

Mr. Speaker : The Noes have it.

Shri Kamath : The Ayes have it.

Mr. Speaker : Hon. Members in favour will kindly rise. Let me see.

Shri Kamath : When a challenge is made at this stage, the new rule 385 passed by the Rules Committee and approved by this House makes it obligatory for you to ring the bell. Sub-rule (3) of the rule has been deleted by your own Rules Committee.

Mr. Speaker : After ringing the bell...

Shri Kamath : You can ask us to stand in our seats.

Mr. Speaker : The hon. Member wants other Members also should come in.

Shri Kamath : They should know what is happening in the House. सत्यमेव जयते !

Shri Velayudhan : Let people know सत्यमेव जयते is treated like this. Many people do not know.

Mr. Speaker : The division bell is being rung.

Order, order. Hon. Members will kindly resume their seats. I will put the amendment to the vote of the House.

The question is :

Page 2, part II, *Designs*—
against 'Obverse', after 'thereon'

'together with words "सत्यमेव जयते" at the foot of the Lion Capital.'

Those in favour will say "Aye".

Some Hon. Members : Aye.

Mr. Speaker : Those against will say "No".

Some Hon. Members : No.

Mr. Speaker : The Noes have it.

Shri Kamath : The Ayes have it.

Mr. Speaker : The hon. Members in favour will kindly rise in their seats.

Shri Punnoose (Allepey) : What is the significance? They do not want *satya*.

Mr. Speaker : Those who are in favour are 10. Those against will rise in their seats. By an overwhelming majority the amendment is negatived.

The motion was negatived.

Shri Kamath : सत्यमेव जयते !

Mr. Speaker : I will now put the other parts of the motion of Shri Kamath :

The question is :

Page 2, Part II (b), in column 2—

(i) *against* 'Rupee or 100 Naya Paisa' for 'Nickel' substitute 'Stainless steel'; and

(ii) *against* '½ Rupee or 50 Naya Paisa' for 'Do' substitute 'Nickel'.

Page 2, Part II, *Designs*, against 'Reverse',

for 'the Ears of Corn' substitute 'the Tiger'.

The motion was negatived.

Mr. Speaker : So, the whole motion of Shri Kamath is negatived.

CONSTITUTION (TENTH AMENDMENT) BILL

The Minister of Revenue and Civil Expenditure (Shri M. C. Shah) : I beg to move :

"That the Bill further to amend the Constitution of India be referred to a Joint Committee of the Houses consisting of 45 Members; 30 from this House, namely, Pandit Thakur Das Bhargava, Shri Fulsinhji B. Dabhi, Shrimati Jayashri Raiji, Mulla Abdullahai Mulla Taherali, Shri H. G. Vaishnav, Shri Radhelal Vyas, Shri S. C. Samanta, Shri Bheekha Bhai, Shri Lakshman Singh Charak, Shri M. K. Shivananjappa, Shri K. T. Achuthan, Shri P. T. Thanu Pillai, Shri B. P. Jhunjunwala, Shri B. R. Bhagat, Shri C. D. Pande, Shri Sinhasan Singh, Shri Debendra Nath Sarmah, Shri Niranjan Jena, Shri Rayasam Seshagiri Rao, Shri N. Ramaseshaiah, Shri S. R. Rane, Shri K. S. Raghavachari, Shri M. S. Gurupadaswamy, Shri Sivamurthi Swami, Shri Sadhan Chandra Gupta, Dr. Ch. V. Rama Rao, Shri U. M. Trivedi, Shri N. C. Chatterjee, Shri Bhawani Singh, and Shri C. D. Dehmukh, and 15 Members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of Members of the Joint Committee ;

[Shri M. C. Shah]

that the Committee shall make a report to this House by the 18th May, 1956;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of Members to be appointed by Rajya Sabha to the Joint Committee."

Shri Kamath (Hoshangabad): On a point of order. I take it that the rule is that the consent of the Members on the Joint Committee should be obtained. May I take it that the consent of the Finance Minister, Shri C. D. Deshmukh, has been obtained?

Shri A. M. Thomas (Ernakulam): Why should the hon. Member doubt it?

Shri Kamath: I doubt it because he is not here. He has not come to Parliament for several days now. He has gone away. He is not in Delhi.

Mr. Speaker: What I would say is that in all these matters any hon. Member who makes the motion and mentions the names is presumed to have consulted, unless and until that Member or any other Member who has been authorised to raise this objection raises the objection saying 'I do not want to be there, why should my name be put in there?' Therefore, I presume that all that has been done.

Shri M. C. Shah: This Bill deals with the amendment of the Seventh Schedule. and also of articles 269 and 286 of the Constitution. As hon. Members are aware, the position at present is that the tax on the sale or purchase of goods other than newspapers is an item indicated in the State List. But under article 286 of the Constitution, sales-tax cannot be levied if the transaction takes place outside the State, or takes place in the course of import into, or export out of the territory of India. Further, sales-tax can be imposed on transactions of inter-State trade only to the extent authorised by Parliament by law, and sales-tax on commodities declared essential for the life of the

community by Parliament can only be levied with the President's assent.

Grave difficulties were experienced in the working of the provisions of article 286, and particularly with regard to the interpretation of the Explanation of article 286 (1) (a), according to which a sale or purchase shall be deemed to have taken place in the State where the goods were actually delivered as a direct result of such sale or purchase for the purpose of consumption notwithstanding the general law relating to the sale of goods.

As hon. Members are aware, in the case of *The State of Bombay versus the United Motors*, the Supreme Court held in March 1953 that the consuming State, that is, the State in which the goods are actually delivered for the purpose of consumption can tax the transaction involving an inter-State element even where the dealer is the resident of a different State. Mainly, as a result of this decision, all States, excepting the State of West Bengal, started taxing non-resident dealers.

This gave rise to many administrative difficulties, and also great harassment to the trade, as a dealer having business connections with several States had to be acquainted with the laws of sales-tax of all those States, and also the rules of sales-tax of all the States, for complying with the necessary legal requirements in connection with registration, assessment etc. There were several protests, and representations were also received from various trade associations against the said procedure.

To deal with these difficulties and with this situation, the Government of India devised an interim scheme in consultation with the State Governments. It was provided therein that the dealers of a particular State carrying on business in other States would not be called upon to appear for assessment or for appeal in taxing States, but the officers of the taxing States would pay a visit frequently to certain designated centres in the States to which the dealers belonged. This arrangement gave some relief to the traders.

Thereafter, as hon. Members are aware, in the case of the *Bengal Immunity Co. Ltd. vs. the State of Bihar*, decided on 6th September, 1955, that is, after two and a half years after the first decision of the Supreme Court, the Supreme Court has ruled that 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. the United Motors*, in so far as it decided to the contrary, cannot be accepted as well-founded on principle or authority. That has created further complications and administrative difficulties.

Hon. Members are already aware that Parliament has passed the Sales-tax Laws Validation Act, to validate the collections in the interim period. In pursuance of article 286(3) of the Constitution, the Essential Goods Act was passed on the 9th August 1952. This Act provided that no law made after commencement of that Act by the Legislature of a State, imposing or authorising the imposition of a tax on the sale or purchase of any goods declared by that Act to be essential for the life of the community, shall have effect unless it had been reserved for the consideration of the President and has received his assent. A wide variety of goods was declared essential for the life of the community, such as cereals and pulses, fresh and dried fruits, sugarcane, coconut, vegetables, fresh milk and milk products, meat, fish and eggs, edible oils, oilseeds, *gur*, salt, handloom cloth, coarse and medium mill-made cloth, raw cotton, hides and skins, fertilisers and manures, agricultural machinery and implements, cattle feeds, coal, petroleum and petroleum products, iron and steel, books and exercise-books etc. Since this did not affect legislation already in force before the date of that Act, many commodities, even though they were essential articles according to this Act were being taxed by certain States.

The Taxation Inquiry Commission examined in detail the effect of the different systems of sales tax on trade and commerce including sales tax on inter-State trade, the effect of the restrictions on sales tax on essential goods etc. With regard to the difficulties regarding interpretation of the explanation to article 286(1) (a), it was stated by them that State Governments had sought to exercise jurisdiction over dealers resident in other States on the ground that sales by such dealers had resulted in delivery for consumption in the territory of those States, and the consumers belonging to particular States had sought to buy direct from dealers

resident in other States in order to escape taxation by the States. It was also pointed out by them that as the Essential Goods Act had not been given retrospective effect, a wide disparity had resulted in the list of exempted goods of different States.

After very careful and detailed examination of the various problems of sales tax, the Taxation Inquiry Commission recommended that the sales tax must continue to be a State tax, the proceeds of the sales tax must wholly belong to the States and as a tax to be levied and administered, it must substantially pertain to State Governments. But the sphere of power and responsibility of the State should end and that of the Union should begin when the sales tax of one State impinges administratively on the dealers, and fiscally on the consumers, of another State. In other words, inter-State sales tax should be the concern of the Centre. They further recommended that all restrictions on the State Governments must broadly relate only to the inter-State sphere of transactions. In the view of the Commission, the only exception to this would be important raw materials, since by taxing these, the State Governments can effect an increase in the cost of manufacture of an article, whether such manufacture takes place in the State which produces the raw materials or in other States which import the material. The increase in the cost on account of this tax is also thus a matter of direct concern to the consumer of another State. Intra-State sales tax in such cases has an important inter-state bearing.

According to the Taxation Inquiry Commission, intra-State sales tax in such cases would be an appropriate item for control by the Union, but this could be directly confined to a very small number of commodities which are of special significance for inter-State trade and which, in terms of the country as a whole, are also of special importance from the point of view of the consumer and of the industry.

The Government have broadly accepted these recommendations, and for implementing the same, amendment of articles 269, 286 and the Seventh Schedule is necessary. The States have also been consulted in the matter and they have agreed in principle to these recommendations of the Taxation Inquiry Commission.

[Shri M. C. Shah]

Coming now to the amendments proposed, I may mention that under clause 2 of the amending Bill, taxes on inter-State sales or purchases will be now added to the Union List given in the Seventh Schedule. Under clause 3 of the Bill, these taxes will be an additional item under clause (1) of article 269 of the Constitution, so that these shall be assigned to the States and distributed in accordance with such principles of distribution as may be formulated by Parliament by law. A further provision has also been made under this article to the effect that Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in the course of inter-State trade.

With regard to the proposed amendment of article 286, I have already mentioned earlier that the explanation to article 286(1) (a) has created a lot of administrative difficulties and many legal complications. We therefore propose to delete the explanation. I may also mention that under clause 4 of the Bill, a new clause, clause 3, is proposed in place of the present clause 3 of article 286. The result of this will be that the Essential Goods Act will be repealed. Instead, under the proposed amendment, Parliament will have the power to declare by law the goods which are of special importance in inter-State trade and also to put restrictions and conditions in regard to the system of levy, rates and other incidence of sales tax on such goods.

Mr. Speaker : Motion moved :

"That the Bill further to amend the Constitution of India be referred to a Joint Committee of the Houses consisting of 45 Members; 30 from this House, namely, Pandit Thakur Das Bhargava, Shri Fulshinhji B. Dabhai, Shrimati Jayashri Raiji, Mulla Abdullahbai Mulla Taherali, Shri H. G. Vaishnav, Shri Radhelal Vyas, Shri S. C. Samanta, Shri Bheekha Bhai, Shri Lakshman Singh Charak, Shri M. K. Shivananjappa, Shri K. T. Achuthan, Shri P. T. Thannu Pillai, Shri B. P. Jhunjhunwala, Shri B. R. Bhagat, Shri C. D. Pande, Shri Sinhasan Singh, Shri Debendra Nath Sarmah, Shri Niranjan Jena, Shri Rayasam Seshagiri Rao, Shri N. Ramaseshaiah, Shri S. R. Rane, Shri K. S. Raghavachari, Shri M. S. Gurupadaswamy, Shri Sivamurthi Swami, Shri Sadhan Chan-

dra Gupta, Dr. Ch. V. Rama Rao, Shri U. M. Trivedi, Shri N. C. Chatterjee, Shri Bhawani Singh, and Shri C. D. Deshmukh, and 15 members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of Members of the Joint Committee;

that the Committee shall make a report to this House by the 18th May, 1956;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of Members to be appointed by Rajya Sabha to the Joint Committee."

Dr. Krishnaswami (Kancheepuram): Mr. Speaker, Sir, I must confess to a feeling of disappointment after having listened to my hon. friend, the Minister of Revenue and Civil Expenditure, who introduced a serious constitutional amendment and did not care to explain some of the detailed implications of the amendments that he has recommended for consideration by this House.

I suggest that the Joint Committee should go into these matters thoroughly and examine not merely the administrative implications of the changes that he has suggested but also the economic implications of the distribution scheme envisaged under article 269. Article 286, as we know, starts with a prohibition of imposition of taxes on sale or purchase of goods which take place either outside the State or which occur in the course of inter-State trade. This article, as my hon. friend rightly pointed out, led to many difficulties of interpretation as there might be overlapping between the two types. A transaction may take place partly outside the State and partly inside, and at same time, the transaction may be in the course of inter-State trade. Because it took place partly within the State, the question was raised whether it could have the right to tax, notwithstanding the fact that it was in the course of inter-State trade. In view of the explanation in article 286, irrespective of where the contract took place, the

power to tax was given to the State where goods were consumed. But since two States are involved, the transaction could be held to be in the course of inter-State trade. In the first decision, it was held that the explanation acted, in effect, to except those articles which were taxed out of the purview of sub-clause (2). But the latter decision which has been given attempted to draw a distinction between inter-State trade and outside the State.

1 P.M.

Now, I should not wish to refer to all the detailed difficulties that have occurred. The House might be in agreement with my hon. friend that there has been a great deal of consumers' avoidance of those taxes, that States have been attempting to clutch at various resident dealers outside their jurisdiction for the purpose of collecting income. All this is true. The object of the Bill appears to be to put taxation on inter-State sale or purchase in the Union List and to have a clear demarcation between transactions outside the State and inter-State trade. I have only to ask certain questions of my hon. friend and of the Joint Committee so that they might go into the implications of this at some length. Which are the transactions that would be treated as inter-State transactions? *Prima facie*, 'outside the State' must necessarily refer to transactions which are not intra-State transactions. Which are the transactions that would be treated as outside the State, but not inter-State? Both have been left in this Bill—and this is my chief objection to it—to Parliament to determine what is inter-State trade. For the first time in the history of this country we have attempted to say that a certain item should be entered in the Union List and Parliament should have the power to determine the scope and extent of the item. If you will kindly turn to entry No. 42 which refers to this very thing of inter-State trade, it will be found, Mr. Speaker, that there Parliament has not been given the power to determine the scope and extent of what exactly the item is. What will happen is that one fine morning Parliament may take it into its head to poach on the preserves of the States and say that even intra-State trade is inter-State trade. The definition of inter-State trade has been left exclusively to Parliament; to determine what inter-State trade has been left purely to Parliament and I think it is a very wrong

approach to this question. I feel that the Joint Committee should go into this matter. The Heavens would have fallen, Mr. Speaker, if after having put this entry in the Union List Schedule, you had left it there, leaving it Parliament to determine by legislation, and allowing such legislation if it goes outside the item to be challenged in courts of law. That is the first point.

There is another and a more important issue which has to be taken up and which has to be answered by the Finance Minister and those who are sponsoring this Bill. Now, Sir, today we have decided—or at any rate when the Bill passes into law we would have decided—that the Centre should act as the grand distributor of the proceeds of inter-State sales taxation. It raises first-rate issues as to what should be the principles on which sales tax should be apportioned among the different units. One can realise that this will raise very complicated issues. The revenue which a State, for instance, derives from inter-State sales tax if it had been allowed the power to tax might bear a significant relation to the total sales tax obtained from that State. We might decide to say that the proportion of the sales tax to the sales tax revenue of all States together must be really distributed to that particular State, or, for instance, the States where raw materials are concentrated might have a high proportion of the sales tax revenue or again—and this is a very important matter which has to be considered by anyone who applies his mind to the principles of distribution—we might wish to take account of the factor of overall economic development and evaluate a principle which is quite different. The principle of allocation, for instance, Mr. Speaker, may be modified in the light of differing requirements of various States for developmental purposes. This may involve an element of subsidy from developed States to relatively backward areas, thus answering the difficulties and some of the points of view which have been raised in the Report of the Taxation Enquiry Commission. I wish Government had devoted more attention to this aspect.

Now, as it is, it is left to Parliament by law to determine the principles on which there should be this distribution. But I do think that this is an important matter which involves expert judgment. It would be better to copy the expedient of a Finance Commission as we have done in the case of income-tax and make

[Dr. Krishnaswami]

constitutional provisions for it, so that they may be able to evaluate the principles on which such distribution can take place.

My hon. friend may advance two objections: first of all—and this is a very imaginary objection which may be raised—that so far as the Finance Commission is concerned, it is only a portion of the proceeds of the income-tax that is really distributed to the States; secondly, the sales tax revenue is not of the same magnitude as the income-tax revenue that we get from the various States. The first objection is illusory in character, and as for the second objection, I should like to point out that sales tax through time shows a tendency to mount up by leaps and bounds. We should visualise what the situation will be ten or fifteen years hence. What is the situation today? It is quite different from what it was about ten or twelve years ago. We must therefore take into account the fact that there will be a larger volume which will have to be distributed among the various States. All these are complicated matters and it cannot be determined by Parliament by law alone. It is one thing to concern yourself with the administrative problem, it is another to concern yourself with the distribution of the proceeds of a tax among the various States. One can visualise what would happen, if, for instance, a world economic authority decides to do away with all import and export taxes and says that it would levy certain taxes and distribute the proceeds among the various States. Certain principles would have to be adopted, and all these principles would have to be gone into very thoroughly. We cannot, therefore, say that Parliament may by law alone determine these things, because that would not necessarily be expert in character. I therefore suggest that we must make a specific provision in the Constitution now. After all we are amending article 269 also and, therefore, I think it would be perfectly in order for the Joint Committee to go into this matter and consider the advisability of setting up an expert body to determine the principles on which the recommendations may be formulated. Of course, later on Parliament may by law have other bodies set up for the purpose of distributing these revenues, but in the initial stages it is necessary that we should be clear on the principles which are going to govern the distribution of such funds among the various units.

