

Mr. Speaker: The question is:

Page 7—

(i) line 37—

for "Five rupees" substitute
"Three rupees eight annas";

(ii) line 39—

for "Ten rupees" substitute
"Seven rupees eight annas", and

(iii) line 41—

for "Ten rupees" substitute
"Seven rupees eight annas".

The motion was negatived

Mr. Speaker: The question is:

Page 7—

(i) line 45—

for "Ten rupees" substitute
"Seven rupees eight annas";

(ii) line 47—

for "Twenty rupees" substitute
"Fifteen rupees"; and

(iii) line 49—

for "Twenty rupees" substitute
"Fifteen rupees".

The motion was negatived

Mr. Speaker: The question is:

"That the *Second Schedule stands part of the Bill".

The motion was adopted.

The Second Schedule was added to the Bill.

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

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

"That the Bill be passed".

Mr. Speaker: The question is:

"That the Bill be passed".

The motion was adopted.

FINANCE (NO. 3) BILL

Mr. Speaker: Now I shall take up Finance (No. 3) Bill. There is an amendment for reference of the Bill to a Select Committee. Shall I put it to vote?

Shri Tulsidas (Mehsana West): The Finance Minister is not going to accept it. Anyway it may be put to vote.

Mr. Speaker: The question is:

"That the Bill be referred to a Select Committee consisting of Pandit Thakur Das Bhargava, Shri Tek Chand, Shri G. L. Bansal, Shri R. R. Morarka, Shri T. S. Avinashilingam Chettiar, Shri C. D. Pande, Shrimati Tarkeshwari Sinha, Dr. Ram Subhag Singh, Shri Fulsinhji B. Dabhi, Shri Jhulan Sinha, Shri H. C. Heda, Shri Bhagwat Jhe 'Azad', Shri Shree Narayan Das, Shri A. M. Thomas, Shri C. C. Shah, Shri K. S. Raghavachari, Shri B. Ramachandra Reddi, Shri N. C. Chatterjee, Shri Frank Anthony, Shri T. T. Krishnamachari, and the Mover with instructions to report by the 17th December, 1956".

The motion was negatived.

Mr. Speaker: The question is:

"That the Bill further to amend the Indian Income-tax Act, 1922, for the purpose of imposing a tax on capital gains and for certain other purposes and to prescribe the rate of super-tax on companies for the financial year 1957-58 be taken into consideration".

The motion was adopted.

*In the Second Schedule, item (b) (i) "Rs. 500" was substituted for "five hundred" as patent error under the direction of the Speaker.

Mr. Speaker: I shall first put clause 2 to the vote of the House.

The question is:

"That clause 2 stand part of the Bill".

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3—(Amendment of section 10)

Shri Tulsidas: I beg to move:

Page 1, line 12—

for "company" substitute:—

"manufacturing company except a company in an industry for which special enactments exist prescribing the investments of depreciation and other reserves in a specified manner",

Page 1, line 21—

after "and reserves of the company" insert—"reduced by any loans raised by the company".

The Government proposal in respect of compulsory deposit of a portion of the depreciation and other reserves of every company in excess of its fixed assets is a unique proposal, without precedent in this country or abroad. The Finance Minister has advanced two reasons for bringing this proposal. Firstly, he says he will, by this measure make active use of, what he calls, idle resources of the companies. Secondly, he wants to prevent companies from using their reserves for the purpose of speculating in, or cornering of, the shares of other companies. The 'idle resources' argument is utterly untenable. It is well known that the reserves of companies not invested in the legitimate business of the company are kept in the form of bank deposits and government securities. The bank deposits are used by banks for advancing loans to finance trade and industry and for other useful activities. As regards investment in government securities, the funds would be automatically used by State for

its programmes. Thus, the reserves held by companies, not directly invested in the business but kept in the form of bank deposits or loans, are utilised for the purpose of extending credit through banks or for lending to Government, and thus cannot be regarded as inactive by any stretch of the imagination. Corporate reserves are not held in the form of currency or bullion.

As regards the second argument, namely, preventing misuse through speculation and cornering activity, very few companies, in my opinion, may have indulged in this. It is absurd to lay down a measure affecting all the 30,000 companies, public and private, for the sake of a few offenders. It must be realised that corporate reserves made up of depreciation and other allowances and retained profits, are the principal source of finance for trade and industry, and to deprive the companies of any part of these would amount to stopping the flow of their life-blood.

