Dated. 2011.2014

# THE Dated..... PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers) OFFICIAL REPORT

4571

#### HOUSE OF THE PEOPLE

Friday, 25th July, 1952.

The House met at a Quarter Past Eight of the Clock.

[MR. SPEAKER in the Chair.]

#### QUESTIONS AND ANSWERS

#### (See Par. 1)

9-15 A.M.

Shri Madhao Reddi (Adilabad): May I make a submission? As you are aware, Sir, India has won yesterday the Olympic Hockey Championship ....

Mr. Speaker: Order, order. Let there be no talk. Any hon. Member wishing to raise any point not connected with the proceedings of the day is first required to see me in the chamber, just to inform me as to what the point is, to let me have some time to consider whether it is really of such an importance that I should permit it to be raised and then I will say whether he could raise the point or not.

An Hon. Member: It is an exciting event.

Mr. Speaker: He has never told me. He should have contacted me in the morning. We will proceed with the further business of the House now.

COMMISSIONS OF INQUIRY BILL

PRESENTATION OF REPORT OF SELECT COMMITTEE

The Minister of Home Affairs and States (Dr. Katju): I beg to present the report of the Select Committee on the Bill to provide for the appointment of Commissions of Inquiry and for vesting such Commissions with certain powers.

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#### ESSENTIAL GOODS (DECLARATION AND REGULATION OF TAX ON SALE OR PURCHASE) BILL—Contd.

Mr. Speaker: We will now proceed with the further consideration of the following motion moved by Shri Tyagi yesterday:

"That the Bill to declare, in pursuance of clause (3) of article 286 of the Constitution, certain goods to be essential for the life of the community, as reported by the Select Committee, be taken into consideration."

Dr. Lanka Sundaram (Visakhapatnam): Sir,.....

Shri U. M. Trivedi (Chittor): I was speaking yesterday.

Mr. Speaker: Did he not finish?

An Hon. Member: He raised a point of order.

Shri U. M. Trivedi: No, Sir, i never raised a point of order.

Mr. Speaker: I find that Mr. Guha was on his legs.

**Shri U. M. Trivedi:** He interrupted me. He wanted to put a question.

Mr. Speaker: Was he called yesterday?

Shri A. C. Guha (Santipur): The whole matter is in something like a 'suspense' and in fact I was not allowed to continue.

Mr. Speaker: I shall call Mr. Guha first and then the hon. Member.

Sundaram: Dr. Lanka Sir, the Deputy-Speaker promised yesterday The point was wheto give a ruling. ther we could discuss the Bill as a whole in view of the report of the Select Committee and Messrs. Thakurdas Bhargava, Guha Trivedi and stood up in that connection. Deputy-Speaker said that he The would consider and would give us a suling.

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Mr. Speaker: I could not understand what the point of order is.

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Dr. Lanka Sundaram: The point was raised whether on the discussion of the Select Committee report, we could go into a discussion of the principles of it.

Mr. Speaker: 1 do not think we could go again into the whole Bill. The matter was discussed before it went to the Select Committee.

Dr. Lanka Sundaram: It was я very specific point. The words 'made after the commencement of the Act' were one of the main phrases of the Bill. There was a suggestion made in the Minute of Dissent to delete that particular expression and that was the point that was being debated yesterday and the Deputy-Speaker.....

Mr. Speaker: The speeches will have to be confined to the Bill as it is reported by the Select Committee and more particularly to the changes made by the Select Committee during the course of its deliberations. The whole legislation is not open for discussion.

Dr. Lanka Sundaram: We can discuss the Minute of Dissent.

Mr. Speaker: I will consider it when it arises.

Shri A. C. Guha: Yesterday. I was just discussing about the Minute of Dissent appended to the Select Committee report. i think the real pur-pose of this Bill was to bring about uniformity in the Sales tax in all the Even when the Bill was States. under discussion in the Select Com-mittee it was reported that some State was trying to rush through a Bill to impose sales tax on some of the items already included in the original Bill; and thus in order to bring about some uniformity the Bill should have some retrospective effect. Then have some retrospective effect. Then it was pointed out to us that the opinion of the Law Ministry and of the Advocate General was that in view of the wording of the clause, we cannot go beyond what is speci-fied here *i.e.*, "after the commence-ment of this Act." Though we are all anxious that there should be some uniformity in the coles for providing all anxious that there should be some uniformity in the sales tax prevailing in all the States, in view of the legal opinion, we cannot do that. Recog-nizing that difficulty, I do not support the Minute of Dissent requiring the words 'made after the commencement of this Act' be deleted because that would make the entire enactment would make the entire enactment liable to be questioned in the court and it will open the gate of litigation.