I believe the Taxation Enquiry Commission has gone into these matters at great length, but has not devoted sufficient thought to the question of distribution, or even to some of these other issues that I have raised. The Taxation Enquiry Commission consisting as it did no doubt of eminent experts well-versed in the arts of monetary science, but perhaps lacking knowledge of constitutional law and the organic nature of our State did not devote sufficient attention to this problem of poaching on the preserves of States' jurisdiction. We have after all to recognise and even the Taxation Enquiry Commission has recognised it, that the sales tax is a profitable source of revenue for the States. What we are seeking to do is to have inter-State sales tax practically put on the Union List. There is no meaning for Parliament saying it will be put in our list, but at the same time we are the final judges of what the scope and extent will be. Secondly, when it comes to distribution the Taxation Enquiry Commission has been very vague, weak and halting. Either it should have the courage to suggest that these principles should be gone into and if it felt that it did not have adequate information on this matter it should have left the Government to exercise its mind. In any case, it is not very purposeful on the part of my hon. friend the Finance Minister to state that the Taxation Enquiry Commission has gone into this matter thoroughly.

We know what these commissions are. They may go into matters thoroughly, but we are the ultimate judges of what thoroughness is or is not and we have to reserve to ourselves the right to enter into this question and examine it *de novo*. Nothing is binding on us and I wish that Government should even now re-examine this question thoroughly, for it raises first-class issues.

In any case I feel that this constitutional heresay of really having a thing put in the Union List and determining the scope and extent of it is something which is repugnant to my conscience. I hope the members of the Joint Committee will go into this matter thoroughly because on this particular matter there will be a bigger dispute between the States and the Centre than there has been in the past and there would also be a greater justification on the part of the States to suggest that they have not been treated fairly and that the Centre has merely attempted to use its powers for defining all things which come

within its scope and extending its jurisdiction step by step. I hope the Joint Committee will go into the question of distribution very thoroughly. After all, distribution is a very important matter. The principles that I have indicated, which are likely to weigh, are of a very serious nature, and unless we have an expert body constituted under the terms of the Constitution to go into this matter there will be very serious disputes between the various States. I wish all these matters are gone into and the Joint Committee is able to pronounce its views on the recommendations that we have made in this House.

Shri Bansal (Jhajjar-Rewari): I am sorry that I cannot whole-heartedly support this motion which has been brought forward by the hon. Minister of Revenue and Civil Expenditure.

Shri Feroze Gandhi (Pratapgarh Distt. West cum Rae Bareli Distt.—East): But you will vote.

Shri Bansal: I will vote for it for reference to the Joint Committee. My reasons for not welcoming the Bill whole-heartedly are quite a few.

By this Bill we are amending certain provisions of the Constitution which were incorporated after a great deal of deliberation by the Constituent Assembly. What was the position before we framed the Constitution? In the words of Shri Patanjali Sastri, who delivered the judgment in the famous case, *United Motors versus the Government of Bombay*, you will find a graphic account of the chaotic condition which was in existence at that time as regards inter-State sales tax. He pointed out that such claims of the taxing power led to multiple taxation of the same transaction by the provinces and accumulation of the burden falling ultimately on the consuming public. This situation posed to the Constitution-makers the problem of restricting the taxing power on sales or purchases involving inter-State elements and alleviating the tax burden on the consumer. The Bench of the Supreme Court in delivering their judgment in the Bengal Immunity Case have made a reference to this observation of Shri Patanjali Sastri and have pointed out that the above passage quite adequately depicts the picture of confusion and chaos that was brought about in inter-State trade or commerce by indiscriminate exercise of taxing power by the different provincial legislatures,

founded on the theory of territorial nexus between the respective provinces and the sales or purchases sought to be taxed. It was to cure—this is my main point—this mischief of multiple taxation and to preserve the free flow of inter-State trade or commerce in the Union of India, regarded as one economic unit, without any provincial barrier that the Constitution-makers adopted article 286 of the Constitution.

What are we doing by this particular measure? We are further diluting those provisions of our Constitution which tried to put an end to the chaotic condition that existed before the Constitution was adopted. In what manner are we diluting those provisions further? Firstly, we are cutting at the root of free flow of trade between the various States by incorporating in article 269 a new provision (g). Secondly, we are removing whatever control this Parliament has.

Shri C. C. Shah (Gohilwad-Sorath): How does that provision cut at the root of free flow of trade?

Shri Feroze Gandhi: That is what he thinks.

Shri C. C. Shah: It is not so in my understanding.

Shri Bansal: Here what we are doing is that we say “taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce”. That means that we are going to tax now sales and purchases made during the course of inter-State trade or commerce.

Shri C. C. Shah: What does article 269 say?

Shri Bansal: I know it and you also know it.

Shri Feroze Gandhi: We all know.

Shri Bansal: This hon. Member does not know. It says this. The following duties and taxes shall be levied and collected, by the Government of India but shall be assigned to the States in the manner provided in clause (2), namely...

Mr. Speaker: May I know from the hon. Member why the word “where” also is not put in in clause 3(b) which says “Parliament may be law formulate principles for determining when a sale

[Mr. Speaker]
or purchase of goods takes place in the course of inter-State trade or commerce". Would it not be necessary to say "when and where a sale or purchase of goods. . . .?"

Shri M. C. Shah : Is that objected to?

Mr. Speaker : I am only asking whether the word "where" also should be introduced there.

Shri M. C. Shah : It is not put in there because the Parliament will be given powers to decide what will form inter-State sales or transactions. . .

Mr. Speaker : Is the word "where" not necessary there?

Shri M. C. Shah rose—

Mr. Speaker : Perhaps it may not be necessary now. Under the old law "where" was necessary in regard to the Explanation, because under that law it was in the State List.

Shri M. C. Shah : There were so many legal complications. . .

Mr. Speaker : It is not that. In the old law it was not in the Union List; the power was given to the States and therefore it had to be determined which State would tax, subject to the powers conferred by Parliament under article 269.

Shri K. K. Basu (Diamond Harbour): "Sale" also is defined.

Mr. Speaker : That Explanation is omitted. Therefore, now it is not necessary to use the word "where".

Shri Bansal : May I have your permission to proceed? I was trying to point out that under article 286, there was an absolute bar on taxing inter-State sales and these are the words: "No law of a State shall impose, or authorise the imposition of a tax on the sale or purchase of goods where such sale or purchase takes place. . . ."

Shri C. C. Shah : Except to the extent permitted by Parliament.

Shri Feroze Gandhi : That comes under exceptions.

Shri Bansal : My difficulty is that the hon. Members who do not care to understand the problems try to dabble and interfere now. I would request them to listen and have their say later.

Shri K. K. Basu : According to the hon. Member's own action, publication of his statement is protected.

Shri Bansal : Under article 286, the Constitution-makers placed an absolute bar on the imposition by the State Government of sales tax on inter-State transactions. By this new amendment we are removing that bar, thereby we are further diluting the provision of our Constitution. That is my objection No. 1.

Shri K. K. Basu : Are you saying that the States are now authorised to levy inter-State sales tax?

Shri Bansal : No. My second objection is this. Under the clause, Parliament is authorised to say as to what are essential goods for the life of the community. This particular provision is being withdrawn with the result that Parliament will no longer have any authority to decide as to which of the goods are essential to the life of the community on which there should be a uniform and reasonable levy of sales tax. That is my other objection to the amendment. I cannot welcome this Bill because it seeks to adopt the doctrinaire approach of the Taxation Enquiry Commission. I have carefully gone through Volume 3 of their report. They have gone into the whole question in great detail. They have examined the pros and cons and the present condition of sales tax in the country and also examined the various other implications. My objection is that when they came to this question, they were too much obsessed by the decision of the Supreme Court in 1953. They did not see any way but to amend the Constitution and that is being done now. In fact, the Taxation Enquiry Commission suggested the exact amendments to the Constitution. But the Supreme Court has given another decision which upheld all that was intended by these provisions in the Constitution, particularly article 286. I am, therefore, of the view that the Finance Ministry has not taken into account the revised judgment of the Supreme Court but has brought forward this Bill on the basis of the recommendation of the Taxation Enquiry Commission which was based on the previous judgment of the Supreme Court.

The Commission argued at great length on the question of essentiality. It has come to the conclusion that this particular provision, article 286(3) which empowers the Parliament to lay down as to which are the essential commodities is no longer necessary. I do not agree with that view at all. In fact what it has said is this. In its view, more important are those commodities which are of importance in the inter-State trade or commerce, namely, certain raw materials and certain commodities which are produced in bulk and on which the financial stability of a particular State depends. It was a very narrow view to take. First and foremost, it is the duty of this Parliament which is laid squarely on its shoulders by the Constitution-makers to see that articles essential to the life of the community should not be subjected to heavy taxation. The Commission has given a short shrift to that idea altogether. I know it is in keeping with the general recommendation that, in a country like India which is going to embark upon very huge development programmes, the sources of taxation should be elastic and even essential articles should be subject to taxation. I have no objection to that. But what I want to emphasise is this. This Parliament which was given the right to make a list of those articles which are essential to the life of the community, should not be deprived of that right. We are now being divested of that authority.

As I have said, this Bill was obviously drafted at the time when the second judgment of the Supreme Court was not there. As it always happens in the Government departments, the file once started goes on until it comes to a close.

Shri C. C. Shah : This was drafted after the second judgment. The Statement of Objects and Reasons is dated the 30th April, 1956.

Shri Bansal : That I know. I am trying to show by internal evidence that this Bill has not taken into account the latest judgment of the Supreme Court.

Shri M. C. Shah : It is dated 6. 9. 1955. Six months have passed before we have decided to bring this Bill.

Shri C. C. Shah : The Statement of Objects and Reasons expressly refers to that judgment.

Shri Bansal : I have read it. As it happens in a bureaucratic Government, the file once started goes on without taking into account what has happened after the start although superficially some account may have been taken of that fact. I have not heard a single cogent reason from the hon. Minister as to what is the need for this particular amending Bill, after the latest judgment of the Supreme Court.

Shri M. C. Shah : That judgment stated that tax could not be levied because there was no law of Parliament with regard to these transactions.

Shri Bansal : I am sorry the Minister is giving away his own arguments to me. It is clearly stated in the judgment :

“The result, therefore, is that appeal must be allowed and we issue an order directing that until Parliament by law provides otherwise, the State of Bihar do forbear and abstain from imposing sales tax on out of State dealers in respect of sales or purchases that have taken place in the course of inter-state trade or commerce although the goods have been delivered as a direct result of such sales or purchases for consumption in Bihar.”

The result of this is not that an amending Bill to amend the Constitution should be brought forward. It means that the Government should bring forward a Bill, as they ought to have done, under the provisions of the Constitution.

It has been laid down in article 286 (2):

“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 on the sale or purchase of any goods where such sale or purchase takes place in the course of inter-State trade or commerce.”

All that is needed is for the Government to bring out a Bill to satisfy this provision and that is what I am trying to impress upon the Government.

Mr. Speaker : Now, the power of taxing inter-State transactions is sought to be taken away from the State and given to the Centre. That is the object of the Bill. What is the objection?

Shri C. C. Shah : That power ought to have been left with the States according to him.

Shri Bansal : What I am saying is this. This Bill will result in creating a sort of legal fiction. I will come to that point later on. As the Minister interrupted me I had to refer to this latest judgment of the Supreme Court.

Mr. Speaker : What is the exact point? He can give the arguments later. The present position is this. Under entry 54 in the State List, taxation on the sale of goods other than newspapers is a State subject.

Shri C. C. Shah : The real issue would be, whether, according to my learned friend, an inter-State sales should be taxed or not and, if it is to be taxed, by whom it is to be taxed.

Mr. Speaker : Even now under the existing law the Parliament can allow tax being imposed by the States on inter-State sales.

Shri C. C. Shah : Yes.

Mr. Speaker : Instead of the Parliament allowing the States to do so, the Parliament now takes the right to do it or not do it. It does not mean, if they allow in one case under similar circumstances it can impose a tax. Does the hon. Member mean that here and now it ought to be said that no inter-State transactions shall be taxed or that all inter-State trade shall be free? Is that the object?

Shri Bansal : My point is that by amending the Constitution the Government are opening the flood-gates of taxing all inter-State transactions. We had definite limitations placed on the Parliament. Firstly, it was said that no State will enact laws or authorise enactment of laws for the purpose of levying sales-tax on inter-State sales. Secondly, in those cases where the Government of India or this Parliament felt that inter-State sales-tax was necessary, this Parliament will legislate. In my view this power could have been used only in exceptional and rare cases, because, according to article 286, which is supported by so many other provisions of the Constitution, inter-State trade should be absolutely free. Therefore, I come to the conclusion that this power was to be used only in very exceptional and rare cases.

By amending this Constitution, what is happening is that the Government of India is taking the power to make a wholesale application of sales-tax on inter-State transactions. I would have understood if the Government of India would have said that there are a few commodities on which, on account of various factors, some sort of inter-State sales-tax was necessary. But that is not being done. What is being done here is that a complete blanket power is being taken by the Government of India to tax all inter-State transactions. That is exactly what I am objecting to. What I am trying to impress upon you, Sir, and through you on the House, is that after the latest judgment of the Supreme Court, it was not at all necessary to bring forward this Bill to amend the Constitution because, whatever the Government have in view could have been done if they had applied article 286, sub-clause (2).

Mr. Speaker : Applied to what?

Shri Bansal : They could have brought in a Bill before this House saying that on such and such commodities the States could levy inter-State sales-tax. They could have also laid down in that Bill whether the tax would be collected at this point or that point. That is all what is required. It would have been a very simple Bill. Now, on the other hand, we are diluting all these safeguards that the Constitution provides and we are giving a blanket power to the Government of India.

Mr. Speaker : I do not want to interrupt the hon. Member, but I am not able to follow his argument. Under article 286, sub-clause (2), has not the Parliament got unlimited power to allow the State to impose any kind of tax on inter-State transactions?

Shri C. C. Shah : According to the hon. Member, the Parliament could have done that only in exceptional circumstances. Now, according to him, the field is being widened. What he really objects is the widening of the field, and that objection can be understood, coming as it does from him.

Mr. Speaker : Even the Parliament can exercise its rights under this article.

Shri C. C. Shah : The hon. Member says that there is no justification for this. His presumption is that only under exceptional circumstances that power under sub-clause (2) would have been exercised.

Shri Bansal : At least, there is every justification for my saying that there is no need for this Bill to amend the Constitution. That is all what I am trying to say. The Minister for Revenue and Civil Expenditure has not made out a case, as to why these amendments are necessary to the Constitution. I quite agree with the statement of my friend Shri C. C. Shah that there is nothing which prevents the Parliament from using this sub-clause of article 286 and authorise State Governments to levy inter-State sales tax.

Mr. Speaker : No restrictions are imposed.

Shri Bansal : Even if I agree with you on that point, what I am trying to say is that there is no case made out for bringing up these amendments to the Constitution. Has the hon. Minister advanced a single argument to justify these amendments to the Constitution?

Mr. Speaker : We will assume that one commodity, which is in inter-State trade, between Bengal and Bihar, is taxed. Under the explanation, wherever it is purchased that will be the place of transaction and it is open to the Bihar Government to impose a particular rate or other things. Let us assume that between Bengal and Madras a similar transaction of the same commodity takes place and there is a different tax levied. Now, so far as inter-State trade is concerned, the hon. Minister evidently wants to bring about a uniformity. It is open to the Parliament to say: 'No, we are not going to impose any tax.' It is not obligatory on the Parliament to impose any tax. If it imposes any tax, the object is that a uniform rate may be imposed for same articles under similar circumstances. How is that to be done?

Shri Bansal : That is what I am saying. First of all, the essential articles are covered by the Explanation. The second point which you made is covered by sub-clause (2). That is why I am saying that there is no need to bring this Bill at all.

Mr. Speaker : There may be pressure from State Governments.

Shri S. S. More (Sholapur): May I ask whether any courts have raised any doubts about the competence of this Parliament to give instructions even in the nature of directions for evolving a

uniform process, under this particular sub-clause: "Except in so far as Parliament may by law otherwise provide."

Have they challenged the competence of the Parliament?

Mr. Speaker : No, no. How can they challenge?

Shri S. S. More : My submission is, if that authority has not been shrouded in doubt by judicial decisions, what harm is there, as the hon. Member is suggesting, to come with another law under this authority for the purpose of uniformity?

Mr. Speaker : All right.

Shri K. K. Basu : May I know whether the Parliament has so far authorised levying of inter-State tax?

Shri S. S. More : No.

Shri K. K. Basu : Then that question does not arise.

Shri Bansal : They can bring a Bill now.

Shri K. K. Basu : That is different thing.

Shri M. C. Shah : That Bill will come later.

Shri Bansal : If I may take the House into confidence, this is just a cover to hide the absolute lack of responsiveness to the demand from the public on the part of the Government of India to bring forward a Bill under sub-clause (2) of article 286. As early as September, 1952, before any of these judgments had come, well thought out memoranda were submitted to the Government to bring forward a Bill of this nature and put an end to the chaotic state that was prevailing in the country. They went on sleeping and allowed one High Court after another to sit in judgment and come to conflicting decisions. The harassed public not only went to the High Courts but they also went up to the Supreme Court. By this the Government have allowed such a state of confusion and chaos to prevail in the country and have shown theirin capacity to handle this ordinary matter of the sales tax. This Bill is nothing but a cover to hide their absolute incompetence to handle things in the country

[Shri Bansal]

where interest of the States are at variance. It is now four years that the public has been crying and demanding some sort of uniform and coherent legislation. It is only today, after the Taxation Enquiry Commission reported, that the Government are coming out with this amendment to the Constitution, the need of which is no longer there. Sir, I am definite on that point.