As you know, there are a number of companies—about 30,000. I do not know what the number of shareholders is. According to one estimate, it is 2 million or more. About the exact number, the Company Law Department would be able to say. But I should like to know the exact number of companies detected to be indulging in cornering and other forms of objectionable interlocking. As you know, the company law has, to a considerable extent, put a restriction on interlocking and I do not think there are many cases of interlocking after the company law came into operation. So I see no reason why this has been put in. To my knowledge, cases of interlocking are very very rare. Therefore, there is no substance in the argument that this provision would prevent objectionable investment.

In so far as banking, insurance, shipping and other non-manufacturing companies are concerned, their

fixed assets are of a negligible magnitude, and the benefits of normal depreciation allowance, extra depreciation and development rebate they receive are equally negligible. You know that in banking and insurance companies, there are practically no fixed assets. I do not know whether the definition of fixed assets will also include the steamers of shipping companies. But the question is that most of these companies will have all these reserves, whatever they have, utilised for their own purposes. All the reserves they will have will be made by profits. But these will be utilised not for having fixed assets but for financing working expenditure. Therefore, in either case, we stand to benefit very little by the fiscal concessions, by way of depreciation and development rebate. Almost all the reserves will be taken into account for the purpose of ascertaining the amount of deposit to be kept with Government. I would like to Finance Minister to bear this in mind.

The other day he said that Government are giving a certain benefit with regard to depreciation and other allowances. But such companies which have no fixed assets have practically no benefit whatever reserves they have. The major portion of the reserves of the manufacturing companies will consist of reserve made of depreciation allowances and development rebate. Almost all the reserves of the non-manufacturing companies will be made of retail profits. It is with a view to minimise the hardship on such companies that I am moving this amendment to exclude the non-manufacturing companies from the purview of this provision. Non manufacturing companies with fixed assets may be asked to put certain amount of the reserves as deposits.

Even with regard to the industrial concerns, I would like the Finance Minister to take into consideration electric power companies. Recently, we passed an amending Bill, amend-

ing the Electricity Supply Act. In the previous Act, in section 57 and paragraph VI(2) of the Sixth Schedule, it is provided that depreciation shall be made in a certain manner specified in the Act. It is just possible that the manner specified in the Incometax Act might be different from the manner specified in the Electricity Act. To remove the chances of such a contingency, my amendment seeks to exclude electricity power companies from the purview of this provision. If the provision in the Bill is accepted, it will deprive trade and industry as well as banks of a large proportion of their funds, and have a crippling effect on the non-government companies. The banks will lose their deposits when suddenly all companies withdraw them to comply with the compulsory deposit requirements. Moreover, many companies may not have the cash resources and they will again go to the banks for necessary cash. This will strain the resources of the banks as well as the non-State sector resulting in, in my opinion, to a certain extent, crisis. The hon. Minister himself has already said that there is monetary stringency in the banking sector. If this measure is passed and if all these companies were to deposit about 25 per cent.—I do not know what the hon. Minister's ideas are at present—then to that extent the banks will be called upon to pay all these companies for necessary deposits with the Reserve Bank.

I am not referring to the problem of the banks too who will be called upon to furnish deposits in respect of their own reserves. They have their own reserves and they may be called upon to deposit their reserves. I am sure this House would like to know from the Government the magnitude of deposits, that is, the total amount of deposits that all the companies shall have to lodge compulsorily with the Government in compliance with this provision. I know that a certain figure has been mentioned in the papers today, in

[Shri Tulsidas]

the *Times of India* that it will be to the extent of Rs. 80 crores only with reference to a few companies. Imagine the big debacle that will come when the banking system will be suddenly called upon to finance this mammoth operation. It is not possible for the banks in the present monetary stringency to find about Rs. 80 crores. The banks will have to contract credit and reduce advances.

The Finance Minister in his speech said that he expects a capital strike coming. He expects that every businessman may not find it possible to come to the help of Government. It is all very well to say that here in debate; he can say that he expects this sort of thing. He knows fully well that if at all anybody has played his part in the development of the economy of this country, it is the non-State sector which has played the most important part. It has increased production much more in the First Plan and in the Second Plan it is going to play a much more important part than the State sector is playing. It is the private sector alone that really increased production. When he says that there is going to be a capital strike, I do not know on what basis he says that. Because he is controlling them in a most powerful way, these capitalists cannot go on strike. He should not, therefore, use that word. If he merely wants to catch the public as a sort of slogan, then it is a different thing.

The Finance Minister says that the resources have to be found, no matter what happens. The reserves have also to be found.

The Minister of Finance and Iron and Steel (Shri T. T. Krishnamachari): Why not stick to the brief; why go outside?

Shri Tulsidas: I am not asking for a brief.