#### 25 JULY 1952 (Declaration and Regulation 4574 of Tax on Sale or Purchase) Bill

At the same time I recognise that it will be an awkward position both for the Finance Minister here and for the Finance Ministers in the States if there is no uniformity and if certain States go on imposing sales tax on articles that will be included in by the House. It is the responsibi-lity of the Finance Minister then to somehow persuade those States to come to some uniformity or if neces-sary Government should amend the Constitution so that the real purpose of this Act, namely, to bring about uniformity in the sales tax can be realized.

However much anxious we may be to bring about uniformity we should also consider the position of the States' finances. The Schedule has been rather generously extended in the Select Committee and there are some more amendments also for insome more amenaments also for in-clusion of some items in the Schedule. That will affect the financial position of the States. Here when we pass a Bill, we should also consider how it will affect the finances of the States included within the Union of India and for that nurness I would like the and for that purpose, I would like the hon. Finance Minister to call a con-ference of the Finance Ministers and also to make some more allocation from the Central revenues to the States so that the latter can carry on their work even though they may have to give up some of the items of the sales tax. That is an obligation which sales tax. That is an obligation which the hon. Finance Minister or the Government of India cannot repudiate when they will pass this Bill and put some restrictions on the revenues and financial condition of the States.

I would like to say that this tax is ultimately a tax on the consumers, whereas it should have been a tax on the producers. Now it has turned out to be a tax on the consumer. From that point of view, the whole structure of the sales tax should be reviewed and I request the hon. Finance Minister to consider that point of view so that he may give any relief to the consumers.

In some of the States there is multiple point taxation. Even foodstuf's are taxed at more than one point in some of the States. When this article on Sales Tax was considered in the Constituent Assembly at the time of constitution making, all these points were there before the Constituent Assembly, and the Constituent Assembly tried to put some restrictions. But, even then I do not think all these restrictions are being respected in spirit. Sometimes I think there have been some evasions of the restrictions

put in the clause in the Constitution. Some items have been subject to sales tax when those items are sold outside the province where they are produced, in the Constitution there is a bar to that. I think there are some cases even now where this provision is not strictly adhered to.

As regards the Schedule, I have only one point to submit and that is, that paper should be exempted. Apart from the fact that it is indirectly a tax on knowledge, I should like to say that paper is something like a raw material as far as the production of books, newspapers, journals, etc., are concerned. Just as cotton, jute and other raw materials have been put in the Schedule paper should also be put in the Schedule and exempted from sales tax.

• With these words, I commend the Bill.

Mr. Speaker: I think it will be better if I invite the attention of the hon. Members to the last two lines of the proposed clause 3 in this Bill, which says: no law made by any State Government shall have effect unless it has been reserved for the consideration of the President and has received his assent.

Shri A. C. Guha: That will affect only laws passed, after this Act, but not those that have already been passed.

Mr. Speaker: I believe there is some misapprehension either in my mind or in the hon. Member's. Laws passed before the commencement of this Act......

Shri A. C. Guha: They will not be affected by this clause.

Shri U. M. Trivedi: Sir, I think you for giving me this opportunity to speak. I would request my friends that when a Member is trying to speak, they should not interrupt and deprive him of his opportunity to speak. There was no point of order in this.

**Mr. Speaker:** I may assure the hon. Member, he is not deprived of his speech.

• Shri U. M. Trivedi: However, the point that I was going to raise was this much. Somehow or other if we read the Minute of Dissent, we come to this conclusion that in the Select Committee also, party politics seem to have played a part. Hon, Members have not seen and understood the object of a Select Committee. When we go into a Select Committee, we must forget that we belong to any party or that we have party affiliations. We must see that reason also should work......

**Mr. Speaker:** Order. order. The hon. Member may make his remarks on the merits of the Bill instead of making remarks on the Members of the Select Committee.

Shri A. C. Guha: As a Member of the Select Committee, I may say, there was no party question there.