Now what are they going to accept? The Taxation Enquiry Commission suggested that for certain commodities, which are of importance from the point of view of inter-State commerce—not from the point of view of the life of the community; I want to impress this point on the House very clearly that it is not from the point of view of importance to the life of the community, but from the point of view of inter-State commerce—

Shri C. C. Shah : What is the meaning of the expression “essential to the life of the community”?

Shri Bansal : “Essential to the life of the community” means, those articles which are needed by a poor man, for example, foodstuffs, without which the life of the community is impossible. But here, if you see the rigmarole of the paragraph concerned in Volume III of the Taxation Enquiry Committee’s report, you will find that they have dealt with the idea of essentiality and ultimately they have come to classify the articles into a list. There are five or six items there in which coal is one, cotton is another, iron and steel is yet another, and there are two or three other items also.

Shri C. C. Shah : Are they essential to the life of the community?

Shri Bansal : They do not say that. In fact, while discussing them, they make a fine distinction between the items essential to the life of the community and the items which are of importance from the point of view of inter-State trade and commerce. I am not saying what my view is. I am just quoting what they have said and what they are suggesting.

Mr. Speaker : There may be things which are exported from one State to the other, but which may not be necessary for the community. Beedi or tobacco, for example.

Shri K. K. Basu : They are necessary for the people, Sir.

Mr. Speaker : What I say is, Andhra is a State which produces a lot of tobacco. If it is sent to some other State you cannot say that it is necessary but, at the same time, there may be a large volume of inter-State trade on that commodity. There are such cases.

Shri C. C. Shah : The expression, “commodities essential for the life of the community” has two meanings. One is, those that are necessary for the life of the individual and the other is, those raw materials which are necessary for the inter-State trade. If you see the list given in the Essential Commodities (Goods) Act, you will find that it comprises both categories of the articles—foodstuffs, cereals and all that on the one hand and coal, iron and steel and raw materials on the other hand.

Mr. Speaker : This is different.

Shri Bansal : That list will not be there any longer. That was a very long list.

Shri M. C. Shah : There will be a new list.

Shri Bansal : I know what will be there in the new list. It will include coal, iron and steel, cotton, hides and skins, oilseeds and jute. This is going to be the new list according to the recommendation of the Taxation Enquiry Commission. If the Minister had read the report with as great a care as I have done he would not have objected to my point.

Shri M. C. Shah : I have read it perhaps with greater care.

Shri Bansal : Your officers must have done so. I hope the House will bear with me for a few more minutes. What is being suggested now is, on such items the recommendations to the State Governments will be that they should have only one single-point tax, and when they enter into an inter-State transaction, there should be a levy of 1½ per cent. Although, as I said, by legal fiction the Parliament will authorise the Government of India to levy this tax, actually it will be levied by the same machinery and by the same State Governments. This is according to the recommendations of the Taxation Enquiry Commission. Although in name the taxing authority will be the Government of India, the collecting authority will be the same State Governments, and they will tax these items at the rate of 1½

per cent. In all other cases the rate will be one per cent. I ask, in what way does it improve upon the chaotic condition that was existing before 6th September, 1955? It does not take us a wee bit further. Actually, what this Bill seeks to do is, the Government of India will have an absolutely free hand, to levy sales-tax on all those inter-State transactions to the extent of one per cent on all items and 1½ per cent. on those items which they call of importance. The Taxation Enquiry Commission has given fine arguments as to why there should be a 1½ per cent tax for coal, iron and steel, etc. They say that these are mostly raw materials and therefore their value by bulk is less and hence they are capable of attracting a slightly higher rate of tax than the other items. I do not agree with that point of view at all, and I do not believe that this amending Bill is going to improve the situation in the least. In fact, it is going to make the situation much worse than it has been until the second judgment of the Supreme Court on this matter.

Another great difficulty which was being pointed out against the operation of the inter-State sales-tax was that there are, as you know, certain distributing centres. They have been established from ages. Take the case of Delhi itself. Delhi is a great distributing centre for the entire north India—Uttar Pradesh, Punjab, Kashmir,—for many items. I would take the example of one item, namely, cloth. I know many merchants who have something to do with this trade. My brother is in this trade in an obscure corner of Kumaon. No order is placed by him or people like him at Ahmedabad or Bombay Mills directly. He comes here or sends his *munim* here to Delhi and the order is booked with the dealer here. In this connection, I should make one more point clear. Nothing will prevent the State Governments from levying a multi-point sales-tax on cloth even after the recommendation of the Taxation Enquiry Commission is accepted. But that is a different matter. When the goods come to Delhi, the dealer will have paid one per cent to the Bombay State. When the goods go to any outside centre from Delhi, that man will again have to pay one per cent. This kind of double taxation will still remain even after the passage of this amendment to the Constitution and this is another point to prove that even this Bill does not

improve the chaotic state that existed before September, 1955.

Mr. Speaker : When the Centre takes up the inter-State sales-tax, how can there be a multiple tax?

Shri Bansal : The whole point is, according to the recommendation of the Taxation Enquiry Commission, the Centre does not tax it. What happens when the Centre just enacts that the tax on inter-State sales will be one per cent on cloth? It authorises the State Governments to go on levying in the same manner as they have been doing before. There will be some safeguards, of course. But what is happening, as you know, is, if there is a merchant here and he has been importing cloth from Ahmedabad, then the Bombay Government wants this merchant to go there with all his registers to show what purchases he had made from Bombay so that he can be levied a sales-tax there. There was a conference of the Finance Ministers to which a reference was made. After that conference, the taking of registers was stopped, but this man must have registered in Bombay so that he can be levied a tax by the Bombay Government although he has made the purchase in Delhi from Bombay. This position will remain as it is.

Shri M. C. Shah : How?

Shri S. S. More : Supposing Parliament passes another law under this clause 4(b) (3), imposing a certain system of rates to be levied under certain conditions, cannot the defect that has been pointed out be removed? Then the complainant will have no ground.

Shri Bansal : I shall explain how this cannot be done. This wholesale dealer in Delhi purchases in bulk. He purchases ten bales in Bombay. On this he has paid sales tax. There cannot be any law which will say that there should not be any sales-tax on these ten bales. He opens the bales.

Mr. Speaker : In the case of an inter-State transaction, unless Parliament imposes a tax, no tax will be leviable.

Shri Bansal : The very purpose for which this Bill is being taken up by Parliament is to allow such tax to be levied. That is exactly what the Taxation Enquiry Commission has said.

Mr. Speaker: They may impose a nominal tax or may not impose it for some time.

Shri Bansal: What I say is, if it imposes, this difficulty will be there and I am envisaging it.

Shri S. S. More: The amendment itself points out that the State may impose it.

Shri Bansal: It will be imposed and that is the whole burden of the report of the Taxation Enquiry Commission.

Shri M. C. Shah: No.

Shri Bansal: My hon. friend, the Minister, says no. Will you please explain why?

Shri M. C. Shah: I will explain. Obviously, the hon. Member has not understood the matter. When the inter-State sales-tax is taken over by the Centre, the Bombay State will not tax. It will be taxed here in Delhi and the amount will go to the Delhi State. When the legislation comes and if you want to make changes, you may do so. But today, according to the scheme of the States, there will be inter-State sales-tax on the inter-State transactions. They will be levied by the States in which the delivery is given. It will not go to Bombay.

Shri Bansal: It is a stuff which has been purchased from Bombay and so it should go to Bombay.

Shri M. C. Shah: That is the reason why this amendment is brought forward.

Shri Bansal: My hon. friend behaves like a babe in the wood; he refuses to understand.

Mr. Speaker: I have tried this experiment of allowing hon. Members to rise and put some questions, but I do not think it has got any effect. The hon. Member may continue and finish his speech.

Shri Bansal: Thank you, Sir, but I will explain the point raised by the Minister. The whole genesis of inter-State sales tax is this. In a State like Bihar, which produces mostly coal, if we do not impose any sales tax on a commodity like coal, our major item of revenue goes. It was for that reason

that they began to impose inter-State sales tax. If my hon. friend says that the sales tax on coal will be paid in Ahmedabad where it is consumed, then he is talking absolutely out of court. The view of the Taxation Enquiry Commission is that in such cases in order to safeguard the position of those States which specialise in producing the six commodities, which I have just now read out, the sales tax must go to them. All that will be done is that the machinery for collection will be somewhat streamlined.

I will come back to the point which I was discussing at the time I was interrupted. When the bales come to Delhi, the Delhi dealer will pay 1 per cent tax to the supplier from Bombay. There is no doubt about that in my mind. The bales are opened here and the upcountry buyer comes and purchases them. That buyer will have to pay another 1 per cent on all that he purchases. There is no law which says that if sales tax has been paid once by a dealer of one State, sales tax will not be charged if the same commodity is purchased by another dealer from another State. How will you prove that sales tax has been already paid on a particular piece of cloth or not?

Shri C. C. Shah: Every sale is to be taxed.

Shri Bansal: If every sale is taxed, this inconvenience will continue to be caused. This was, in fact, one of the points raised against the levy of inter-State sales tax. There may be a number of distribution centres. There may be a distribution centre in Delhi; there may be another distribution centre in Patna; there may be another distribution centre in Calcutta. We were losing trade so heavily and that was why all these protests were made. What I am suggesting is this. This particular amendment is not going to remedy that situation in the least and the complaint of the dealers is bound to continue, even after the adoption of this particular amendment.

The hon. Minister has said that it will be the Central Government which will levy it. Actually, it will be the State Governments which will continue to be authorised to levy it. All that the Centre will do is to lay down a certain uniform sort of law, by which they will say that 1 per cent or 1½

per cent will be levied on such and such items. If you will permit me, I will read out a particular portion from the Taxation Enquiry Commission's Report and I will request the hon. Minister to hear this particular quotation. I am reading from page 45 of Volume III:

"That law and administration in the inter-State sphere formally, and when need arises effectively, be with the Union; in actual practice, the administration should, in their individual jurisdictions, be delegated to the States. The revenue, inter-State or intra-State, should wholly devolve on the appropriate States. In the intra-State sphere, the States should be free to develop systems suitable to their varied conditions. There will then be: in each State a system adapted to its own needs, and for the whole of India a composite one in which effective co-ordination will be possible between State and State and between the States and the Union. This then is our main finding compressed into terms of which further explanation is necessary and will in due course be given. Meanwhile, we may turn to a somewhat detailed appraisal of the facts themselves."

When they turn to the details of it, they make no secret of the fact that the taxes of the nature I have mentioned will devolve on the State from which the goods are actually supplied.

The Bill has really come too late and there is no need for it now. If my hon. friend will bear with me, he will have no difficulty in appreciating that even without adopting this amendment of the Constitution, he can exercise all the powers he wants to, if he brings forward a suitable Bill before this Parliament. It will have two virtues: Firstly, it will not do away with this element of essentiality to which I have referred. Secondly, he will be able to bring about whatever harmony he wants by virtue of sub-clause (2) of article 286.

As I have pointed out, I am against inter-State sales tax because of the difficulties I have mentioned. In respect of dealers in cities like Delhi, my suggestion would be that the Government of India must give some thought to the question of amalgamating in

certain appropriate cases excise duties with sales tax. It is a well known fact that there is a lot of evasion. Whether one may like it or not, there is evasion as far as sales tax is concerned. Excise duty has one advantage inasmuch as it is levied at the source of production where it is handled in bulk and the risk of evasion is very much less. I know that the Taxation Enquiry Commission went into this question in detail and after arguing the case beautifully came to the conclusion—again I should say on doctrinaire grounds—that sales tax must be a sales tax and must be paid by the ultimate consumer. I think we should take a pragmatic view. We should take into account the factor that the tax that is imposed, yields the maximum results. If that is so, I do not find any difficulty in amalgamating in certain cases a reasonable amount of sales tax with the excise duty, so that the yield will be the maximum and the State Governments concerned also will not suffer.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

Shri C. C. Shah : Should it be levied along with the sales tax or should there be no sales tax at all?

Shri Bansal : You can levy one pice or two pice or one anna per square yard as sales tax surcharge on the excise duty.

Shri C. C. Shah : Therefore, you say that there should be no sales tax.
2 P.M.

Shri Bansal : There should be no sales tax separately. I hope my hon. friend agrees with me. Because, in both the cases, the tax will be paid by the ultimate consumer. I am suggesting that in certain appropriate cases, it should be possible to amalgamate the sales tax surcharge with the existing excise duty, and where there is no excise duty—there are certain things on which there will be no excise duty—the sales tax surcharge should take the place of excise duty. The Taxation Inquiry Commission has dealt with certain difficulties of allocation, as to how this sales tax surcharge, or call it excise duty, which is charged in lieu of sales tax, if it is levied at the point of production, will be distributed among the various States, because the principle of sales tax is that it is levied in the consuming States. I do not anti-

[Shri Bansal]

cipitate great and insurmountable difficulties because our statistical department, I am sure, is quite capable of making a rough estimate as to how much of a particular commodity is consumed in each State. On that basis, the allocation could easily be made of the sales tax surcharge which I am suggesting. One reason that was given by the Taxation Inquiry Commission was that normally the rates of excise duty are higher and sales tax is not so high. I do not know what is the value of this argument because if the excise duty is high, you can add a small surcharge to it and call it sales-tax surcharge. If there is no excise duty at all, put a small sales tax surcharge on that item and ultimately distribute it among the various State Governments according to their consumption.

This will have three advantages. Firstly, it will not be difficult to levy. Secondly, the collection will be the maximum and there will be no evasion at all. Thirdly, the difficulties of cities like Delhi and other distribution centres will be minimised. Therefore, I suggest that the hon. Finance Minister gives careful consideration to this idea. . . .

Shri C. C. Shah : And abolish the sales tax.

Shri Bansal : I am not saying that at all. I said in appropriate cases. That would take care of the larger items. After all, we cannot legislate theoretically or in a sort of a dogmatic manner. We have to take into account the items which enter mostly into inter-state transactions. When my hon. friend sits to analyse that, he will find out that there are certain commodities, small in number, which will cover the bulk of inter-state sales tax. I can give a few examples : coal will be one; cloth; cotton will be another. On other items it really does not matter if there is overlapping of sales tax because these items do not usually pass from one State to another. Generally these items are produced and sold in those very States. Even if they pass through various States, they are not of such great importance to the life of the community.

My last point is, we had the Validation Act passed in this very session. The purport of that Act was that the State Governments were debarred from levying tax on transactions after September, 1955 and also where no sales

tax had been levied, they were debarred from levying it on transactions before that date. I understand from quite a number of friends that the State Governments are even now continuing to write to business houses asking them to send details of their transactions and purchases.

Shri K. K. Basu : For which period ?

Shri Bansal : For the period before September 1955.

Shri K. K. Basu : Before invalidation by the Supreme Court ?

Shri Bansal : Yes.

Shri K. K. Basu : Is it your case that in those cases the tax was levied but not collected, or even in those cases where no proceedings were initiated, they are trying to initiate, for this period before 1955? There are two cases. In one case, the actual collection was not done. Or there may be cases where no proceedings were taken. We only validated money collected and said that it should not be refunded. That was the scope of the Act.

Shri C. C. Shah : We also authorised that money not collected could be collected.

Shri K. K. Basu : Only when it was levied but not collected.

Mr. Chairman : Money could also be collected.

Shri K. K. Basu : By initiating proceedings?

Shri C. C. Shah : Yes.

Shri M. C. Shah : You can levy for that period also.

Shri Bansal : Tax levied and collected. That was the position. I know that representations have also been made to the Ministry. I hope the Finance Minister will kindly look into this question so that no additional difficulties are created for the traders.

