressed for want of time.

Shri Feroze Gandhi (Pratapgarh Distt.-West cum Rae Bareli Distt.-East): We have one hour extra to-morrow.

Mr. Deputy-Speaker: I have to make one announcement. As the House is aware, we have a heavy programme of work to be completed before the financial business is taken up. We are already short of time and there is, therefore, no option but to meet on Saturday next. The House will accordingly meet on Saturday, the 3rd March, 1956, for the transaction of Government business.

Shri Kamath (Hoshangabad): May I submit that in view of the fact that we adjourned on Monday on account of the death of the Speaker, it would appear indecorous for us to meet on Saturday just to make up for that loss on Monday. It would be very indecorous.

Mr. Deputy-Speaker: It is not on account of that; we have to get through the agenda; it is for that. We have to get through the business; therefore, we have to sit on the 3rd March.

So far as this particular work is concerned, we are pressed for time. Unless the hon. Finance Minister feels tired or it is for other reasons, I do not like to have this item adjourned.

Shri D. B. Pande (Almora Dist.—North-East): Saturday should not be cut. We have already agreed to sit for longer hours.

Pandit Thakur Das Bhargava: I understand that the House has agreed to sit longer hours—till 5-30 P.M. every day—on the basis that all Saturdays shall remain free. That was the basis.

Mr. Deputy-Speaker: The hon. Member is well aware that this has been the convention all through. On Saturdays we do not sit normally and therefore we have agreed to sit till 5-30 P.M. and even to start at 10-30 A.M. from the 5th March. If during the course of any day which is normally put down for business—official or non-official—the sitting of the Lok Sabha is interrupted for unavoidable reasons or unexpected reasons, we sit on the next Saturday. The two are mutually exclusive and independent of one another.