Shri U. M. Trivedi: The Minute റ് Shri U. M. Triveni: The Minute of Dissent is by Mr. Somani and Mr. Kilachand, both non-congressmen. So to say. Very reasonable remarks have been made in the Minute of Dissent. If anybody had applied his mind to the remarks made in the Minute of Dissent, there would have been no necessity for any further Minute of Dissent, there would have been no necessity for any further consideration of this Bill and it could have been passed in ten minutes. We have to see that the words used in clause 3 are: "made after the com-mencement of this Act". As has been rightly pointed out by them, if these words are dropped, we would have complete uniformity of taxation so far as exempted goods are concerned far as exempted goods are concerned. What is going to happen today by making this provision? Those States you may call them alert, like Madras and Bombay which have already levied taxes on these things which are being exempted by the provision of this law, will continue to levy those taxes, those States like Madhya Bharat and Rajasthan, which were not so alert, and which are now going to levy this tax in order to increase their revenue, will be deprived of this source of revenue. from the very same items on which Madras and Bombay will con-tinue to levy taxes. In other words, the people in Madras and Bombay will the people in Madras and Bombay will suffer a sort of disability in as much as they will have to pay taxes on articles which will be exempt in Madhya Bharat and Rajasthan. That is, they will not be able to tax these articles while those in Madras and Bombay will tax. Rajasthan and Madhya Bharat will be deprived of a large part of revenue which is easily large part of revenue which is easily available to Madras and Bombay. available to Madras and Bombay. This sort of inequality in the case of the several States is not called for our Constitution. It under will create inter-State disputes and diffi-culties, and at the same time, it may lead to some kind of litigation between the States and the Central Government also. In these circumstances, it is desirable to obtain uniformity in the administration of this tax. If these words are dropped, all these difficulties will be removed as also the chances of litigation; there will be uniformity in taxation.

[Shri U. M. Trivedi]

With these words, I commend the motion.

Dr. Lanka Sundaram: As a result of the statement made by my hon. friend Mr. Tyagi, yesterday, and in parti-cular, the memorandum that he quoted from the Law Ministry, I am confirmed in the grave misgivings that I ex-pressed at the consideration stage of this Bill.

In the Statement of Objects and Reasons, it is stated very clearly that the Bill if enacted "may help to achieve a certain measure of uniformity in the taxes, and also prevent essential goods from being unduly essential goods from being unduly taxed". I would like to know from the Finance Minister how these two objects are going to be achieved through this Bill. I agree with my hon. friend Shri Trivedi when he said that some of the States is the work that some of the States in the country which do not have sales-tax legisla-tion, would be penalised and I think that is a very important point to be considered.

## The Minister of Commerce and Industry (Shri T. T. Krishnamachari): No.

Dr. Lanka Sundaram: That is only one aspect of the question. I say penalised to the extent that they will not be able to bring forward legisla-tion covering these items listed in the Schedule. I hope my hon. friend the Commerce Minister would not have any difficulty to accept this statement.

Pandit Thakur Das Bhargava (Gurgaon): Only they have to be reserved for the consideration of the President.

Dr. Lanka Sundaram: Reservation of any future legislation about sales-tax covering the items listed in the Schedule for the assent of the Presi-Schedule for the assent of the Presi-dent can only mean that there is a limit imposed. I hope I am not wrong in this interpretation. But, it is only a minor point. If I am not mistaken, I recall that in reply to the debate on the general discussion, the hon. Finance Minister made a sort of a general statement to the effect that he is in consultation with such States where the sales-tax does not exist, to see that no undue hard-ship is caused. I would like to know when my hon, friend Mr. Tyagi rep-lies to the debate, how the Govern-ment propose to protect the interests of those States where the sales-tax does not exist at the moment, how in future if any State Government brings future if any State Government brings in legislation covering the items listed in the Schedule, it will be protected. That is a small point as I said.