सेठ अचल सिंह (जिला आगरा-पश्चिमी) :
चेयरमैन महोदय, हमारा देश एक गणतन्त्र है, लेकिन इसको गणतन्त्र बने हुए मुश्किल से आठ बरस हुए हैं। इस कारण यहाँ की जनता इस बात से वाकिफ नहीं है कि एक गणतन्त्र

के नागरिकों के क्या कर्तव्य हैं और किस तरह से उस के नियमों का पालन करना चाहिये। दूसरे देशों में गणतन्त्री व्यवस्था और डेमोक्रेसी सैकड़ों साल पहले से कायम है और काम कर रही है और वहां के ज्यादातर लोग नहीं समझते हैं कि गणतन्त्र का क्या मतलब है। हमारे देश के ज्यादातर आदमी टैक्स नहीं देना चाहते हैं। यह ठीक है कि इनडायरेक्ट टैक्स देने में उन को कोई दिक्कत नहीं होती है, जब कि डायरेक्ट टैक्स को वह बड़ी मुसीबत समझते हैं और हमेशा उस से बचने की कोशिश करते हैं। यह प्रायः देखा जाता है कि माल बेचने वाला बगैर कैस-मेमो के माल दे देता है और इस तरह ग्राहक सेल्व-टैक्स से बच जाता है। इस समय हर एक व्यापार में सेल्व-टैक्स में लाखों-करोड़ों रुपये की चोरी हो रही है और स्टेटों को बड़ा नुकसान हो रहा है। स्टेट गवर्नमेंट्स जो सेल्व-टैक्स लगाती हैं, वह पूरा वसूल नहीं होता है, आधे से ज्यादा चोरी हो जाती है लोग अदा नहीं करते हैं। मुझे ज्ञात है कि दिल्ली से उत्तर प्रदेश के व्यापारी लाखों रुपये का कपड़ा ले जाते हैं और उस को बगैर सेल्व-टैक्स लिए बेच देते हैं। इस प्रकार गवर्नमेंट को करोड़ों रुपये का नुकसान होता है। अगर सेल्व-टैक्स पूरा पूरा वसूल किया जाय और कोई चोरी न हो, तो गवर्नमेंट को करोड़ों रुपये का लाभ हो सकता है। लेकिन मैं समझता हूँ कि जब तक हमारी जनता में प्रजातंत्र की भावना नहीं भरी जाती, तब तक डायरेक्ट टैक्सेशन चलना बहुत मुश्किल मालूम होता है। मेरा सुझाव यह है कि जो जोइन्ट सिलेक्ट कमेटी इस सम्बन्ध में मुकर्रर की गई है, वह इस बात पर विचार करे कि जिस तरह सेंट्रल गवर्नमेंट एक्साइज ड्यूटी लेती है या एडिबिल आयलज पर टैक्स लेती है, उसी तरह वह यह भी व्यवस्था करे कि जहां जहां कोई चीज पैदा होती है, वहां वहां सेल्व-टैक्स वसूल कर लिया जाय और जिस तरह इनकम-टैक्स या दूसरे टैक्सिज का बटवारा होता है, उसी प्रकार इस टैक्स को भी स्टेटों में बांट दिया जाय। इस व्यवस्था का लाभ यह होगा कि इस में चोरी रुक जायेगी। बाद में—दस, पन्द्रह, बीस बरस के बाद—जब जनता में डेमोक्रेसी की भावना पैदा हो जायेगी, तो उस समय डायरेक्ट टैक्स लगा दिया जाय और उस अवस्था में उस के ज्यादा सफल होने की सम्भावना है।

पिछले दिनों हम ने देखा कि उत्तर प्रदेश सरकार ने १ अप्रैल को एक आर्डिनैस जारी

कर दिया, जिस की वजह से तमाम उत्तर प्रदेश में बड़ा हैजान पैदा हो गया, चार-पांच रोज हड़ताल भी रही, जुलूस निकले और काले झंडे दिखाये गये। इस तरीके से इस आर्डिनैस को जारी करने की बात कुछ समझ में नहीं आती। यह तो विधान में तयशुदा बात है कि जनता के जीवन की जरूरी चीजों पर टैक्स नहीं लगाया जाना चाहिये, लेकिन वह लगाया गया। एक दिन पहले उत्तर प्रदेश सरकार ने असेम्बली में बहुत सी चीजों को मुस्तसना करार देने का ऐलान कर दिया है। उस ने नमक पर से टैक्स हटा दिया है, मल्टीपल-पायंट-टैक्स को सिंगल-पायंट कर दिया है और दस हजार की लिमिट को बारह हजार कर दिया है। उस ने इस प्रकार के बहुत से सुधार किये हैं और कहा है कि और बहुत से सुधार जो होंगे वह आयन्दा गजट में प्रकाशित किये जायेंगे।

मेरा सुझाव है कि जोइन्ट सिलेक्ट कमेटी इस प्रश्न पर विचार करे, क्योंकि वर्तमान व्यवस्था की वजह से हमारी जनता के मारेल्स बहुत गिरते जा रहे हैं और हर व्यक्ति—हर दुकानदार—टैक्स देने से गुरेज करता है और उस से बचने की हर प्रकार से कोशिश करता है। अगर मेरे सुझाव पर अमल किया जाय—जहां कोई चीज पैदा होती है, सेंट्रल गवर्नमेंट वहां ही उस पर टैक्स लगाये और वसूल करे और जिस तरह इनकम-टैक्स का बटवारा होता है, उसी तरह उस को बांट दे—तो बड़ी सहाय्यत होगी। आशा है कि जोइन्ट सिलेक्ट कमेटी इस सुझाव पर विचार करेगी।

Shri K. K. Basu : We had a long discussion on this by the speaker who spoke just before Seth Achal Singh, namely Shri Bansal. The short point under discussion is whether the right of levying inter-State sales tax should remain only with the Centre or whether we should continue the existing provision where under the authorisation of the Centre, the States will be entitled to levy the tax. Though I feel that sales tax should be levied on a few occasions as possible, because it has a direct bearing on the economic life of the community and the individuals and more so of the ordinary man, still, whenever it is necessary and especially when Parliament feels that that certain types of inter-State transactions should be taxed, I wish to be under a unified Central law instead of continuing the existing provisions whereby we just authorise each State

[Shri K. K. Basu]

to make its own law. It is true that under the authorisation it may be possible for Parliament to direct or lay down certain principles which may lead to some sort of uniformity. As you know, if in the near future we are going to have 15 or 16 States and if all of them have their own laws, however much we may think of bringing uniformity through the existing provisions of sub-clause (2) of article 286, I feel it is much better to have one single Act of Parliament so far as inter-State transactions are concerned. From that point of view I more or less support this particular amending provision so far as bringing the inter-State transactions entirely under the legislative competence of Parliament is concerned.

I have only to say, as my friend Dr. Krishnaswami in his opening speech has said, that sales tax being one of the most important items of State revenue, the manner of distribution is very important. It is true under article 269 it is open to Parliament to lay down the principles on which such taxes levied in a particular area should be assigned to the State. But the danger is that we have an uneven economic development in our country. We have States whose development is not the same as others, however much they may aspire to come to the same stage of economic development. And there will be a clamour especially from under-developed States because of the special advantage enjoyed by certain parts of the country even today in the matter of trade or commerce and industry, and therefore there may be the danger that the Centre might like to adopt some other principle of distributing the taxes collected in these inter-State transactions. Naturally, that particular piece of legislation will come before the House when we can discuss it and express our views and the House may adopt the principle. Even then, the apprehension should be done away with by the Minister giving some indication of his mind that the sales tax collected in a particular area even on inter-State transactions would be assigned to that particular State.

Then, the amendment that has been brought forward to article 286 doing away with the Explanation is a definite improvement. There is no denying the fact that our constitution-makers, of whom you yourself, Sir, had the honour to be one, at that time deliberately inserted this particular clause,

but we have the experience of the working of the Constitution for so many years and the changes in the economic life of the country sought to be brought about by different legislative and economic measures. And as a result thereof we have come to the conclusion that this *Explanation* has led to more confusion and difficulty in working out the desired changes in the economic life of the community.

We cannot accuse the Supreme Court for holding a particular view. After all, we have tried to get the best talent that is available in the country and they are adorning the positions there. But, after all, they are individuals. Different individuals from their own understanding of the law, common sense, if I may be permitted to say so, or understanding of the fiscal measures, might come to different interpretations, and in this case within two years we have had two completely conflicting judgments from the highest judiciary of the country. Therefore, it is much better for parliament to lay down clearly our intention instead of going through the gamut of legislation and through the long process of judicial proceedings right from the lower court to the Supreme Court. It might be that the more the proceedings, the merrier for us lawyers, but that we do not want. We want improved conditions in the country. With that end in view we are having these legislative measures which try to influence the economic life of the country. Therefore, it is much better, and it should be the case, that so far as Parliament is competent to do it, it should to the best of its ability and judgment make the law as simple and specific as possible so that the judges may not have a conflict. The difference in their outlooks should be reduced. Nobody can guarantee there will not be difference of opinion. So long as individual acumen and capabilities differ, there may be different understanding. Therefore, I welcome this measure so far as the doing away with the *Explanation* is concerned.

Then, as I said, the substance of clause (2) of article 286 is more or less wedded to the idea that so far as inter-State transactions are concerned, they should be brought within the scope of Central legislation. In this connection, I would refer to the method of distribution. We must look at the peculiar economic set-up of the particular State in the matter of trade and

commerce. There may be a State which has a good deal of mineral resources, but has no other form of trade. If you say that there should be no duty or sales tax on industrial raw materials or minerals, you will be completely debarring that particular State which with its big population may have no other source of revenue. It may have to fall back upon taxing essentials of life like food articles, clothing etc., to which naturally every one of us is opposed. We do not want that the prices of daily necessities of the people should be increased, but it may be argued for the development of the economy of that State it may be necessary. More so because the Planning Commission seems to be adopting the attitude that the State should come forward to meet its share of developmental expenditure, otherwise their plan has to be cut short. It is putting pressure indirectly : unless you get the money, we cannot give you the money. The necessities of a particular State may be greater. We must realise the uneven economic development of our country. There is no denying the fact it is so because of our past, because we had been under a foreign Government which tried to exploit the country for its own needs and not for the economic improvement of the country as a whole. So, I hope that when Government bring forward legislation for the purpose of distributing the proceeds of inter-State sales-tax, they will have in view this particular aspect of our economic life, namely the uneven economic development of the different States of our country.

But what is worrying me is the new clause (3) of article 286. I do not want what the implication of this particular provision which is sought to be embodied in the statute-book is. The present clause (3) reads :

"No law made by the Legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any such goods as have been declared by Parliament by law to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent."

The scope of this existing provision is that in respect of those articles which, Parliament in its judgment has

said, are essential for the life of the community, no State can impose a sales-tax even on intra-State transactions, unless the assent of the President has been obtained. Naturally, the assent of the President means that the Central Government may try to give such advice as they think necessary.

Recently, in the case of the State of Uttar Pradesh, we had so much of agitation on the levy of sales-tax even on articles like oil, salt and some other essential articles. I understand from this morning's papers that that levy is going to be amended in certain respects. There, the scope was very much restricted. The implication of the present provision in clause (3) of article 286 is that if a State wants to levy sales-tax even on intra-State transactions in respect of those goods which have been declared by Parliament by law to be essential for the life of the community, it must first obtain the consent of the President. That is to say, the Central Government acting under the direction of Parliament, may advise a particular State to levy or not to levy sales-tax, or to levy a particular rate of taxation.

But the proposed new clause (3) reads :

"Any law of a State shall, in so far as it imposes, or authorises the imposition of, a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce, be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify."

You, Sir, are a lawyer, and you had also been closely connected with the framing of the Constitution. So, I hope you will be able to appreciate the difficulty which I shall presently try to point out. Under article 286 (1), we have specifically provided that no State will, in future, have the right to levy any sales-tax on inter-State transactions, and that it would be entirely within the legislative competence of Parliament to levy such taxes. If that is so, then what is the point in saying :

"Any law of a State shall, in so far as it imposes, or authorises the imposition of a tax be subject to such restrictions and conditions . . . as Parliament may by law specify."?

[Shri K. K. Basu]

When we have specifically debarred any State from levying sales-tax on inter-State transactions, and we have further provided that it will be left only to the Parliament to levy such taxation, how can a law of any State impose such taxation or authorise the imposition of such a tax? I do not quite follow what the meaning of this particular provision is.

The provision says towards the middle :

“.....a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce. . . .”

This means that some goods are declared by Parliament to be of special importance, not for the life of the community, but for inter-State trade or commerce. This presupposes that the levy will be restricted, so far as inter-State trade or commerce is concerned.

Take, for instance, a commodity like coal, which is essential for the life of the community. There is no bar on the levy of sales-tax on such an article. Under the existing provision, you can stop it. But according to the new provision, the limitation or the restriction will come in only if that article is good enough to be of importance in inter-State trade or commerce. I do not know whether that is the intention of Government, namely to levy sales-tax even on such articles which are essential for the life of the community, and to bring in the restriction only if such articles are of importance in inter-State trade or commerce.

Let me give one illustration. Suppose there is a businessman who after entering into an inter-State transaction later on sends the particular article outside his State. Suppose the Bihar Government, for instance, imposes sales-tax on coal. A dealer who buys from the colliery in Bihar has to pay that sales-tax, because normally that is an intra-State transaction. But as you know, many of the industries round about Calcutta or Kanpur depend on the Bihar coal; there are no collieries in those places. Suppose the Bihar dealer who has to pay the sales-tax on the purchase of coal later on sends a part of that coal to industrial areas like Kanpur or Calcutta or other places, then possibly this particular factor will

apply. That means, the position becomes even worse, for it is very difficult to find out how much of it was meant for local consumption, and how much for outside consumption, and thus, of special importance in inter-State trade and commerce. So, I would like the the Minister and also the Joint Committee consider this provision very carefully. I personally feel that this particular drafting is very bad, and it should be improved upon. If the intention is that the Parliament has the sole legislative competence to levy tax on inter-State transactions, then it is much better to stick on to the existing formula namely 'goods as have been declared by Parliament by law to be essential for the life of the community'.

Apart from that, I feel that the new provision may lead to greater confusion and greater litigation right from the district court up to the Supreme Court. Of course, these constitutional things take some time to come to the Supreme Court. First, they have to go before the district court, then the High Court and so on ; in this way, they have to go through so many processes. The Constitution was enacted in 1950, but we are having this Bill now based on a Supreme Court decision only in 1956. The issue had to go through so many processes. There had to be so many writ petitions, so many appeals, and what not.

I personally feel that the levy of sales-tax on inter-State transactions should be restricted to the legislative competence of Parliament. For, it has already been provided for under clause 2 that :

“Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1).”

It may be argued that if the Bihar Government so choose to levy the tax on their own people even on coal or sugar or other essential articles, and the people of their own choice want to suffer this privation, then there should be no objection; and if a particular item is of national importance and it is required for use in other States for industrial or other purposes, then only this question should arise. I gave the instance of coal just a little while ago. There might also be other articles such as power alcohol, the by-products

of sugar, and so on. There, the Centre would step in, and I think when the Union Government have a right to determine which is an inter-State transaction, and what restrictions the sales-tax on such transactions should be subject to, they can come forward and say that such and such a transaction on such and such an item is an inter-State transaction, and therefore there should be no levy of sales-tax. Whether the State Governments choose to levy the sales-tax or not is another matter. I have nothing to say on that at this stage. I shall come to that later. But I feel that the existing provision is logical and clear, and that the provision which is sought to be embodied is very much confusing, and I am afraid it may lead to more confusion and litigation, which I hope is certainly not the intention of the Minister.

I would, therefore, request the House and the Joint Committee to carefully consider this aspect and improve the drafting so as to bring out clearly the intention of Parliament, whatever that might be.

I am really opposed to deleting the existing clause 3. It is very important that we must have control on the levy of sales-tax on articles which are essential for the life of the community. Planning is a Central subject. It is true that the State Governments have to work upon their own respective plans, but those plans must fit in with the overall plan of the whole nation. Very soon, we are going to discuss the Second Five Year Plan, and Parliament is going to adopt it, after considering the demands, the requests, the capabilities and the recommendations of the various States. So, it is the Parliament only which is competent to decide which plans should be adopted and worked upon.

Therefore, when we are having an overall plan which is going to reshape the entire economic life of the country, we should have uniformity in these matters. There may be a difference of opinion as to the way of effecting it; I may want to do it in a particular way and my hon. friends opposite may want to do it in a different way. But now we are going to have the Second Five Year Plan, after the completion of the First Five Year Plan, which will directly or indirectly have a very great bearing and influence on the economic life of the entire citizens of India.

Therefore, if you leave to the jurisdiction of the States to tax those items which are essential to the life of the entire community according to their choice, it might upset the entire economic equilibrium. I say this because today in UP they have come forward with taxation on salt. There is a history and a movement behind the abolition of the salt tax. We feel that in a tropical country like ours, where the people sweat, there should not be taxation on salt which will hit the family budgets of the individuals who find it difficult to have two morsels of food two times a day. Therefore, we deliberately did away with the salt tax. But now a particular State comes forward and says, 'I want to levy tax'. The quantum of the tax is not the criterion. The point is that it definitely upsets, to whatever extent it may be, the economic budget of every family, of every unit.

Similarly, the West Bengal Government may come forward with a proposal to levy a sales tax on mustard oil. We have already discussed this matter. Mustard oil is a very important constituent of the daily diet of the people of West Bengal. We have opposed even the levy of an excise duty on it. But the West Bengal Government may want to impose a sales tax on it, because now the Planning Commission has, unfortunately, told the State Governments—of course, I agree that the Planning Commission may have no resources—that they must formulate their own plans to raise their share of the expenditure in order to realise the Centre's contribution in any plans that they undertake. The result is that the State Governments have to devise ways and means for raising more money, unless they have new industrial undertakings which immediately give a return.

Only the other day we found in places like UP—whose representatives are so many in the Central Cabinet—which is supposed to be the best administered unit, the very essentials of life are taxed. In a State where the party in power has claimed so much influence, there is so much opposition on account of this, and rightly so. The State Government say: 'We want more money. Unless we can raise two crores of rupees, the Centre will not give two crores of rupees to us'. So this is the position. The result that the economic equilibrium of the people is complete-

[Shri K. K. Basu]

ly upset. We are planning for the whole country. Our national income should have more or less a uniform hearing on the entire mass of the people of the country. We do not want that an industrial area like West Bengal should improve more while a backward area, a relatively backward area in some other part of the country should not prosper. So far as West Bengal is concerned, we have so many problems like refugees and others. Because West Bengal has so many problems, it should not be said that so far as West Bengal is concerned, it is the intention of the plan that there should be an increase of only 5 per cent so far as the *per capita* income is concerned, whereas in a commercial State or commercial city like Bombay, or in the case of another State like the new Madhya Pradesh—it is so vast—there should be a different standard. You cannot have one set of standards and norms for one part of the country and another set of standards and norms for another part of the country. We are planning on the basis of India as a unit. Our guiding principle is unity. That means that the citizens of India at the end of the Second Five Year Plan will have so much increase in the *per capita* income. There may be a difference of opinion, a difference of outlook, a difference about the mode of working it out. But the objective remains the same.

Therefore, in matters concerning the economic life of the community as a whole, the control should vest with the Centre and it should not be left to the States to proceed their own way. The Centre should have some sort of control and they should advise the States to fall in line with a particular policy. Let us take an instance. Suppose Delhi remains a Part C State and there is no sales tax on wheat. The Punjab Government may think of making some money by imposing a sales tax on wheat. In U.P., possibly they may want to subsidise wheat so as to compete with other markets. The result will be that the whole thing will get into chaos.