I say the approach of the Finance Minister is not helpful. When he wants everybody to come together,

he is accusing someone who is doing the work for him, instead of taking them together, in which case he will get much better co-operation. He should see that they function in the proper way. I am not taking any brief just as he is not taking any brief for anybody. He speaks from the point of view of the country and I have as much right to look at it from the same point of view, if not much better.

He himself told us here that he wants to remove this financial stringency, but on the other hand, he brings in measures which will increase that. What is going to happen as a result of this? The only effect of this will be that all these 30,000 companies will have to *salaam* the Under Secretary. We know very well, and the Finance Minister knows it exceptionally well, what harassment this bureaucratic regimentation would mean. That creates trouble in the minds of the people. It is just asking these people to *salaam* the Under Secretary and say, 'we want this for our work of expansion' and then the Under Secretary will say, 'O.K.'

Shri T. T. Krishnamachari: My hon. friend knows it much better. He simply praises people if he wants work done.

Shri Tulsidas: I am not referring to that. He knows perfectly well. He himself was of the same view when he was not the Finance Minister. But, anyway, that is not the point.

My point is this. If we want the people's sector or the non-State sector to function, we must create conditions. Even the Prime Minister has said that. How is the condition going to be created? It is not merely by bringing in a certain amount of legislation which will keep power in his hands. If he is happy with that power merely and not with the result, then, it is for him to take that position.

Today, when we are on the eve of general elections, the Finance Minister and everybody thinks in terms of the common man. I am afraid that the common man is always the person to whom everybody refers. But when it comes to the question of taking consideration, the common man is always forgotten. The only way of given benefit to the common man is to have social welfare and it is the only way in which he will get benefit and that can be done only by production.

Take the question of this particular reserve and other things. It is more a question of bureaucratic regimentation. Without building the qualities of self-reliance and self-respect, you cannot build the backbone of society. Why should Government think that only Ministers are trustworthy and only Secretaries are reliable? When Government take such a view, do they have such a low opinion of the people and their organisations? Do Government believe that these people are completely devoid of all decency and self-respect and are incapable of being trusted and relied upon? The Government have, for long, been thinking in these terms and going on such preposterous assumptions. In my opinion, the fear of such a situation coming is only imaginary. If the very funds are utilised and continue to be utilised for the development of the economy of the country, it does not require that they must go under the bureaucratic regimentation. There will then be no initiative left. Here there is no question of initiative. Everything is being completely controlled and it may be that everybody in the country must go and *salaam* the bureaucracy and get whatever they want and put a stop to their harassment.

I would request the Minister particularly to consider and accept my amendments with regard to manufacturing companies. All I am saying is that if he wants to bring in these measures, let those companies who get the benefit be asked to deposit the money. Those at least, who have got

loans from banks, should not be asked to make these deposits. I hope the Finance Minister will accept my amendments.

Shri T. T. Krishnamachari: I am unable to accept the amendments of my hon. friend. The fact is that I have given the assurance that these will be worked as liberally as possible without causing injury to the interests of the business.

My friend is saying that if there is a loan, such a company should not be asked to deposit the money. If it is a *bonafide* loan, certainly the Board of Referees will not ask them to deposit the money. On the other hand, if it is a loan merely for the purpose of avoiding a deposit, then it cannot. My hon. friend mentioned about banking companies. I quite recognise that we should not ask banking companies to deposit their reserves because the banks need them, and we shall certainly make provision in the rules. If nothing else is possible, for banking companies, the percentage to be deposited may be put as nil.

I do not know if shipping companies or transport companies fall in the same category. They may not. In fact, there might be a need for controlling the reserves and finding out what they are, how they distribute their reserves and how the companies function. Therefore, I am not prepared to walk into the trap which my hon. friend has very facilely put before me "Accept my amendments and I will do what you want".

I am saying, therefore, that the assurance I have given will be followed up when making the rules and naturally the rules will come up before the House, and there we shall indicate the percentages, and naturally in the case of banking companies, the percentage will certainly be nil. I am not prepared to say the same of the manufacturing companies' reserve funds, about which my friend has made a strong representation, that

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all those trading concerns should be allowed to do what they like.

The point is that a percentage of the reserves will have to be deposited. The matter will be watched. I do not know if all these companies deposit their money in the bank. Some of them do and some don't and they use it for other purposes. My hon. friend asks me, "Why don't you give all the figures? How much will you get in this way?" The Board of Referees will have to scrutinise all the demands that they make for refund and then only the residue will have to be found. This I have to work out. This is not a taxation measure in which I can say that so much is the figure. This is a thing in which I am prepared to go slow to begin with, in order to give some latitude in this way.