# Bill

The major point to my mind is something about which I made a brief reference in my speech last time. Take the total yield of sales-tax in this country. It is stated to be of the order of Rs. 45 crores. I may tell the House, with all sense of responsi-tility, that nearly half of the totalfor the whole country is being collect-ed in Madras alone. I make reference to this point because, as I have said, the Statement of Objects and Reasons says this Bill is intended to prevent essential goods from being unduly taxed. I do not know how, when this Bill is placed on the Statute Book, this sort of rack-renting of the substance of the community by indi-vidual States will be protected against. I am prepared to say that this Bill will become entirely infructuous. In the first place, the States which do not have sales tax laws will be penalised. In the second place, and to my mind this is more important, the existing level of taxation in some of the States which have taken recourse to this impost, will not be reduced. That was the reason why I argued on the was the reason why I argued on the last occasion that the net effect of this Bill would be to force up the sales-tax, not to bring it down. Last time, I made reference to the con-troversy going on in the Bombay State where an attempt was being made to convert the single-point system into a multi-point system. At that time, the Finance Minister inter-vened while I was speaking and said that consultations were proceeding. I am glad, Sir, that at the moment there seems to be a decision on the part of the Bombay Government not to proceed with the Bill as originally drafted and announced in the Legislature to convert the single-point into a multi-point system.

But. what is worrying me is this. This Bill, according to the words used yesterday by my hon. friend Mr. Tyagi, would only make explicit what is implicit in article 286 (3) of the Constitution. I have no quarrel with that. But, how is the purpose achieved. viz., to secure a measure of uniformity and to reduce the level of sales-tax on essential goods. I find that judging from both these angles, there is no relief at all in this Bill. Actually to my mind this Bill is Actually, to my mind, this Bill is brought here, if I may be permitted to say so with due respect, under false pretences. more or less. The purposes for which this Bill is drafted and placed before the House are not being fulfilled, and will not be ful-filled. filled.

I am glad that in the Select Com-mittee an attempt was made to widen the Schedule. I am glad for the

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अर्थ में आता है ? ला मिनिस्ट्री (Law Ministry) की राय है कि उस के

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provision. in particular, of articles like certain categories of medicines, gur, ecible oils, oilseeds, handloom cloth etc. I welcome the inclusion of these. But the point I am driving at is: what exactly are the intentions of the Government? Is it only to put on the Statute an innocuous Act making explicit the intentions which are implicit in the Constitution? Then, there is no necessity for this Bill. Or, is their intention to secure uniformity all over the country and also to reduce the incidence of the sales-tax in certain States where it is heavily impinging upon the life of the community. I believe this House is entitled to receive straight answers to these questions. In this connection, I would like to recall two statements made in response to my request by the hon. Finance Minister on the last occasion. One was, the Select Committee—I think I am quoting him very clearly—he said: the Select Committee to know from my hon, friend Mr. Tyagi whether the Select Committee has gone into the fiscal content of this Bill. and if so with what result? That again is a question of intention.

The second assurance given on the last occasion by the Finance Minister was that a Taxation Enquiry Committee would be appointed. it was being appointed. W He said What is the the Taxation purpose of Enquiry purpose of the Taxation Enquiry Committee? Is it to look into the incidence of taxation with reference to the sales-tax, or is it to bring about some sort of central control of sales-tax so that there will be uni-formity all over the country? As I have said before, and I repeat it here most unashamedly I have been creve most unashamedly. I have been carry-ing on agitation for ten years that that the sales-tax must be taken over by the Centre and administered by the Centre, so that the principle of uni-formity on the one hand and the question of controlling the incidence of the tax on the other would be secured. I would like to hear from my hon. friend Mr. Tyagi answers to other would be these very important questions which I raised on the last occasion and which I raised on the last occasion and which I raise again now, particularly in view of the doubts expressed by hon. friends like Pandit Thakur Das Bhar-gava, Shri Guha, Shri B. Das and so many others yesterday. After hear-ing that, I will have to say a few words at the stage when we take up the Bill clause by clause the Bill clause by clause.

पंडित ए० आर० झास्त्री (जिला आजमगढ़—-पूर्व व जिला बलिया—-परिचम): अध्यक्ष महोदय, कल में ने यह प्रश्न उठाया