It is true that certain items are within the legislative competence of the State. But in the case of those articles which are essential to the life of the community as a whole, there should be a uniform policy evolved by the Centre to fit in with the overall plan that the country has undertaken. Therefore, I could urge on the hon. Minister and

the Joint Committee to see that clause 3 is kept as it is. So far as the new clause 3 proposed to article 286 is concerned. It is not necessary. It is fully covered by the amended clause 2. Deletion of the explanation and insertion of the new clause 2 will give ample power to Parliament to control inter-State transactions in respect of articles essential to the life of the community. Of course, there may be some items which may have a bearing on a section of the people and not the whole of the community, like projects relating to a particular area. Therefore, even if they want to make it specific and fall in line with the particular recommendation made by the Taxation Inquiry Commission, they might also add that in respect of items which are of special importance to the life of the community and the nation as a whole, there should be some sort of control exercised by the Centre to ensure uniformity. Some such sub-clause may be added to clause 3 to make it specific. But I strongly oppose the provision that goods which are essential to the life of the community should completely go out of the purview of the Centre and come within the jurisdiction of the States. I am really worried at the action likely to be taken by authorities in different parts of the country in the near future in the new set-up.

Therefore, I hope the Joint Committee will consider all these aspects and bring forward fool-proof amending provisions which can be enacted to improve the articles of the Constitution, which I think, all of us want. It is true that the Constitution is sacrosanct. But the Constitution is not a static thing. It has got to be amended; it must grow and it must move as an organic unit with the progress of the community in terms of the norms and standards obtaining from time to time which Parliament, representing the people of India, accepts. With these words, I hope that the Joint Committee will consider the points I have made and fill the lacunae I have pointed out, so that Bill which will come before the House from the Joint Committee will contain really improved provisions.

Shri Tek Chand (Ambala-Simla): I rise to lend my partial support to this Bill. So far as the provisions contained in clause 4 are concerned, I feel they are imperative, they are necessary and they are most desirable. So far as

the provisions in the earlier clauses are concerned, I feel they are unnecessary and dispensable because of the reserve of power already provided in the Constitution for the Central Government, whereby they can effectuate their intention in the matter.

So far as clause 4 is concerned, I feel that it was extremely desirable to dispel confusion that had been created by the explanation. This explanation had led even our Supreme Court to express different views, as will be noticed by those who have had occasion to peruse the two judgments mentioned in the Statement of Objects and Reasons. But apart from the desirability of the omission of the explanation, sub-clause (b) (2) provides that Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1). The important words in sub-clause (2) are that the Parliament is being empowered to formulate principles, that is to say, it will be laying down rules for the guidance of States, which is absolutely innocuous. My hon. friend, who preceded me, had raised certain objections to the new sub-clause (3) and he seems to have had a preference for the previous sub-clause (3) of article 286 of the Constitution. I regret to say that I do not see eye to eye with him. Article 286, clause (3), as it at present exists before this amendment, confers certain powers of a mere declaratory character upon the Parliament. All that it provided was that no law made by the Legislature of a State imposing, or authorising the imposition of a tax on the sale or purchase of any such goods as have been declared by Parliament by law to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President. Therefore, the power bestowed upon the Parliament by the Constitution was—I would not say illusory—not of a very substantial character. What the amendment proposes is not only to retain that power which the Parliament already possesses, but further it confers a most effective power that is necessary in order to effectuate its intentions, because apart from making the declaration, the new provision says :

“Any law of a State shall, in so far as it imposes, or authorises the imposition of a tax on the sale

or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce, (now begins the important part, the effective part) be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify.”

That is to say that Parliament is now being empowered to interfere with the pre-existing State law which is absolutely necessary. If you will be pleased to turn to page 3, last paragraph, of the Statement of Objects and Reasons, it has been made crystal clear by the talented Minister that “In pursuance of clause (3) of the article, Parliament passed an Act in 1952 declaring a number of goods like foodstuffs of various kinds, cloth, raw cotton, cattle feeds, iron and steel, coal, etc., to be essential to the life of the community.” Then he goes on to say :

“Since the declaration could not affect pre-existing State laws imposing sales tax on these goods, the result was a wide disparity from State to State, not only in the range of exempted goods, but also in the rates applicable to them.”

It is this mischief that the hon. Minister proposes to avoid by bringing in sub-clause (3). In other words, the intention is that so far as the laws passed by the State Legislatures are concerned, it may be open to Parliament to effect such changes as are necessary in the interest of uniformity. You will notice that one feature of the working of the sales tax laws in the States has been that these laws have been subject to the vagaries of the various States. The States have been conducting themselves in a most vagarious manner, and so long as the laws referred to intra-State matters, it did not really matter very much. But the moment they impinge upon inter-State matters, difficulties arose, and uniformity requires that Parliament should have the requisite power so that it should see that no injustice is done upon one citizen of a particular State and another. It should also see that the burden is borne uniformly and equitably by the citizens in general regardless of the fact that a particular State passes one law and another State passes a different law. The necessity which has

[Shri Tek Chand]

motivated the Government in bringing about this change is because of the recommendations of the Taxation Enquiry Commission in Volume III, page 45, paragraph 2. The real reasons behind this change are that the members of the Commission in their report say :

“Our main conclusion is that the States cannot do without the sales tax and in terms of two or more States, the sales tax cannot do without the Union. There is in the sales tax system not only a place for the Union, but an insistent need to give a place to the Union that place is the whole sphere of inter-State sales. The State's sphere is complementary.”

Therefore, in the sphere of inter-State sales, the Parliament, and Parliament alone, should have effective voice.

The same view is expressed at page 4 in the Statement of Objects and Reasons, but it appears that as a result of a printer's devil, instead of the word “inter-State” the word “intra-State” has been erroneously used. But so far as the context is concerned, it makes it absolutely clear that the reference is to inter-State sales. It says “such cases of inter-State sales should appropriately be brought under the full control of the Union. These recommendations of the Commission have been generally accepted by all the State Governments”.

Where I happen to differ from the authors of the Bill is with respect to clauses 2 and 3. Really, clause 3, is consequential upon clause 2. It is understandable that some Members may reasonably object to anything done by changing the Constitution whereby there is some encroachment upon the precincts, upon the preserves, of the State Legislatures. Speaking for myself, I think our approach on these matters should be unitary. Our Government should be more unitary than it is. But apart from that, I think that this encroachment by having a new article 92A can really be avoided and the Government can still retain effective powers under the existing law. I wish to invite the attention of the hon. Minister and of other hon. colleagues to three existing articles in our Constitution namely, articles 249, 250 and 252. So far as article 249 is concerned, it confers power on the Parliament

to legislate with respect to matters in the State List in the national interest. That is a very wide power. But the only difficulty is that that power is exercisable for a period not exceeding one year. Then, we come to article 250. It confers some powers on the Parliament in cases of emergency. Therefore, the inadequacy is apparent so far as article 250 is concerned because it is of a very limited duration. But the most important article which seems to have been lost sight of by the Government is article 252(1):

“If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in articles 249 and 250 should be regulated in such States by Parliament by law, and if resolutions to that effect are passed by all the Houses of the Legislatures of those States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State.”

Therefore, it is open to the States to confer that power, which they exclusively possess, upon the Parliament. After the requisite resolutions are passed, Parliament has absolutely a free hand to pass laws which are within the exclusive preserves of the State List. As is made clear in the statement of Objects and Reasons on page 4, the recommendations of the Taxation Enquiry Commission have been generally accepted by all the State Governments. There, the hon. Minister has said so. Now that the general acceptance of the State Governments is there, all that is required is this. Let those State Governments pass a resolution as visualised in article 252(1). The path is then paved for the Parliament to make the law which it is contemplating to make now. The result of this will be this. Here is a matter with respect to which the State Governments have no objection. They completely approve of it. Having approved of it, there will be no difficulty for the State Governments to pass the necessary resolution under article 252. If resort is

made to the existing law as provided in the Constitution, Government will be completely absolved of the charge that it is endeavouring, by the earlier clause, to impinge upon the preserves of the State Legislatures or the State List. Thereby a direct way is made available by the Constitution; instead of proceeding in a circuitous manner and exposing itself to the objections of Dr. Krishnaswami and other friends who say that ought not to encroach upon the preserves of the State List, it can be done this way. The States will have a feeling that there is no endeavour whereby the Constitutional sovereignty of the States, in a restricted sense, is being imposed upon or is being in any manner rendered less effective. You have the powers. The States are in agreement. The States have to pass a resolution and on that resolution I think you can go ahead with such legislation as you deem to be in the national interest. Under these circumstances, I am lending my full support to clause 4 of the Bill. I consider that clauses 2 and 3 should be dropped because of adequate reserve of powers, especially when the States and the Union Governments happen to be *ad idem* with respect to the provisions of the law that is being placed on the anvil and which is in contemplation. Therefore, Government will lose nothing except absolve itself of the blame which has been hurled at it by some of the speakers and at the same time it can give effect to its intention in every conceivable and effective manner.

Shri C. C. Shah : I welcome this Bill as the first step by the Government to introduce some order in the chaotic condition which prevails in the sales tax legislation of the States. Sales tax, though of recent origin, is now of great importance in raising revenues for the States; during the last few years the revenues raised from the sales tax are to the tune of about Rs. 65 crores and we now learn that under the Second Plan it is intended that the revenues from the sales tax should be to the tune of Rs. 115 crores (*Shri M. C. Shah : Additional*). . . . additional, as the hon. Minister adds. Sales tax, as pointed out by the Taxation Enquiry Commission is second in importance only to land revenue. In the industrial States of Bombay, Madras and Bengal, it yields more than the land revenue itself. Therefore, it is of importance to us to see that this legislation is put on a sound

footing and on a basis which will cause the least hardship to those upon whom it impinges. Sales tax affects the whole nation practically. It affects the dealer as well as the consumer. Any legislation which has such a wide effect, should be simple and of easy application. That is not the position now, so far as the sales tax legislation of the States is concerned. One of the reasons for the chaotic condition is the provision in the Constitution itself—article 286 and the judicial interpretations which it has received from the several High Courts and the Supreme Court. My friend, Shri Bansal, read out from the judgment of Justice Patanjali Shastri to show how chaotic were the conditions which prevailed before the Constitution. Article 286 was intended to restore order in that position but unfortunately, it has not. This amending Bill is an effort in that direction to restore some kind of an order.

Article 286 imposes four restrictions on any sales tax legislation. Two of these restrictions are absolute. The states cannot tax sales outside the State or sales in the course of import or export. But the explanation and the subsection (2) have created all the difficulties. The explanation was intended to define what is a sale outside the State. It shall be deemed to have taken place in the State in which the goods have actually been delivered.

[MR. DEPUTY-SPEAKER *in the Chair*]

3 P.M.

But, in fact, such a sale partakes of the nature of an inter-State sale also because, when goods are exported from one State to another, even though within the meaning of the Explanation the sale is deemed to have taken place within the State where delivery takes place, that is also an inter-State sale.

Now, all the difficulty that has arisen is this. In the United Motors case the Supreme Court held that even though such a sale partakes of the nature of inter-State sale, the State in which the goods are delivered is entitled to tax such a sale in spite of the fact that a law has not been passed by the Parliament under sub-clause (2). That decision agreed that no State can tax an inter-State sale, but in view of the Explanation it said that a sale in which the goods are delivered in another State, even though it partakes of the nature of inter-State sale and even

[Shri C. C. Shah]

though there is no legislation by the Parliament under sub-clause (2), is a sale which the importing State can tax. The second judgment in the case of the Bengal Immunity Company declared that the importing State also cannot tax if there is no law passed by Parliament under sub-clause (2). The result is this. No inter-State sale can be taxed at present, because the Parliament has not passed any law. Even if the goods are delivered in the consuming State for the purpose of consumption and even though by virtue of the Explanation it is deemed to be a sale which has taken place there, even that State cannot tax. The result is that large revenue will be lost. Therefore, the scheme of this Bill is to divide intra-State sales and inter-State sales and the Centre takes over all inter-State sales and leaves all intra-State sales to the States.

Now, it is very difficult to define what is an inter-State sale and what is an intra-State sale, because a sale by itself has several elements. First there is an agreement of sale, then there is passing of property, then there is delivery of goods and then there is payment. All these different elements go to make a sale. But all these four elements do not necessarily happen in one State; only in some cases or in a majority of cases it does. But, supposing two parties sitting in Bombay enter into a contract, then what will happen? For example, if the Tata Iron and Steel Company enter into a contract in Bombay with another party of Madras that goods will be sent from Jamshedpur to Madras and payment will be made at Jamshedpur, the question may arise as to where does this sale take place. Is it an inter-State sale or is it an intra-State sale? The scheme of this Bill is that it does not at present define as to what is an intra-State sale and what is an inter-State sale. It only says that the Parliament by law will hereafter formulate principles as to what is an intra-State sale and what is an inter-State sale.

The advantage of this kind of a provision is that there is a certain degree of flexibility left. If by Constitution we define what is an inter-State sale and what is an intra-State sale and the courts give an interpretation which is contrary to our wishes, as has happened, in fact, under article 286, unless we again amend the Constitution, we are left helpless. But, if it is left to the Parliament

by law to define the principles which will determine what is an inter-State sale and what is an intra-State sale, even if we find that the definition of these principles given by us has turned out to be erroneous or difficult of application, then it is open to Parliament to amend it in time by a simple amendment. That is the reason why under clause 4 of this Bill it is left to the Parliament to decide what is a sale in the case of inter-State trade and commerce.

I could understand my friend Shri Bansal. What he really wanted was that inter-State sales should not be taxed at all. His objection, though he circumscribed it by many other things, in essence was that, what is not taxed today should not be taxed. What we want is to raise larger revenues and sales tax is the most important tax now. Therefore, we want that every sale, whether intra-State or inter-State, should be taxed. At the same time, we also want that it should not be taxed twice over. That is the reason why this division has been made.

But all the revenues are left to the States. No part of the revenue is being taken over by the Central Government.

The only objectionable part of this Bill is sub-clause (3) of clause 4. I have tried to understand the reasons given by the Taxation Enquiry Commission for omitting the existing sub-clause (3) in article 286 and substituting it by the sub-clause (3) which is now intended to be introduced. Their argument is that goods essential to the life of the community are of two kinds: those which are necessary even for a poor man for his individual life—like cereals, cloth, fruits, vegetables, milk and things like that which are daily necessities—and those which are not so very necessary. The one intention of article 286, sub-clause (3) was that necessities of life should not be taxed, unless we take the view that even the common man has to pay if we are to raise the revenues required for developmental expenditure or for social welfare activities. If every man, big or small, rich or poor must contribute to the State Exchequer, then of course, sub-clause (3) of that article 286 may be done away with. If our view is that necessities of life should not be taxed, then I cannot understand the removal of sub-clause (3) in article 286. It also included—and very rightly—those raw materials which were necessary for inter-State commerce, like

coal, cotton, steel and so on, and they also should be excluded from the operation of sales tax laws of the State. But the Essential Commodities Goods Act comprises both kinds of commodities. Now we are restricting it to only one. I would have wished that the necessities of life are not taxed and we raise our taxes in any other manner. At present that is the law and probably we should have kept it. I would request the Joint Committee to consider that.

Now, having said this in support of this Bill, which in my opinion is absolutely necessary, I want to point out that the one great merit of this Bill is that it takes away the extra-territorial jurisdiction of States. One thing which caused the greatest hardship was that a dealer in one State was called upon to render accounts to another State, which was the result of the Supreme Court Judgment. If my friend Shri Bansal—I wish he was here—was right and if you had left the law as it is, the hardship that arises out of the extra-territorial jurisdiction of States would continue. That is the one great hardship which the traders and dealers in all States most loudly protested against, and which this Bill seeks to remove. From that point of view also, I submit that this Bill is welcome.

Dr. Krishnaswami—with all respect to him I could not exactly follow what he wanted—did not want the Parliament to decide the principles as to what an inter-State sale is and what an intra-State sale is. I do not know who else....

Mr. Deputy-Speaker : Perhaps, every hon. Member who has spoken has gone.

Shri C. C. Shah : Well, that appears to be the practice in this House, just to make the speech and go.

Shrimati Renu Chakravartty (Basirhat) : The S.R.C. Bill is under discussion and some Members have gone there.

Mr. Deputy-Speaker : In some cases that may be the reason, but I do not find anybody who has spoken.

Shri C. C. Shah : I am not complaining about it.

What I am saying is, instead of leaving it to judicial decisions and allow varying judicial decisions by various High Courts and the Supreme Court to

be given, it is much better that Parliament takes the power to decide the principles as to what an inter-State sale is and what an intra-State sale is.

As I said, Sir, this is the first step that the Government is taking to bring order in these chaotic conditions. There are two other things which the Government has to do. The Taxation Enquiry Commission has very graphically pointed out the hardships which arise to the dealers and traders from the existing laws in the State. I have before me a statement circulated by the Ministry at the time when we passed the Sales Tax Validation Act, giving the summary of the sales tax laws of various States. It shows what are the rates of taxes in each State, what is the system of taxation, namely, whether single point, double point or multiple point and so on. It also indicates whether any differentiation was made between ordinary goods and luxury goods; what was the annual turnover which was fixed and over which sales-tax has to be paid; what were the exemptions granted by each State and so on and so forth.

Now, in my practice and even otherwise, I have found it extremely difficult at times even to understand the laws. I am speaking of Bombay which is supposed to pass laws which are at least more lucid than some of the laws of other States, but even there, one finds that even the traders themselves or some of the sales-tax officers themselves do not understand what the effect or what the meaning of that law is. The other result has been that they have been going on changing laws with every changing judicial interpretation, because every State wants as much revenue as possible and with every new judicial interpretation new changes come upon us. You will see how the exemptions granted result in multiplicity of accounts. Generally a trader is a petty dealer who has to keep all kinds of accounts and various kinds of forms. This has resulted in a large-scale evasion of tax and this has resulted in malpractices and any degree of corruption in the department. I am speaking from some experience when I say that. Because of this complexity of laws and the rules made thereunder, the petty dealer has a natural inclination either to evade the tax or at least to bribe the officer in order to escape the harassment resulting out of the non-payment of tax. There are any amount of delays in the assessments

[Shri C. C. Shah]

which are made. Assessments are not made in Bombay even now for the years 1952-53 and 1953-54 and the dealers are expected to make their returns every quarter and to pay along with the returns the tax payable thereon.