I have also given the assurance that so far as I am concerned, I will not ask my hon. friend, should he be one of those persons to ask the Board of Referees, to go and speak to the Under Secretary, Deputy Secretary or Joint Secretary. If he writes, and makes out his case fairly cogently, the Board of Referees will give him a fairly good reply. But if the case is complicated, then he will have to come and explain his case.

The other matter my hon. friend raised is that the company should have the right to represent. It can say that the time is negligible and it is something within which it cannot give an explanation, or it can say that more time for deposit should be given. I would like to say that while banking companies will certainly not be asked to deposit the depreciation allowances they secure on their assets, I will not be able to say the same thing of other companies my hon. friend mentioned. But as far as we are concerned, we shall see

that this thing is operated in such a manner that there is no trouble to one who need not be troubled.

Even with regard to manufacturing concerns in respect of loans, in respect of paying interest, etc., all these factors will be taken into account. It is not a punitive idea here excepting where the firm misbehaves. At the same time it is a question of channelising the money into desirable channels. It happens that there are many textile mills which have reserves but which do not spend money for rehabilitation of their machinery because there is no compulsion. Now they will know that if they do not do it, the money will be safe in the vaults of the Reserve Bank. If they won't do it, we will persuade them to do it.

My hon. friend says this is unheard of. Yes, Sir, everything is unheard of. Is there any country in the world of democracy, where the voters number 180 million? I would like my hon. friend to tell me. Everything, so far as we are concerned, is something new. The evasion, I suppose, is fairly large, as high as in any other country that we can think of. In the circumstances of the case, we have to devise certain methods by which we can do this.

I will repeat my assurance that in the case of banking companies, we shall not ask them to deposit money and we will provide for it in the rules that the percentage to be deposited will be nil.

Shri Tulsidas: What about insurance companies?

Shri T. T. Krishnamachari: The measure will be operated in such a manner that there will be no hardship caused anywhere. If incidentally deposits come down, we will have to find out other methods and probably ask them to produce more bills and get them re-discounted and so

on. But this is not the way in which I should allow individuals to use the money in any way they like. I am, therefore, unable to accept my hon. friend's amendments.

Shri A. M. Thomas (Ernakulam): Mr. Speaker, Sir, I just wanted to make mention of a point with regard to banking companies. I am glad the hon. Minister has clarified the position. According to the Banking Companies Act itself, a percentage of the demand liability has to be with the Reserve Bank or in approved securities, and that provision itself is considered to be a very onerous provision. I am glad the hon. Minister has stated that he does not want the banking companies to make the necessary deposits.

There is one other matter which I wish to bring to the Minister's kind notice. In the explanatory memorandum that has been given to us, it is specifically stated that the deposit will carry interest at the rate prescribed by Government. But according to the Bill, the rules may prescribe refund with interest or without interest.

Shri T. T. Krishnamachari: May I mention this? My intention is that whatever the rate of interest will be—the borrowing rate of Government immediately preceding that period—will apply. If you borrow at $3\frac{1}{2}$ per cent., we will pay $3\frac{1}{2}$ per cent.; if it is 4 per cent., we will pay 4 per cent.

Shri A. M. Thomas: That is very necessary, because it is a matter of withholding money from a business concern.

Shri T. T. Krishnamachari: We shall not use the money by paying interest less than what is borrowed.

Shri Tulsidas: What will happen to those who borrowed at higher rates?

Shri T. T. Krishnamachari: As a matter of fact, if they prove that the loan was for a useful purpose for the business, naturally the concern will not be asked to deposit the money. It may be used for the purpose of repayment of the loan. For money used for repayment of loan on which it bears an interest, it will certainly be given.

Shri A. M. Thomas: That is all what I have to say on this clause.

Mr. Speaker: The question is:

Page 1, line 12—

for "company" substitute:

"manufacturing company except a company in an industry for which special enactments exist prescribing the investment of depreciation and other reserves in a specified manner,"

The motion was negatived.

Mr. Speaker: The question is:

Page 1, line 21—

after "and reserves of the company" insert "reduced by any loans raised by the company".

The motion was negatived.

Mr. Speaker: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4.—(Substitution of new section for section 12B.)