One may levy a tax but undoubtedly the people expect that for the tax which you levy, the administration will be so simple that it does not compel a man either to seek evasion or to resort to corruption. Therefore, the taxation Enquiry Commission recommended to the Government several steps which the Government has to take apart from the one which the Government is taking now. One of the suggestions, in fact, was that you should make the sales-tax a central tax not only for inter-State sales but for all sales just like Income-tax. Some of the States resented that approach and therefore this dichotomy has been made between inter-State and intra-State sales. I have no quarrel with that. But it is the duty of the Union Government to see that there is uniformity in the sales-tax laws of the various States. Some of the States had no experience of this kind of legislation.

Pandit Thakur Das Bhargava : In inter-State sales transaction also?

Shri C. C. Shah : That is what I am saying. Some of the States had no experience of this kind of legislation. They had no experience of the administration of such laws. Their officers were inexperienced and I am speaking of some of the Part B States. For example, with great respect, I can mention PEPSU, Saurashtra, Rajasthan, Madhya Bharat, and so on. Because they had no experience they legislated in a manner which led to any amount of harassment. The Taxation Enquiry Commission has recommended that the Government should set up an inter-State Taxation council where the officers of the States periodically meet and try to bring about uniformity in all sales-tax legislation and the rules and try to see that the rates, the methods of levy, the methods of keeping accounts, the exemption granted thereunder, the fixing of the annual turnover over which taxes will have to be paid, etc., will be, as far as possible, uniform. Even this Bill which we are discussing is, as I said, the first step. It expects three kinds of parliamentary legislation before we go a step further. First, the Parliament has to decide by law and formulate the principles as to

when a sale takes place in the course of inter-State trade and commerce. Secondly, the Parliament has to formulate the principles for determining when a sale takes place outside the State and when a sale takes place in the course of import and export. Lastly, the Parliament has to decide what are the articles that are essential for the life of the community on which the States should have restrictions as to the system of levy, rates and other incidents of taxation.

Pandit Thakur Das Bhargava : It is not about articles which are essential for the life of the community, but only which are of special importance.

Shri C. C. Shah : Yes. This Bill envisages three Parliamentary pieces of legislation before anything further can happen.

Pandit Thakur Das Bhargava : Not the fourth which you are thinking of and which is very desirable.

Shri C. C. Shah : Of course not. If the Joint Committee amends the items regarding the articles essential for the life of the community which you are pointing out, it would be good. But that is a different thing. But I would request the Ministry, as soon as this Bill is passed, to immediately undertake legislation contemplated by this Bill itself and bring it before the House even before the life of this Parliament expires. Secondly, as I said, they should try to carry out the recommendations made by the Taxation Enquiry Commission that both as to the sales-tax legislation and the rules as well as the administration of these laws, there should be uniformity and simplicity of legislation which will reduce the evasion of tax and corruption to the minimum. With this suggestion, I support this Bill.

चौ० रणवीर सिंह (रोहतक) : उपाध्यक्ष महोदय, मैं इस विधेयक का समर्थन करने के लिये खड़ा हुआ हूँ। परन्तु साथ ही साथ मुझे यह भी कहना है कि कई दफा यूनिकार्मिटी का एक बुखार सा हो जाता है और एकसवानियत करने का जो बुखार है मैं समझता हूँ कि के केन्द्रीय सरकार को नहीं चढ़ना चाहिये। सब से हुएक सा टैक्स लेने के बारे में जो तबदीली सरकार करना चाहती है, मैं समझता हूँ उसको ऐसा नहीं करना चाहिये।

उपाध्यक्ष महोदय, आप जानते ही हैं कि इ देश के अन्दर आज दो तरह से टैक्स वसूल कि म

जा रहा है और दो तरह से इस देश के वासी टैक्स किये जा रहे हैं। एक तरफ तो वे भाई हैं जिन का गुजारा खेती पर है उन से तो एक एक पाई पर टैक्स वसूल किया जाता है चाहे उन की आमदनी हो या न हो, उन्हें लैंड रेवेन्यू देना ही होता है। दूसरी तरफ वे भाई हैं जिन को अपनी आमदनी के पहले ४,२०० रुपये पर टैक्स कोई नहीं देना होता है। इस के अलावा एक चीज और है और वह यह कि इस देश की जो ७० फीसदी आबादी खेती पर निर्भर करती है, उस को इस देश की आमदनी का सिर्फ ४८ फीसदी हिस्सा ही मिलता है। यह जो अन्याय है जो कि इस देश की सरकार ने किसानों से दूर करना है, उस के अन्दर टैक्सेशन पालिसी खासा पार्ट प्ले करती है। शाह साहब ने अभी बताया कि हमारे देश में लैंड रेवेन्यू की मद को छोड़ कर आमदनी की जो सब से बड़ी मद है वह सेल्स टैक्स की है। मुझे मालूम नहीं कि आया शाह साहब उस को दूसरे नम्बर पर रखने के हकमें हैं या इस को और आगे ले जाने के हकमें हैं लेकिन मैं तो कहूंगा कि सब से बड़ा नहीं बल्कि मेन सोर्स आफ इनकम जो है वह सेल्स टैक्स हो। जहां तक लैंड रेवेन्यू का वास्ता है, मैं चाहता हूँ कि कास्तकार की आमदनी जब तक ४,२०० रुपये तक न पहुंचे उस से कोई टैक्स लैंड रेवेन्यू के तौर पर नहीं लिया जाना चाहिये। लेकिन मैं इस बात को जानता हूँ कि सरकार को कास्तकारों की तरक्की के लिये तथा देश की तरक्की के लिये रुपया चाहिये और यह रुपया सेल्स टैक्स के जरिये से ही आ सकता है। पिछले दिनों यू० पी० में सेल्स टैक्स बढ़ाया गया और वहां पर कुछ दोस्तों ने इस के खिलाफ आवाज उठाई। हमारे प्रान्त में भी आज से कोई १५ बरस पहले सेल्स टैक्स का जो कानून लागू हुआ था उस वक्त भी कुछ लोगों ने इस के खिलाफ वावेला किया था। यह जो इस के खिलाफ आवाज उठाई गई है वह एक बात का सबूत देती है और वह यह कि हमारे यहां के जो कास्तकार हैं उन के अन्दर अभी आर्थिक जागृति पैदा नहीं हुई है। इस के बरखिलाफ जो दूसरे लोग हैं, जो शहरी लोग हैं उनके अन्दर जागृति पैदा हो गई है और वे अपने हितों की रक्षा करने के लिये आवाज उठाने के काबिल हो गये हैं। इस के साथ ही साथ यह बात भी साफ हो गई है कि हमारे जो राजनीतिज्ञ हैं वे यह समझते हैं कि चूँकि कास्तकार लोग जो अभी अपने हितों की रक्षा करने के काबिल नहीं हुए हैं, इस वास्ते उन का समर्थन करने से उन के हक में आवाज उठाने

से उन्हें कोई फायदा नहीं होने वाला है। वे जानते हैं कि अगर हम मध्यम दर्जे के आमदनी के आर्थिक हितों की रक्षा करेंगे, तो राजनीति में हमारी जगह पुख्ता हो जायगी। मुझे इस बात में जरा भी शक नहीं है कि सेल्स-टैक्स को हटाने के लिये जो दुहाई दी जा रही है, वह कम से कम गरीब के हक में तो नहीं है। वह अवश्य कास्तकार के खिलाफ है और मैं समझता हूँ कि जब तक सेल्स-टैक्स की आमदनी नहीं बढ़ेगी, उस वक्त तक टैक्स के मामले में कास्तकार के साथ न्याय नहीं हो सकता है।

उपाध्यक्ष महोदय, आप जानते हैं कि इस हाउस में कई दोस्त वक्त बेवक्त मल्टी-पायंट सेल्स-टैक्स के खिलाफ आवाज उठाते हैं और वे चाहते हैं कि सेल्स-टैक्स सिर्फ एक ही दफा लगना चाहिये। मैं बड़ी विनम्रता के साथ इस बात का विरोध करता हूँ और वह इस लिये कि हम अपने समाज में इस प्रकार का आर्थिक ढांचा निर्माण करना चाहते हैं, जिस में इन्टरमीडियरी के लिये कोई जगह नहीं है। हम इन्टरमीडियरी को खत्म करना चाहते हैं। हमारे तमाम प्रान्तों में लैंड रिफार्म के कानून बने हैं और उनके द्वारा कृषि में से इन्टरमीडियरीज को खत्म करने की कोशिश की गई है। लेकिन व्यापार में जो इन्टरमीडियरी हैं, उनको खत्म करने का एक ही तरीका है और वह है मल्टी-पायंट सेल्स-टैक्स। मल्टीपल-पायंट सेल्स-टैक्स कई जगहों से वसूल किया जाता है और वह कई हाथों में हो कर आता है, इसलिये उससे ज्यादा आमदनी होती है और टैक्स भी ज्यादा लगता है। जिस चीज पर ज्यादा टैक्स लगेगा, जब वह कनज्यूमर्ज़ के पास-इस्तेमाल करने वालों के पास पहुंचेगी, तो लाजिमी तौर पर वह ज्यादा महंगी होगी। कदरती बात है कि तब कनज्यूमर्ज़-यह चाहेंगे कि हम अपनी एक सोसायटी बनाएं और उस सहयोगी समाज का उस जगह से सीधा रिश्ता कायम करें, जहां कि कोई चीज पैदा होती है। इस का नतीजा यह होगा कि व्यापार में उन बड़े बड़े व्यापारियों की जो एक लम्बी सी कड़ी बनी हुई है, जिनका कोई काम नहीं है, कोई चीज पैदा करने या उस को कोई दूसरा रूप देने में जिनका कोई हिस्सा नहीं है, जिन का काम सिर्फ चीजों को एक जगह से दूसरी जगह ले जाना है, लेकिन फिर भी जो चीजों की वित्ती से होने वाली आमदनी का एक बहुत बड़ा

[चौ० रणवीर सिंह]

हिस्सा ले जा रहे हैं, वह कड़ी धीरे धीरे खत्म हो जायगी। अगर हम ने इस लम्बी कड़ी को खत्म करना है और देहात की तरक्की करनी है, तो मेरे ख्याल में मल्टी-पायंट सेल्ज-टैक्स उस के लिये एक बहुत अच्छा हथियार साबित हो सकता है।

इस के अलावा, उपाध्यक्ष महोदय, आप जानते हैं कि हमारे देश की सरकार सहयोगी संस्थाएँ कायम करने के लिये बड़ी कोशिश में हैं। उन को कामयाबी से बाजार में खड़ा करने के लिये भी यह जरूरी है कि मल्टी-पायंट सेल्ज-टैक्स के सिस्टम को बढ़ावा दिया जाय। शहर के कुछ भाइयों और व्यापारियों के कहने से, जिन के पास अखबार हैं, प्रेस और प्लेटफार्म हैं, उनके दबाव से सही पालिसी से इधर उधर नहीं होना चाहिये उस पर जमे रहना चाहिये।

आखिर में मैं मंत्री महोदय से निवेदन करूंगा कि इस बिल का मैं समर्थन करता हूँ, लेकिन इस आशा के साथ कि रोजाना तरह तरह के जो प्रदर्शन किए जाते हैं जो कि ज्यादातर गरीब आदमी के हक में नहीं होते बल्कि जिन को वे कुछ आदमी करवाते हैं, जो अपने आर्थिक हितों के बारे में ज्यादा कानशस हैं, अपने पोलिटिकल राइट्स के बारे में ज्यादा कानशस हैं, जिनके पास अखबार और प्लेटफार्म हैं और जो वक्त बक्त पर इस तरह शोर कराते हैं, उनसे गवर्नमेंट घबरायगी नहीं। वह एक आर्थिक नीति बनायें और मजबूती के साथ उस पर अपना हाथ जमायें और देश को आगे बढ़ायें।

Pandit Thakur Das Bhargava : I am a Member of the Select Committee, but since there are no other speakers and since this is an important subject relating to the Constitution, if you will allow me, I will make some observations.

Mr. Deputy-Speaker : Yes.

Pandit Thakur Das Bhargava : So far as this Bill goes, there is no doubt that there was great need for this Bill. It is quite true that the Taxation Enquiry Commission has said that sales tax is a source of income. It is a very big source of income, as has been pointed out by Mr. C. C. Shah and Mr. Ranbir Singh. But, at the same time, we must remember that so far as the necessities of life are concerned, it affects every or-

dinary person. It affects the consumer directly. Whatever may be the importance of sales tax I must submit that the original framers of the Constitution had this in their view when they enacted article 286 that so far as the necessities of life were concerned, they were not to be taxed at the sweet will of the State; unless the President assented to it, they could not be taxed. This is one point of view which must be remembered while considering this Bill. According to this Bill, that provision in the Constitution—article 286 (3)—is sought to be amended.

So far as the States are concerned, as has been pointed out by Mr. C. C. Shah, the situation is a very complicated one. The incidence of taxation is so disparate; the rules are always changing and there is nothing but confusion worst confounded. I know that for the last several years, there have been very big complaints in the whole of India and the Centre was approached by many people who were interested in it for the purpose of framing a uniform policy. If we look into article 286, it appears that the framers of the Constitution suggested that so far as the sales were concerned, those outside the States could not be taxed. Similarly, sales relating to import and export transactions were also immune from taxation by the States. The explanation really furnishes the basis for some taxation. When we were framing the Constitution, this question arose and Dr. Ambedkar told us then that the State of Bihar was in a peculiar position. It produced a good many things, taking advantage of the natural resources which it had. Therefore, the question arose as to how those transactions relating to the articles could be taxed for the benefit of Governments having their resources.

So far as sale is concerned, it is defined in the Contract Act as well as in the Sales of Goods Act. We know that a sale takes place when the property passes. Delivery has not been made, price has not been paid, but for purposes of sale, the property has passed by mere agreement. By mere agreement of sale, the property passes, but the delivery has not taken place and the payment has not taken place. The question was whether in such a case the definition of "sale" as given in the Contract Act or the Sales of Goods Act should be accepted as such. At that time, in the explanation, powers were given to the Centre and it was indicated that if goods

were delivered for consumption in a particular State, that might furnish a good basis for taxation. But, at the same time, let us read the entire article 286 along with the explanation, as that explanation alone could not possibly justify the taxation. There are two judgments of the Supreme Court. In the first judgment delivered in 1953, the explanation was taken into consideration and it was held that the basis of that explanation itself furnished the ground for taxing all such transactions. Ultimately, the Supreme Court came round to the view that unless and until a law was made by Parliament, unless the ban was removed, the States could not tax in regard to certain things. Whatever might have been the position, the position now is absolutely clear. So far as inter-State sales are concerned, the centre is in charge. I am very glad that this position has been made clear by this Bill. There is no question of any law being made by the Centre so as to enable the States to tax inter-State sales. It is the Centre alone which really is in a position to tax. I am very glad that the States have not been given this power. I maintain and I feel that India is not one unless the advantages of possessions or particular resources of particular States are given to the rest of India. If Bombay produces cloth, if Bihar produces coal, if the Punjab produces corn, if there is to be unity of India, my submission is that all these things should be available to all the inhabitants of India at uniform rates, except when you have to make a difference as regards transport charges, etc. I have been submitting this for a long time in this House. The taxation policy of the various States should conform to this rule. We should not speak of India as one or a united India unless and until every person living in India takes advantage of the natural resources of each and every particular State wherever it may be. It is in this view which has been emphasised by the Taxation Inquiry Commission also, that we are going to amend the Constitution in a particular way. In regard to certain things of special importance, the Central Government can insist on the States that they will not levy taxes according to their sweet will. They will have to abide by certain restrictions. But, in my opinion, this is not enough. We should have a constitutional provision that at least as regards necessities of life, the rates in India should be brought down to a uniform level except for transport charges. I would feel very happy if such

a provision is put down in the Constitution. This would mean effective unity of India. Unless this is done, I do not feel how a man in the Punjab feels happy, if there are limitless resources of coal, etc., and we do not get coal except at exorbitant prices. Even today, it is not on account of paucity of coal, but for other reasons, the factories in Faridabad are starving. People are out of job—2,000 in one factory. Because, they cannot get coal. Today, it is on account of shortage of wagons. At the same time, it may happen that taxes are levied in such a manner that we may not be able to take full advantage of the resources of India so far as coal is concerned. Similarly in regard to other articles. I am quite clear in my mind that constitutionally it is the fundamental right of every person in India to get all the necessities of life at a cheap rate, at rates at which they are available to any other citizen in any other State.

Apart from this, I feel that the taking away of the provision regarding necessities of life, is not a wise step. I know that our Government wants money very badly for the Second Five Year Plan and for all the developments that we want to take place in this country. If you read the Taxation Inquiry Commission's report, there is a feeling which runs through every line of the report that they want the resources of the States and the Centre to be enhanced to an appreciable degree. I appreciate it. At the same time, we have to look to other things also. When the framers of the Constitution made this provision about the necessities of life, it was not that they did not consider the developments that would be forthcoming. At the same time, the consumers in this country are very poor. If you go on taxing the necessities of life, they will become so excessively priced and so dear that it would be really difficult to obtain them. You have to reconcile both the positions. We want money from sources which can pay. I know that in our country it is impossible to get through all these schemes unless the ordinary man is taxed. At the same time, we must realise that if you cannot refrain from taxing them—you should not tax them too much. Don't tax even the necessities of life as you like. Put the tax on richer people. On other people, if you have to tax them, if it is inevitable, tax them to the minimum extent. I do feel that this taking away of the provision from the purview of the Central Government and investing the power of taxation of

[Pandit Thakur Das Bhargava]

necessaries of life on the State Governments is not right. I submit that the Government and the Members of the Joint Committee should consider these two principles. The hon. Members who have spoken before me also have entered a caveat that the Government should see that these powers are retained by them. Even if in particular cases it becomes necessary to give permission to the State Government, there is no objection in keeping the power with the Government. The Central Government must be armed with power. If necessity arises, we may give the necessary permission. The power must be retained so that a proper check on the State Governments is there. I would beg of the Joint Committee to consider this provision regarding article 286(3) rather carefully and see that the powers that we have got today, the powers of the Parliament and the Central Government are retained. The Central Government is the custodian. The Central Government is charged with the duty of seeing that everybody in this land feels happy and satisfied, and he gets the necessaries of life without any trouble. If the Government keeps these powers to itself, nothing will be lost. I do not see why the Government is giving away these powers without any rhyme or reason.

In regard to articles of special importance, I think this provision will not be very effective. Because, I know ultimately this is only an eye-wash. The Government which produces these things and which wants to be profited will put pressure on the Government and the interests of those people who use the raw materials for their manufactures, will not be looked to very such, I am afraid. I think the present provision is much better as regards articles which are necessary for the life of the community. Community does not only consist of poor people. Community consists of other people also. You have to see about the necessities also. You are watering down this provision and you are taking away the powers of the Central Government so far as these articles are concerned. I do not feel that there is any necessity for watering down this provision. Government has done the right thing in taking powers in regard to inter-State sales. I feel that even so far as intra-state transactions are concerned, the Central Government should take some powers. The Government

should not allow the State Governments to behave as they liked even in regard to intra-State transactions. When I saw the list which was circulated to us some time back in regard to the things that were taxed, I found that we were fortunate in the Punjab because more or less luxuries were taxed and necessaries were not taxed. But I find in some of the States even necessaries are taxed.

Shri U. M. Trivedi : Heavily taxed.

Pandit Thakur Das Bhargava : This is not fair and reasonable. I want that the inhabitants of India wherever they are, in whichever State of India, should be uniformly taxed and should not be taxed so far as necessaries of life are concerned. This can only be secured if Government takes some more powers. I do not wish that the States should not have enough money because they may not be able to have development unless they realise money. But there are ways and ways. This is not the proper way. Some Governments have behaved in this way and taxed the necessaries of life. In this connection, if my friend Dr. Krishnaswami will permit me to say so, perhaps Madras is a great sinner.

Dr. Krishnaswami : It is.

Pandit Thakur Das Bhargava : So far as my friends from Madras are concerned, or any other part of India for that matter, they should feel they are part of India. They should be taxed like others. There is no reason why on account of this or that tax, they should not be uniformly taxed. What is this one India when in certain States even wheat, coal and kerosene are taxed, while in other States there are no such taxes. You cannot feel one. This is not fair. Therefore, I would like that the Joint Committee while considering this Bill should consider this aspect of the case also.

I know I am treading on ground which is forbidden to be trodden upon by many people, but at the same time when I look at the essential needs of the whole country and the fundamental rights of the people, when I see that the people even in the States look to the Central Government for relief in certain matters, I am driven to the conclusion that it would be just and right if the Central Government takes all these powers to see that the people are uniformly taxed and that necessaries of life are not taxed, and at the same time see that all these ever-changing laws and corruption go away.

. So far as the other aspects of the Bill are concerned, I think that by changing these entries, we will be certainly doing the right thing and taking powers for the Central Government.

Shri U. M. Trivedi : We have this story of constitutional amendments being repeated day in and day out. I for one feel that the Constitution must be considered a very sacrosanct document, not to be tampered with easily and wilfully at all hours. We have reached this tenth amendment so soon, within five years of its coming into force. And what for? The motive behind making this amendment is, to my mind, not a very happy one.

An Hon. Member : Why?

Shri U. M. Trivedi : There are some people who think that planning is essential. In my humble opinion planning is a secondary question, a thing of leisure a luxury. The first is the necessity of maintaining this country in normal conditions which is the most essential thing. We have not reached even normal position. Before that we want to start enjoying many things, and in trying to enjoy those luxuries, we want money. So, we go on taxing. Tax here, tax there, tax everywhere.

Only seven years ago we used to clamour and shout at the various taxes that were upon us. For instance, the customs duty. Every small State which existed in the States of Madhya Bharat and Rajasthan used to levy its own tax. The taxes were not heavy, but the irritation that was behind those taxes was great. The moment you get down at a station, a small *Nakedar* will come, open your boxes, see your things, and tell you what custom has to be paid, and expose you to ridicule before him. This irritation was so great that people used to clamour.

Then, we had the taxes of the jagirdars, the taxes of the zamindars and we used to clamour against all those things. What have we achieved now? The total taxation which now obtains is far worse than what it used to be seven years ago. The poor man's tobacco has been taxed. Salt has got a peculiar way of soaring high, and not coming down.

Dr. Krishnaswami : It is not taxed.

Shri U. M. Trivedi : It is not taxed alright, but the poor man is still taxed with so many controls and other things and there is the nomination system

which taxes indirectly and takes away a lot of our money. Then, we have the excise duty on matches and other necessaries of life. Excise duty on cloth, then excise duty on every conceivable thing.

Then we have got the terminal taxes. You get down at a particular station. Under the law, there can be tax only by the Union Government, but the various octroi that are collected by the various municipalities include the collection of the terminal tax. The moment you get out from the ticket collector's hand, it comes the collector of the octroi, and says: "Come on, pay the tax at 2 annas per passenger." You get into the bus. The moment you get down at your destination there is another man who comes for terminal tax. So, the passengers can be taxed for entering into it and for getting out of it. The total fare that the man has paid is only four annas for the services rendered to him, but the tax sometimes is eight annas at the place where he gets in and eight annas at the place where he gets out. That is to say, for travelling a distance of four miles, a man has got to pay Rs. 1-4-0—a wonderful way of recovering taxes from the poor people. This system of taxation is going on and the hardship to the poor man is not yet over.

Then, on top of it, this new conception of sales tax has come into the picture. It was a euphemistic way of calling it sales tax. I do not know what ingenious brain invented this language of sales tax. We go and purchase a thing. Till that time the merchant does not tell us. The price is fixed. As soon as the price is fixed, when he makes out a bill for Rs. 5 worth of goods, he puts down ten annas as S.T. or sales tax. How to pay that ten annas. Why should I pay? He calls it sales tax, he sells it, he must pay the tax, and not the customer.

Shri I. N. Mishra (Dharbhanga cum Bhagalpur): Legal interpretation.

Shri U. M. Trivedi : Yet, it is recovered from us, and I do not know by what conception. We do not call it a purchase tax, we call it a sales tax. And we have to pay by the nose or get out and pick up a quarrel with him and go without the goods that we have to buy. And he takes this extra money from you. He is not the sufferer. The sufferer is the man in the street. We have turned honest people into dishonest people by this sales tax. I was

[Shri U. M. Trivedi]

buying certain things in Princess Street in Bombay. As soon as I bought them, the man said : sales tax Rs. 1-2-0. I said : "I am sorry, I am not going to pay you any sales tax." He said : "Then, I am not going to sell it." I said : "I walk out. I do not want to buy the things from you." Then he says : "Do one thing".

Shri Bhagwat Jha Azad (Purnea cum Santal Parganas) : Did you walk out?

Shri L. N. Mishra : You evaded.

Mr. Deputy-Speaker : Let us hear what happened. Perhaps he might have an interesting story.

Shri U. M. Trivedi : He says : "Why do you want a receipt? I will not give you any receipt." I said : "I have not to render account to anybody."

Shri Bhagwat Jha Azad : And made him dishonest.

Shri U. M. Trivedi : I was dishonest, he was dishonest, this law is dishonest.

Shri L. N. Mishra : The law is not dishonest.

Shri U. M. Trivedi : The law is sales tax, mind you.

Mr. Deputy-Speaker : Let not that be decided directly.

Shri U. M. Trivedi : I am sorry, I was carried away at the moment.

So, my contention is this that this sales tax makes us dishonest and deprives us of the proper revenue also. What happens? That man will never show that sale of Rs. 30 worth of goods in his account. That means that to that extent, the income-tax will suffer, and to that extent, the sales-tax would also suffer. And this dishonesty enters the market. It would have been much better if we had raised our customs duty or we had provided for customs duties between different States. If you wanted money, you could have had it by other methods. If you want to harass the public, if you want money, money and money, if you are so hungry that you cannot remain without money in fact everybody wants money, money and money, people want money, and Government want money, then you want that there should be this tax. I would say, why not have it by

adopting the old methods of levying customs. As soon as you go from Delhi and enter the Punjab State, you have a customs duty. You can also have the internal customs. Similarly, when you enter from Punjab into Rajasthan, have another customs duty. Similarly, when you go from Rajasthan into Gujarat, have another customs duty. The same harassment which was in existence previous to the Union days may be introduced again, for this sales-tax is not going to help us at all. It is only going to create trouble for us all along.

Mr. Deputy-Speaker : A little while ago, the hon. Member was complaining that a passenger had to pay tax when he got into a bus, and again he had to pay tax when he came out. Now, he is suggesting that even while he is travelling, he should pay tax.

Shri L. N. Mishra : He is suggesting the very same thing now.

Shri U. M. Trivedi : I am coming to that proposition. I am submitting that when we have clamoured all along up to 1947 for the avoidance of those taxes, it is not right for us to levy this sales-tax now, and it is not right for us to impose the customs duty which we were abhorring like anything. If we can abhor this customs duty, we must abhor this sales-tax also. That is my contention, and that is the proposition which I wish to place before the House. It is not my suggestion that there should be customs duty imposed.

My analogy was only to this extent that this customs duty was a very irritating thing, which every Indian felt during the pre-Union days; likewise, this sales tax is also a very irritating thing, and in fact, it is worse than the customs duty. You say that you want money. But why do you want money? I have not yet understood the game. Why do you want so much money?

Mr. Deputy-Speaker : It is not the general principles of taxation that we are now discussing.

Shri U. M. Trivedi : I am against the general principle of having a tax on the poor.

Mr. Deputy-Speaker : But this is not the proper occasion for that.

Shri U. M. Trivedi : My contention is that both these powers should be

deleted. Both these items must be deleted. That is my contention. And I am within my rights to suggest that both these items should go.

Mr. Deputy-Speaker : We are amending the Constitution only where the power is given, and not with regard to the actual levy.

Shri U. M. Trivedi : When you are making an amendment, I would suggest that you can make an amendment to omit those provisions.

Mr. Deputy-Speaker : Then, there should be a notice of a separate and different amendment to the Constitution, in another Bill.

Shri U. M. Trivedi : We are now only in the consideration stage. The notice of the amendment will come at the proper stage.

Shri Seshagiri Rao (Nandyal) : Even, then, the sales-tax will not go.

Shri U. M. Trivedi : The sales-tax will go if both these provisions go.

Mr. Deputy-Speaker : Sales-tax would not go simply by omitting the provisions of this Bill. Even if we do not pass this Bill, the sales-tax will be there.

Shri U. M. Trivedi : You are a great lawyer, I know. But with very great respect to you, I would submit that my contention is that if entries 92A and 54 from the Union and State Lists respectively go away, then the power to tax by this method will go away. It is these items which give power to tax now.

Mr. Deputy-Speaker : Then, the hon. Member might continue his argument.

Shri Seshagiri Rao : Entry 54 is not introduced newly now. Only an addition is being made.

Mr. Deputy-Speaker : I have suggested to the hon. Member to continue his argument in his own way.

Shri U. M. Trivedi : It may very well be like that also. I may be mistaken. But what I would submit is that even if entry 54 is not newly introduced here but is only sought to be

amended, I can still move an amendment saying that entry 54 be omitted. This would be my suggestion, and I am making it for what it is worth. Further, my contention is that this method of heavy taxation on the poor must go.

When we brought about a union of the different States, the fundamental desire that we had was that there must be uniformity of taxation. That was one thing that we had in view. The other thing was that by bringing about a centralisation of the administration to a very great extent, we thought that we could save the unnecessary expenses of running a huge administration in the different States. But have we succeeded in our second objective? I submit that we have not succeeded in that.

Take, for instance, the case of the various States which form Madhya Bharat and Rajasthan. Every State in Rajasthan, with no sales-tax and with absolutely no income-tax was self-sufficient, and the Maharaja used to enjoy any amount of money. He was able to make very nice payments to his employees, and the people there were also happy, happy in the sense that they were not burdened with so many taxes, and therefore they had not much botheration.

Mr. Deputy-Speaker : They had nothing to be taxed upon.

Shri U. M. Trivedi : And they did not pay any tax. But now, what has happened? All those things have gone. The Rajhas have been wiped out. The Maharajas have gone away. All those States have been brought together and formed into one unit, namely, the State of Rajasthan. And yet what do we see? When these States were formed into one united State of Rajasthan, lakhs and crores of rupees came into the public coffers. But all that money has disappeared within a short time, and the State has become a deficit State. May I ask why such a thing has happened? Why is it that in Madhya Bharat, crores and crores of rupees which were given by the Gwalior State have disappeared within a period of five years, and we are meeting with a deficit State? Is it that we are bungling somewhere? Or is our method of accounting very bad?

Mr. Deputy-Speaker : Does the hon. Member attribute it to sales-tax?

Shri U. M. Trivedi : My contention is that there is something wrong in our method of spending, owing to which we need this money from sales-tax. I say that this sales-tax has become necessary only to feed our great demand for money, money and money. It is this which I am attacking. You say that you want money, you want to spend more money, and for spending more money, you want sales-tax. I say : Where is the necessity for this sales-tax, if you run your show in an economical manner? If you are running the show properly, then there would never be any necessity for this sales-tax amending Bill, and whatever powers are given under the Union List or the State List. . . .

Shri Bhagwat Jha Azad : Stop planning and development works.

Shri U. M. Trivedi : That must have been done long ago. Do not repent today, after having spent Rs. 400 crores in corruption, Rs. 10 crores in something else, Rs. 20 crores in something else. . . .

Mr. Deputy-Speaker : Even if all these theses were accepted, they would have very remote relevancy to the present subject that we are discussing.

Pandit Thakur Das Bhargava : It means we shall have to return back to the pre-Union conditions in Rajasthan and all other States.

Shri U. M. Trivedi : My hon. friend Pandit Thakur Das Bhargava is a learned lawyer, and he can advance arguments out of nothing even. I accept his power to do that.

Shri Bhagwat Jha Azad : You are doing that now.

Shri U. M. Trivedi : You have no sense left, and you are not going to listen.

Deputy-Speaker : Order, order. That is not the expression to be used.

Shri U. M. Trivedi : I maintain that when we are asking for the levy of sales-tax by the indirect method of making these amendments in the Constitution, the ultimate desire is only this much that we want more money to meet our plans. That proposition is not denied by anybody. My contention is

that there is something wrong, and radically wrong, with our system of administering our States and our Union.

Mr. Deputy-Speaker : I was submitting that that something wrong does not become an issue that we should discuss today. We should discuss now the subject that is before us.

Shri U. M. Trivedi : I agree with what you say. I am still contending that let this power remain, let it not be changed, but there should not be more methods of taxation.

4 P.M.

That is what I am attacking. It is not necessary to make this change. Let the power remain ; let it remain dormant. It is not essential that it should be changed. This is the proposition which I want to put in the language I have used. I am sorry that I may have conveyed some idea which is not behind my mind. The idea is only this, that if you have got this in view, if you want more money, for God's sake, say plainly why you want more money. It is not that you have not money for your requirements. But you are mis-spending the money. It is this mis-spending of the money which requires more money. It is because of this that you require more money. And because you want more money, therefore you want that this amendment should be brought forward, so that more money may be raised. This is my contention.

Then I would like to say a few words about inter-State sales tax.

The Deputy Minister of Finance (Shri B. R. Bhagat) : The hon. Member may reserve it for the Joint Committee of which he is a member.

Mr. Deputy-Speaker : Is he a Member of the Joint Committee also?

Shri U. M. Trivedi : Yes. I thought I was permitted to speak because Pandit Thakur Das Bhargava, who is a Member of the Joint Committee, was also allowed to speak.

Mr. Deputy-Speaker : I had made an exception deliberately in the case of Pandit Thakur Das Bhargava. But I must point out that I was ignorant of the fact that the hon. Member is also a Member of the Committee.

Shri U. M. Trivedi : I was cognisant of it.

Mr. Deputy-Speaker : I was under the impression that the hon. Member also perhaps did not know it.

Shri U. M. Trivedi : I knew it. I ascertained it from the Table.

Mr. Deputy-Speaker : The hon. Member may conclude now.

Shri U. M. Trivedi : I bow to your orders.

The only position that I wish to make out is this, that inter-State sales tax must not be levied at all, because, in my opinion, it will bring us down to the same level which I ridiculed and to which I drew pointed attention, namely, tax everything moving from Punjab to Rajasthan, tax everything which moves from Rajasthan to Madhya Bharat, tax everything which moves from Madhya Bharat to Madhya Pradesh and tax everything which moves from Madhya Pradesh to Uttar Pradesh. That is my idea. You may euphemistically call it as inter-State sales tax. I say it is a misnomer; it is something that amounts to the same thing as the old-time customs duty.

Shri Seshagiri Rao (Nandyal) : Let me submit that I am also a Member of the Joint Committee.

Mr. Deputy-Speaker : Then I am sorry. I am not going to make so many exceptions.

Shri Seshagiri Rao : Just let me make a few points.

Mr. Deputy-Speaker : No, no.

Shri N. Rachiah (Mysore—Reserved Sch. Castes) : I support the Constitution (Tenth Amendment) Bill 1956. It is a very simple Bill. Just now Shri U. M. Trivedi was perturbed that this amendment had been brought before this House. He was asking why the Government wanted so much money. I do not know where there is money. He must consider the population of our country. Then he will realise how much money we require for the implementation of our Second Five Year Plan which is already in the offing.