Amendment made: Page 4—

for lines 8 to 28, substitute:

"(4) Notwithstanding anything contained in sub-section (1)—

(a) where a capital gain arises from the sale, exchange or transfer of one or more capital assets

[Mr. Speaker]

being property the income of which is chargeable under section 9, and the full aggregate value of the consideration for which the sale, exchange or transfer is made does not exceed the sum of twenty-five thousand rupees, the capital gain shall not be charged under this section and shall not also be included in the total income of the assessee:

Provided that this clause shall not apply in any case where the aggregate of the fair market values of all capital assets, being property the income of which is chargeable under section 9, owned by the assessee immediately before the sale, exchange or transfer aforesaid is made, exceeds the sum of rupees fifty thousand:

(b) where a capital gain arises from the sale, exchange, relinquishment or transfer of a capital asset to which the provisions of clause (a) are not applicable, being property the income of which is chargeable under section 9, which in the two years immediately preceding the date on which the sale, exchange, relinquishment or transfer took place, was being used by the assessee or a parent of his mainly for the purposes of his own or the parent's own residence and the assessee has within a period of one year before or after that date purchased a new property for the purposes of his own residence, then instead of the capital gain being charged to tax as income of the previous year in which the sale, exchange, relinquishment or transfer took place, it shall, if the assessee so elects in writing before the assessment is made, be dealt with in accordance with the following provisions of this clause, that as to say,—

(i) if the amount of the capital gain is greater than the cost

of the new asset, the difference between the amount of the capital gain and the cost of the new asset shall be charged under this section as income of the previous year, or

(ii) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under this section.

—[Shri T. T. Krishnamachari]

Mr. Speaker: The question is:

"That clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4 as amended, was added to the Bill.

Clause 5 was added to the Bill.

Clause 6.— (Amendment of section 23A).

Shri Tulsidas: Sir, I beg to move:

Page 5—

omit lines 2 to 4.

This relates to increase in dividend tax. The original measure was introduced only from last April, and there is no justification for increasing the rates in the absence of any experience of its administration or its effects on the economy. The most iniquitous aspect of this tax is its incidence. Since this tax will not be refunded to shareholders, its incidence will fall at the same rate on rich and poor. The great majority of shareholders are from the middle-class, and they will receive smaller dividends owing to the higher rates of the dividend tax.

Even so, I have not objected to any increase in the second slab of 10 per cent. to 18 per cent., on which the rate has been increased from three

annas to four annas. But, the increase of 50 per cent. from four annas to six annas on the third slab of over 18 per cent. is an excessive increase. It must be remembered that this tax is not refundable to the shareholders, and since it would necessitate the reduction of dividends, it would fall most heavily on the shareholders belonging to the middle and poor classes.

The greatest defect of this tax lies in its faulty capital base. Mere paid-up capital is no criterion of the capital base of a company. The capital structure differs from company to company for many reasons. Companies floated before the war would have a small paid-up capital base. Returns on capital cannot be calculated merely on the basis of paid-up capital. Therefore, the capital base adopted for the purpose of the dividends tax is faulty, and the rates should not be increased inordinately until a satisfactory base has been found. I feel that some opportunity should be given to the companies to reorganise their capital structure. A more satisfactory capital basis exists in the case of the old Excess Profits Tax or Business Profits Tax. Even the capital basis adopted for Section 23A companies is more equitable. The gross block should also be considered in laying down a satisfactory capital basis. Moreover, trading companies may have a very small paid-up capital, and their turnover might be large. In their case, they should have the option of adopting turnover as their basis, and manufacturing companies should have the option of adoption gross block or the net worth, that is, paid-up capital plus reserves as the basis.

The most important objection against this tax is its iniquitous capital base. Accordingly, its incidence should be kept low until this defect has been rectified.

Shri T. T. Krishnamachari: I do not know what my hon. friend was speaking about. Is he speaking about Section 23A companies? I am afraid my hon. friend has mislaid his notes. The amendment seeks to omit lines 2 to 4 on page 5. They read:

“(a) in sub-section (1) for the words “at the rate of four annas in the rupee”, the words “at the rate of six annas in the rupee” shall be substituted.”

If that amendment is given effect to, sub-clause (a) shall be omitted altogether. I think he has mislaid his notes and speaking on some other subject.

Shri Tulsidas: I am sorry. The point is this.

Shri T. T. Krishnamachari: If the amendment relates to what is in the Bill, I have to say that it is a consequential amendment. I cannot impose a dividend tax on high slabs at six annas and so far as 23A companies are concerned levy a penalty tax of four annas. The higher slabs and the penalty have to equate. That is why the amendment has been made. If he objects to six annas on the dividend tax, that is different. In this particular instance, it is a consequential amendment.

Shri Tulsidas: May I explained? I am sorry this amendment has not been properly worded. I would like the last three lines on page 6 to be removed. There, the rate of six annas is mentioned. I was talking about it.

Mr. Speaker: He wants to omit lines 49 to 51 on page 6. He referred to it. I suppose it comes under clause 8.

Shri T. T. Krishnamachari: So far as dividend tax is concerned, I have explained it even at the time of introducing the Bill. This is an alternative to dividend limitation. I want to leave it to the company. If it wants to declare a higher dividend, let it do so. Then, it pays me the penalty. If the companies do not do so, the money goes into the reserve fund; it goes as

[Shri T. T. Krishnamachari]

dividend limitation in a time when we do not want inflation to take place.

Shri Asoka Mehta mentioned about the increase in wages to the workers. We have not yet made up our minds about it. The workers have to be given some incentive. But even so, nothing that is given to them should act in such a manner as to add to the inflation. We cannot ask the workers to put restraint on themselves and allow dividends to be paid. It is an integrated scheme by which we limit the dividend. Where a company wants to play fair, it allows its reserves to be built up so that it is available for the development of the country and also of the company. I am unable to accept the amendment.

Shri Tulsidas: What is the explanation regarding the paid-up capital?

Shri T. T. Krishnamachari: It is an old story—not a new one. The dividend tax is one which exists already. If it should be on the block capital, in the block capital the block might be increased and then this dividend tax has no meaning. Tax the people on the rate of dividend which is on the paid-up capital. That is the yardstick which we will have to adopt. If they change hereafter and say that we are going to pay so much dividends on the block capital, I will accept the block capital. The dividend will come down and I will also come down. As long as the practice of paying dividend is in terms related to the paid-up capital, that is the yard-stick. I cannot adopt any other yard-stick.

Shri Tulsidas: Then, shall I refer to my amendments Nos. 11 and 12? I beg to move:

(1) Page 5, line 11—

after "fifty per cent of the total income" insert "excluding capital gains".

(2) Page 5, line 12—

after "of its total income" insert "excluding capital gains".

Section 23A companies are required to distribute a specific proportion of their total income as dividends on pain of the penalty of super-tax. I would like the Finance Minister to understand this point.

Shri T. T. Krishnamachari: What is the use? My hon. friend does not even know what the amendment is. He reads something. If he gives me the notes, I will find out what it is? Why does he not come on to me, I will help him.

Shri Tulsidas: There is no other amendment. Only one amendment was not correct. The others are correct.

Shri T. T. Krishnamachari: If my hon. friend does not know what he wants, how could I help him?

Shri Tulsidas: My point is this. I am explaining to him that the total income includes all the income. He has brought in capital gains. If the capital gains have also to be distributed then the 23A companies will also be forced to distribute the capital gains because it includes the total income. Therefore, I would like him to understand that capital gains....

Shri T. T. Krishnamachari: It is only when something is sold and when the sale is at a price beyond what is the valuation for it on 1st January, 1954, that the capital gains tax comes. Otherwise this provision has nothing to do.

Shri Tulsidas: I do not understand why there is no capital gain otherwise.

Mr. Speaker: I do not think hon. Members can convince each other. Shri Tulsidas may go on and say what he wants to say.

Shri Tulsidas: If he does not want to listen, what else can be done.

Mr. Speaker: The House will listen.

Shri Tulsidas: My point is, if 23A companies have to distribute their capital gains they will be forced to distribute a certain percentage of their

total income. Their total income includes capital gains. If that is distributed, surely they will not only have paid by way of capital gains tax but also income-tax, super-tax and so on. Therefore, to that extent the shareholders will have to pay super-tax. So why not exclude capital gains from the total income?

Shri T. T. Krishnamachari: I do not know. For one thing we have to find out what it is. I do not think there is any distinction from the commercial point of view between capital gains, if it arises at all, and revenue profits. So long as anything is available for the purpose of distribution, that is all I am concerned with. I am not concerned where it comes from. If it comes for distribution then the law will operate. If it does not come for distribution then it is a different thing.

Even in respect of 23A companies, which are industrial companies, we have already a provision in the Act that a Board of referees could exempt them from having to distribute. To the extent the law applies to them I propose to consider it even more freely in future. If a 23A company is a manufacturing company it will get all concessions like other manufacturing companies which are public limited companies. If a 23A company is a managing agency, an investment company or a trading company, the law will operate in all its vigour.

Mr. Speaker: The question is:

Page 5—

omit lines 2 to 4.

The motion was negatived.

Mr. Speaker: The question is:

Page 5, line 11—

after "fifty per cent. of the total income" insert "excluding capital gains".

The motion was negatived.

Mr. Speaker: The question is:

Page 5, line 12—

after "of its total income" insert "excluding capital gains".

The motion was negatived.