We have been already getting financial assistance from foreign countries. Now we have completed our First Five Year Plan and have taken up the Second Five Year Plan. As the Finance

Minister has already said, we no longer depend on foreign countries for assistance. So we must depend upon our own resources. We as Members of Parliament are the responsible representatives of the people; we should realise that we are the representatives of the common man in the country. Our population is 36 crores. What have we done for the common man, for the poor man and for the agricultural labourer in the country who form the bulk of the population? As such, we want more money not only for our Five Year Plans but also for meeting the expenses connected with the daily necessities of the Government.

With regard to this amendment, I would like to say that this has been brought forward to regulate taxation on sales or purchase of goods by the common man as well as the rich man. I say that this is a gradation tax. If the poor man purchases an article worth Re. 1 he pays sales tax on Re. 1, but the rich man may purchase a commodity worth Rs. 1,000 and as such he will pay sales tax on Rs. 1,000. So this is something like a gradation tax.

Shri U. M. Trivedi just now attacked the Government as if Government had brought the Bill to impose sales tax. But sales tax is a State subject. But in the case of inter-State sales tax, there is a lacuna or administrative difficulty and this Bill seeks to remove that difficulty and see that the taxation is properly controlled by the Union Government so that the State Government does not infringe on the administrative control of the Central Government. As such, it is a very simple thing.

Shri U. M. Trivedi also attacked the Government for having amended the Constitution ten times and tampering with the Constitution. We all know that our Constitution is very sacred. But this sacred document is only meant for the amelioration or emancipation of the conditions of the common man in the country. This Bill seeks to raise more money—whether for the State or for the Centre—to see that the common man whom we represent gets a fair deal.

In the Statement of Objects and Reasons, it is said :

“High judicial authorities have found the interpretation of the article a difficult task and expressed divergent views as to the scope and effect, in particular, of the explana-

[Shri N. Rachiah]

tion in clause (1) and of clause (2). The majority view of the Supreme Court in the *State of Bombay versus the United Motors (India) Ltd.* (1953) S. C. R. 1069, was that sub-clause (a) and the explanation in clause (1) prohibited the taxation of a sale involving inter-State elements by all States except the State in which the goods are delivered for the purpose of consumption therein, and further more, that clause (2) did not affect the power of that State to tax the inter-State sale even though Parliament had not made a law removing the ban imposed by that clause".

This clearly shows that this Bill is before us only to remove the constitutional lacuna and to see that sales tax is properly administered without confusion between one State and another.

Another matter I would like to bring to the notice of the House is regarding what is its objects. An amendment to have said. This is on page 4 of the Bill :

"The Taxation Enquiry Commission, after examining the problem with great care and thoroughness have made certain recommendations which may be summarised as follows. In essence, sales tax must continue to be a State source of revenue and its levy and administration must substantially pertain to the State Governments. The sphere of power and responsibility of the State may, however, be said to end, and that of the Union to begin, when the sales tax of one State impinges administratively on the dealers and fiscally on the consumers, of another State. Broadly, therefore, inter-State sales should be the concern of the Union, but the responsibilities pertaining to the Union could be exercised through the State Governments and in any case, the revenue should appropriately devolve on them."

Mr. Deputy-Speaker : By this time every hon. Members must have read this.

Shri N. Rachiah : I was quoting this for the sake of Shri Trivedi. He should have looked into this matter and seen

why it has been brought forward and what is its object. An amendment to the Constitution is really a very important thing and it is not an ordinary piece of legislation. As such, if we look into the Statement of Objects and Reasons, it is clearly shown there that there are some lacunae to be cleared in order to enable the administration to go on smoothly as between the State Governments and the Central Government. For that purpose I read out this portion. A responsible Taxation Enquiry Commission toured the entire country, consulted all the State Governments and all people pertaining to financial proposals. After a thorough and exhaustive work, they produced a very important report, and it is not only on account of that report, but also from the point of view of the State Governments, which were experiencing some difficulties, that the Union Government was forced to bring this Bill before us. Therefore, Shri Trivedi's attack against the Government for bringing forward this Bill has no basis at all. As such, I refute all the charges. . . .

Mr. Deputy-Speaker : According to the hon. Member, Shri Trivedi was perturbed ; but why should it upset the hon. Member? He is only replying to the hon. Member Shri Trivedi, and not speaking about the Bill.

Shri N. Rachiah : He must realise why this important legislation has been brought forward before the House. I am not perturbed as he was.

Another important point is this. Many Members have observed : Why tax the people? When people pay money, it must be properly utilised for the good of the people. Mere taxation is not the work of the Government. When we actually tax the people, whether poor or rich, that amount should be utilised for the benefit of the poor man in the country. A rich man need not worry; he can get any comfort, any amenity and any help that he likes because he has money. But to maintain the defence of the country and also to maintain the public health and law and order in the country, it is necessary that we should have money, much more than that for education, particularly for the poor people. I am very happy that the Finance Ministry has been very well, going on, and if there is any Ministry which deserves the utmost congratulations, it is the Finance Ministry because with regard to the award of scholarships whenever a recommendation from the

Education Ministry comes up, the Finance Ministry is always liberal in awarding scholarships for Scheduled Caste and backward class students. This I wanted to express many a time, but I had no opportunity. I hope the other Ministries will also follow this sympathetic and generous attitude towards the poor people. The basic need of a common man or a poor child in India is education and public health, and then only come the other things.

Mr. Deputy-Speaker : The sales tax measure should not be utilised for relief to the Scheduled Class people.

Shri N. Rachiah : I support this motion very strongly and I commend it for the acceptance of the House.

Shri M. C. Shah : I am grateful to the Members of this House for their support to this Bill. By and large, many Members have supported it. Only two Members, both of whom are not present here, did not support it. One did not want the sales tax at all. The whole burden of the song of Shri Bansal was that after the judgment of the Supreme Court, the inter-State sales tax was not there in the horizon and that the traders would not be taxed because of the judgment of the Supreme Court. The hon. Member wanted to continue the same state of affairs.

My friend, Shri Trivedi, wanted practically a taxless society. Without tax he wanted everything to be done, as if the Government of India has got a magic wand so that it can bring in money by the use of the magic wand. But he has missed the main point.

By promoting legislation for amending the Constitution, in accordance with the articles of the Constitution, the Central Government is not going to get a single farthing from inter-State sales tax. Really speaking, we have tried to see that the States can explore the appropriate fields of getting the resources. As I have already explained in my introductory speech, there were difficulties about the inter-State transactions in commerce and industry. The Explanations created many difficulties and legal complications, and there were other difficulties also. One judgment of the Supreme Court stated that wherever the goods are delivered for consumption, that the State can tax even an outside dealer. There were difficulties and complications in the assessment. We had to evolve an interim

scheme to mitigate some of these difficulties. By that time another judgment of the Supreme Court came in—it was on the 16th September, 1955—it which overruled the previous judgment of the Supreme Court. Because of all these legal complications and difficulties, inter-State trade transactions could not be taxed.

My friend, Shri Bansal, being associated with the trading community, because he is the Secretary-General of the Federation of India Chambers of Commerce and Industry, perhaps thought that after this judgment of the Supreme Court, if the trading community do not pay any tax on inter-State transactions, it would be better. But we cannot view the situation from that angle. We have to see that the States get enough finances and they can explore all the avenues of getting their resources. We all know that sales tax is a very good instrument for bringing resources to the States, and that has been accepted as a good measure for finding resources.

As pointed out by one of the Members today, all the States get more than Rs. 60 crores from sales tax, and when we discuss the Second Five Year Plan, we will find that Rs. 112 crores or rather an additional amount of Rs. 112 crores is to be raised from sales tax to finance the Second Five Year Plan so far as the States are concerned. The States have to bring in Rs. 225 crores by additional taxation in the Second plan period. An additional amount will have to be found to bridge the gap of Rs. 400 crores. In order to get all their resources, the States should have some flexible methods of taxation so as to make up the required resources.

Therefore, the main question before the House is whether we want the States to have these resources to implement the Second Five Year Plan, and if the answer to that is in the affirmative, whether the States must have some fields of taxation to get these additional resources. Then, the next question is whether this amendment is necessary or not. I say, in all humility, that this is a very simple point for decision. If we say that the levy of inter-State sales tax is absolutely necessary, there could be no objection to the amendments proposed. It has been accepted that the inter-State sales tax should be there. Not a pie will come to the Centre from this. All the moneys that will be realised

[Shri M. C. Shah] will go to the States. Because we experienced certain difficulties and legal complications, we want to have the inter-State sales tax on a uniform basis. Therefore, in consultation with all the States, we have brought this measure. The moment this is passed, we will bring two pieces of legislation. One will deal with inter-State sales. It is proposed that the Parliament must have all the powers of deciding the principles which will guide them to decide whether a sale or purchase is inter-State sale or purchase. That should be welcome to the Members here because it will be left to them to fix the principles. At the same time, hon. Members should know that the exporting State will get the inter-State sales tax. There will thus be no inequality or injustice. The only limitation will be this. As recommended by the Commission, there will be certain items of special importance on which there will be a uniform levy of sales tax.

Some hon. Members said that article 286(3) was rather better than the amendment proposed. They forgot this fact. We passed a legislation in 1952 declaring certain goods as essential. We included some items and I mentioned many of them when I introduced this Bill. The States had every reason to complain when their rights were restricted. They were asked to raise taxes but at the same time they were asked not to do this or that. Therefore, they pleaded for flexibility. Even in the National Development Council, the Chief Ministers of some States complained about the restrictions on their rights to raise revenues from sales tax. Therefore, it is quite proper and in the fitness of things that we should legislate with regard to inter-State sales tax as well as the articles of special importance.

Shri Seshagiri Rao : May I have a clarification? The Essential Goods Act was passed in 1952. Since the State Governments objected to it, this Bill is brought in. Is this Bill in direct modification of that Act? Is that what the Minister means?

Shri M. C. Shah : I have already said that that Act will be repealed. It had created certain difficulties and disparities. It did not apply retrospectively. Those States which were levying certain taxes on certain articles mentioned in that Act were allowed to levy the tax whereas other States which did not levy were not allowed to do so. There were

similar restrictions and so there was disparity. Certain articles were declared as essential for the life of the community. So, there will be a new Bill in this House and there will be discussion. There may be certain suggestions which may have to be considered by the Members. The Taxation Enquiry Commission has suggested six items. After consulting the States, if we want to add some more items, the House has a right to add them.

So, I say that the amendment proposed is very essential and necessary. It will help the States to get more and more revenues. Perhaps one point was misunderstood by Shri Bansal. The States which will get the tax on these inter-State transactions will be the States which export the goods. Today, there is an anomalous position. Outside dealers had to pay tax to the States from which the goods were delivered for consumption. After the judgment of the Supreme Court, we cannot keep things as they stand. Shri Bansal accuses the Government of being very late in bringing this legislation. On the one hand, he says that there should be no inter-State sales tax because the Supreme Court had decided this way. He says that we should not amend the Constitution and we should not pass any further legislation. On the other hand, he says that the Government was rather late. Once an interpretation is given by the Supreme Court, Government could do nothing but to accept that. Then the Taxation Enquiry Commission was going into that question. Then, again, the Supreme Court delivered the judgment on 6-9-1955. So, we took into account all these things and we came to the conclusion that the best way to deal with this problem was this. We decided that the inter-State sales tax must be taken over by the Centre. Its administration will be done by the States and the moneys will go to the States. Article 269 says that these taxes shall not form part of the Consolidated Fund of India. So, they will go to the States. Therefore, I feel that there is no justification for any argument against the amendment.

Shri Basu said something about the distribution. What will be the lines of distribution? He wanted to know them. He also wanted the Government to indicate its views: Government proposes to allow the States to retain the sales tax levied and collected on the inter-State transactions. There will be no

question of distribution. The exporting States will benefit by the levy of this tax in their domains.

One other point was raised by Shri Bansal. Why not add something in the form of excise duty and collect it and distribute it among the States? There are several items, for instance, sugar petrol, etc. We may have an additional levy and no sales tax will be levied on these items. Whatever we may get as additional income from these excise duties, it can be distributed. It is a constructive suggestion and will certainly be considered by the Government. I may also inform the House that the question of having an additional excise duty on cloth and doing away with the sales tax on cloth, is being considered. But we have to consult the State Governments and obtain the concurrence of all State Governments. Thereafter we can proceed in the matter. I may say that that matter is under consideration and it is a constructive suggestion.

My friend Shri C. C. Shah stated that there must be uniformity. He also said that the administration must be looked into and some way must be found out in order to alleviate the difficulties experienced by the people who pay intra-States sales tax, that is in the States. Intra-State sales tax is a State subject and we cannot interfere. But, in consultation with the Chief Ministers of all the States concerned, we propose to appoint a committee of select officials to go into all these matters that were mentioned by my friend, and to report to us on all these points. Then we will have to see as to what can be done. In any case, that can also be done only after consultation with the State Governments and after obtaining the full concurrence of the State Governments. After all, the administration of intra-State sales tax is within the jurisdiction of the States and all that we can do is by persuasion and by pointing out to them the advantages of adopting certain methods.

He also enquired about the legislation to be introduced. I may inform the House that after this Bill is passed, we propose to introduce two Bills in the next session, either in July or August. We hope that this Bill will be passed by both the Houses during the current session and thereafter we have the intention of bringing forward two pieces of legislation, one deciding as to what will

be the inter-State transactions about which powers are given to the Parliament by this Bill, and the other relating to the items of special importance. The matter can then be discussed as to whether some more items can be added. Then also we will have to consult the State Governments concerned, because in sales tax they are the persons who are affected.

My friend Shri Tek Chand raised one point. He asked, why should we not resort to article 252 of the Constitution. There the question is, we can legislate for that State in which a resolution is passed. But we cannot legislate for all the States. We cannot also wait for all the States to pass resolutions and then come to this Parliament with the Bill. It may take time. As a matter of fact, time is of great importance. The States are losing tax on the inter-State trade and commerce since 6-9-1955. They are practically put to a great difficulty by losing this good source of income, which may come to a few crores of rupees. Today when we are required to collect and save every pie in order to implement the Plan, we cannot wait for long. We must proceed on this basis. Therefore, I feel that this addition of 92A and amendment of entry 54 are absolutely necessary in order to have speedy legislation and in order that the States may have this additional taxation.

I think, Sir, I have done. I have tried to reply to all the points that were raised and I hope that the House will agree with the motion to refer this Bill to a Joint Committee.

Shri Tek Chand : May I seek some clarification from the hon. Minister, Sir, with your permission ?

Mr. Deputy-Speaker : Yes.

Shri Tek Chand : May I invite his attention to article 252, clause (1) wherein it is stated :

"If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States. . . ."

They have only to pass a resolution and the other States simply have to adopt it by a resolution. Under these circumstances, where is the hitch for the

[Shri Tek Chand]

States to pass resolutions when according to the Government the scheme has been accepted by them ?

Shri M. C. Shah : No, Sir. With regard to these two items, 92A and the amended 54, we have consulted all the States and they have accepted in principle to have these amendments in the Constitution. So, now there is no necessity whatsoever for going to the States, because the States have concurred with the amendments that are proposed.

Shri Tek Chand : Let them pass resolutions. . . .

Mr. Deputy-Speaker : A clarification was sought and that has been given. Whether it satisfies the hon. Member or not is a different thing. I will now put the motion to vote.

The question is :

“That the Bill further to amend the Constitution of India be referred to a Joint Committee of the Houses consisting of 45 Members; 30 from this House, namely, Pandit Thakur Das Bhargava, Shri Fulsinhji B. Dabhi, Shrimati Jayashri Raiji, Mulla Abdullabhai Mulla Taherali, Shri H. G. Vaishnav, Shri Radhelal Vyas, Shri S. C. Samanta, Shri Bheeka Bhai, Shri Lakshman Singh Charak, Shri M. K. Shivananjappa, Shri K. T. Achuthan, Shri P. T. Thanu Pillai, Shri B. P. Jhunjhunwala, Shri B. R. Bhagat, Shri C. D. Pande, Shri Sinhasan Singh, Shri Debendra Nath Sarmah, Shri Niranjan Jena, Shri Rayasam Seshagiri Rao, Shri N. Ramaseshaiah, Shri S. R. Rane, Shri K. S. Raghavachari, Shri M. S. Gurupadaswamy, Shri Sivamurthi Swami, Shri Sadhan Chandra Gupta, Dr. Ch. V. Rama Rao, Shri U. M. Trivedi, Shri N. C. Chatterjee, Shri Bhawani Singh, and Shri C. D. Deshmukh, and 15 Members from Rajya Sabha ;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of Members of the Joint Committee ;

that the Committee shall make a report to this House by the 18th May, 1956;

that in other respects the Rules of procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make ; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of Members to be appointed by Rajya Sabha to the Joint Committee.”

The motion was adopted.

AGRICULTURAL PRODUCE (DEVELOPMENT AND WAREHOUSING) CORPORATIONS BILL

The Minister of Food and Agriculture (Shri A. P. Jain) : I beg to move *:

“That the Bill to provide for the incorporation and regulation of corporations for the purpose of development and warehousing of agricultural produce on co-operative principles and for matters connected therewith, be taken into consideration.”

Shri N. M. Lingam (Coimbatore) : Sir, I rise on a point of order. To me it appears that we are legislating not only for the Centre but also for the States. Under this Bill we seek to . . .

Mr. Deputy-Speaker : Order, order. That is too premature I should suppose. Let the motion be put before the House. After the motion has been placed before the House then the hon. Member might raise his objection. The hon. Minister may proceed with his speech. Even the amendments will only be taken up after the hon. Minister has concluded his speech and the motion is placed before the House.

Shri A. P. Jain : Sir, this Bill is one of more than ordinary importance. The history of co-operation in India extends over a period of 50 years. I need not go into that history in all its facets. That history is not only well known to hon. Members here, but also to the people at large.

The House will remember that some years ago, the Reserve Bank of India appointed a Committee known as the Committee of Direction to survey the rural credit in the country. That Committee worked for some years and it

* Moved with the recommendation of the President.