Mr. Speaker: The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7 was added to the Bill.

Clause 8— (Rates of super-tax on Companies etc.)

Shri Tulsidas: Sir, I beg to move:

Page 7, lines 23 to 25—

omit "standing to the credit of the share premium account as on the first day of the previous year aforesaid;"

I hope that here the Finance Minister would be able to understand the point of view, because here the question of banking companies comes in.

The Explanation to clause 8, dealing with dividend tax, defines "paid-up capital", which term refers only to ordinary or equity capital, and not preference capital, includes only that share premium account which was standing to the credit of the share premium account as on the first day of the previous year aforesaid. This would mean that share premiums transferred to general reserves would be excluded, and the company would be considered as having a smaller capital base, resulting in higher taxation. This hardship would be particularly severe in the case of banking companies, as I shall presently explain. The Banking Companies Act prescribes the accumulation of profits up to a certain percentage of the paid-up capital, and for this purpose banking companies are required to transfer share premiums to the reserve fund prescribed under Section 17 of the Banking Companies Act. Banks are

[Shri Tulsidas]

required to prepare their balance sheets and accounts according to the Banking Companies Act, and not the Companies Act. Accordingly, they may show share premiums received as Section 17 reserves, and not separately as share premiums. To avoid this difficulty in their case, I am putting an amendment to delete the words "standing to the credit of the share premium account as on the first day of the previous year aforesaid". The substantial point is that if share premiums have been received, they should be added to the paid-up capital of the company. The fact that accounting technicalities necessitate the transfer of share premiums to reserve account should not be regarded as a valid cause for debarring banking companies from adding share premiums to the paid-up capital. That would be an unjustifiable discrimination.

Then, before the new Company Law was introduced this year, companies had more freedom than now to write off the share premium account. Some companies might have written off their share premium accounts against losses, or transferred them to other reserve accounts. This amendment seeks to place such companies on par with other companies that have not made such transfers. Such transfers are mere book entries, and there is no basis in substance for differentiating between companies that have made such transfers and those that have not. If the provision is adopted as it is, it would wrongfully increase the tax liability for the dividend tax of companies that have written off their premiums, and lead to unfair discrimination between them and those that have done so.

This is exactly why I have been telling that this Bill should be referred to a Select Committee. When a Bill of this nature is brought forward every Member has certain views. Therefore, it is not possible for us to explain on the floor of the House all our points. The difficulty always has been that our point of view is not

understood by the hon. Minister, nor is it possible for us to explain our point of view in a proper way. That is why I said that the Bill should have gone to a Select Committee. Since he wants it to be done in the manner he wants, I have got to go ahead with these amendments and put forward my point of view. I hope that my amendment will be accepted by the Finance Minister.

Shri T. T. Krishnamachari: Of course, I must confess that I have not got the background of my hon. friend. I am unable to understand his arguments in this particular case. Even if the law says that premium collected on shares must be shown as part of the capital, I expect the law does not say that if a banking company's capital is Rs. 1 crore and it has received premium worth Rs. 15 lakhs that should be added on to the capital and it should be shown as Rs. 1,15,00,000. It will remain as Rs. 1 crore and that will be the paid-up capital.

Shri Tulsidas: He has not understood the point.

Shri T. T. Krishnamachari: I have seen a balance sheet of a bank. I know what the Banking Companies Act wants. We know about it. When we were considering the Banking Companies Act we have said that premiums collected by issue of fresh shares in banking companies should be treated as part of capital structure and not as reserve. It should be used for purposes unconnected with the capital. Even so, if a bank's capital is Rs. 1 crore and if the bank has received Rs. 15 lakhs by way of premium, the two things are shown separately in the balance sheet.

Shri Tulsidas: No. It is not shown like that. Under the Banking Companies Act, Section 17 they have to keep certain reserves. Most of the banks have transferred their share premium account to this reserve under Section 17.

Shri T. T. Krishnamachari: I am only concerned with one fact. The first

item in the balance sheet on the left-hand side shows the figure of the paid-up capital. I will accept it. If my hon. friend wants to add something else, I am not prepared to accept it. I think what he aims to do is to impose something into it which does not exist really.

Shri Tulsidas: Your 'explanation' is not what you say. The explanation says:

"(i) the expression "paid-up" capital means the paid-up capital (other than capital entitled to a dividend at a fixed rate) of the company as on the first day of the previous year relevant to the assessment for the year ending on the 31st day of March, 1958, increased by any premiums received in cash by the company..." etc.

Shri T. T. Krishnamachari: My hon. friend does not understand that preference and other capital which qualify for a particular rate of dividend come below. So far as ordinary shares are concerned, they represent the capital which is the base for the dividend. I am sorry my hon. friend has not been able to enlighten me. I am certainly not going to accept an amendment which I do not understand.

Shri Tulsidas: In the explanation, it is very clearly stated that if any premiums are received in cash, that will be added on to the paid-up capital. How can the hon. Minister say that it is not so? If he reads the explanation properly, he will understand. Look at my amendment. It does not make any change from what is already put in the Bill.

Shri T. T. Krishnamachari: Only in the case of banking companies, the share premiums are transferred to the reserve fund. It is not so in the case of other companies. It forms part of the paid-up capital and not shown separately.

Shri Tulsidas: It is always shown separately as share premium account. What I am saying is, as long as there are share premiums received in cash,

they should be considered as paid-up capital. That is the only point I want to submit. After all, it is there in the explanation.

Shri T. T. Krishnamachari: As a matter of fact, I feel that this serves the present position. My hon. friend is apparently thinking of a different class of companies like banks. Is he thinking of banks?

Shri Tulsidas: Yes. In the case of the banking companies, the premium amount is added to the reserve fund.

Shri T. T. Krishnamachari: I must say that my hon. friend has not carried any conviction. The position is clear; we have defined what paid-up capital is. If actually he wants anything more, I will have the matter examined; but I cannot accept the amendment.

Shri Tulsidas: I beg to move:

In page 6—

omit lines 49 to 51.

Mr. Speaker: The question is:

In page 6—

omit lines 49 to 51.

The motion was negatived.

Mr. Speaker: I will now put amendment No. 14."

The question is:

Page 7, lines 23 to 25—

omit "standing to the credit of the share premium account as on the first day of the previous year aforesaid;"

The motion was negatived.

Mr. Speaker: The question is:

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

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

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

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

I would only like to say this in regard to the confusion caused by the

amendment that he moved. The position is that there is a slight concession that is being given by the Explanation. My hon. friend wants an extension of the area of concession. If there is any representation made by the Banks and I find that something has to be done, I am prepared to consider it.

Mr. Speaker: Motion moved:

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

Shri Tulsidas: No.

Mr. Speaker: He is thoroughly satisfied with the Bill.

Shri Tulsidas: I have not risen to speak. There is no meaning. After all, he is not prepared to accept.

Mr. Speaker: The question is:

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

The motion was adopted.

CULTURAL DELEGATION TO U.S.S.R. AND EAST EUROPE

Mr. Speaker: The House will take up the Half-an-hour discussion.

Shrimati Renu Chakravarty (Basirhat): My half-an-hour discussion is a long postponed discussion. I would like, at the very outset, to state the reason why I have persisted in having this question discussed. Firstly, I attach very great importance to these cultural delegations which we send abroad, who are ambassadors of goodwill, because they have direct approach to the hearts of the people through culture and art, not obstructed by political antagonisms. Secondly, I hold them important because we hold up before the world the prestige of our ancient culture. When we were young, when we were under British rule, our Asian culture was looked down upon and the best thing to do was to try to imitate all that was from the West. I remember many people felt ashamed

of their parents, however cultured they may be, because they did not have western culture. They were even ashamed to admit that they were their parents. Now, a new wave has come throughout the world. Every country in the world desires to know our culture and Indian culture has been presented to the world through successive cultural delegations. The world has seen what treasures we have. They have begun to realise that Asia has a very very old tradition and culture which can surpass all that has, up till now, been presented to the world, to the West. That is why, at this posture of events, it is necessary to know what type of cultural delegations we should send abroad. It is on this broad principle that I have approached this question.

Many of my friends have taken up a much more narrow parochial attitude towards it. I have been told that I should not raise it because the leader of the delegation is a Bengalee coming from the same State as I come from and as such, I should not raise it. I would request the House not to look at this question in that parochial way. I feel that we from Bengal have contributed a great deal to the common heritage of our land and I am proud of my national heritage. That is why I feel that it is necessary to discuss this matter in a dispassionate manner.

I am a Bengalee. That is why I have been touched to the quick in the way this delegation has been chosen to present Tagore before the world. I do not claim that I am a great person of culture. I do not claim either to be a great votary of Tagore or a person who knows very much about Tagore. Every Bengalee, even if he does not know to read or write, is greatly devoted to Tagore. We love the songs and the dances that he has given to us. I must therefore refer to the names of the people who had gone to represent Tagore to the Soviet Union. I have been there, and I have seen their ballet. What they present to the world in their ballet is something to be proud of. Therefore I feel that our Tagore who really tried to represent Indian