अन्सार जो विधियां हम बनावेंगे वह उन्हीं पर लागू होंगी जो इस के बाद के बिकी कर के सम्बन्ध में स्टेटस बनावेंगी। मैं समझता हं कि ला मिनिस्ट्री की यह राय सही नहीं है। इसलिये सही नहीं है कि जो भावना इस के पीछे है वही उस के विरुद्ध चली जाती है। भावना यह है कि जो विभिन्न राज्यों में बित्री कर सम्बन्धी विधियां हैं वह ऐसी न हों कि जीवन के लिये जो उपयोगी और अनिवार्य आवश्यकता की वस्तूएं हैं उन पर इस प्रकार के कर लगाये जायें कि जो जनता को अखरे और उन के मूल्यों में इस तरह का अन्तर हो कि एक राज्य की अपेक्षा दूसरे राज्य के रहने वालों को वह खटकने वाले हों। जीवन की उपयोगी और आवश्यक सामग्रियां ऐसी ही उपयोगी हैं जैसे सूर्य का प्रकाश, वायु का प्रवाह और पानी । जैसे यह अनिवाब है और सब जगह उन का मूल्य समान है और यह मनुष्य की आवश्यकताओं को पूरा

इन के सम्बन्ध में एक सामान्य विधि होनी चाहिये जो कि सब स्टेट्स में पाई जाय । यह नहीं कि मनमाने ढंग से नमक का बिकी कर कहीं कम हो और कहीं अधिक हो या अन्य आवश्यक सामग्री के ऊपर कहीं बिकी कर कम हो और कहीं अधिक हो। ऐसा होने से उन के मूल्यों में बड़ा भारी अन्तर पड़ जाता है और बाजार भर में ऐसी आवश्यक सामग्रियों के मूल्य में अन्तर होने का परिणाम बहुत बुरा होता है । इसलिये धारा २८६ में बिकी कर के सम्बन्ध में कुछ

प्रतिबन्ध लगाये गये थे। बिकी कर विभिन्न

करती हैं वैसे ही इस शिड्यूल(schedule)

में जिन सामग्रियों का उल्लेख है वह उतनी

ही अनिवार्य, उतनी ही आवश्यक हैं और

पिंडित ए० आर० शास्त्री] स्टेटस में पहले से चल रहा था। अब यह आवश्यकता अनुभव हई कि इस में एक समानता लाई जाय । अब यह अर्थ लगाया जाय कि यह कांस्टीट्य्शन(Constitution) उन्हीं विधियों पर लागू होगा जो विधियां कि कांस्टीट्युशन बनने के बाद बनें तो जो संविधान बना है उस के बनने से पहले बहत से अनचित कानन हमारे देश में प्रचलित थे और यह कहा गया है कि इस संविधान के बन जाने के बाद जो विधियां इस की भावना से, इस के अक्षरों से और उन अक्षरों के अर्थ से, इस के शब्दों से और उन शब्दों के पीछे जो भावना है उस के विरुद्ध पडती हों तो वह सारी विधियां और विधान जो इस से पहले प्रचलित थे रद समझे जाने चाहिये। यह नहीं हो सकता कि पहले कोई विधि वनी हो और वह विधि इस संविधान की भावना के विरुद्ध जाती हो तो क्योंकि वह पूरानी विधि है, पहले से चली आती है, इसलिये चालु रहेगी, नहीं वह रद्द हो जायेगी। तो इसलिये ऐसा तो कोई क़ानून नहीं हो सकता कि जो इस संविधान के विरुद्ध पड़ता हो ।

अब धारा २८६ की भावना क्या है ? भावना यह है कि जो जीवन की उपयोगी सामग्रियां हैं उन सामग्रियों पर विभिन्न स्टेट्स के लगे हुए बिकी कर ऐसे न हों कि जो अखरने वाले हों और जनता को उनसे राहत कम मिलती हो । अगर यह अनुभव न होता कि ऐसे कर हैं तो २८६ की धारा आती ही नहीं । वह लाई ही इसलिये गयी थी । उस के भाग २ में लिखा हुआ है कि वे विधियां जो चालू हैं वे मार्च १९५१ तक चालू रहेंगी, बरार्ते कि प्रैसीडेंट (President) किसी लिखित आज्ञा से उन को रद्न कर दे । और तीसरी धारा में यह कहा गया है कि पालियामेंट जिन सामग्रियों को आवश्यक सामग्री

निर्धारित कर देगी. उन के सम्बन्ध में कोई विधि तब तक नहीं बन सकती जब तक कि प्रैसीडेंट की मंजूरी न ले ली जाय । तो इस का मतलब यह है कि जो विधियां बनी थीं और जो विधियां बनेंगी सब रद्द हैं जो कि इन सामाग्रियों के सम्बन्ध में हैं जिन का उल्लेख इस में कर दिया गया है। अब उन सब के बारे में स्टेट्स को चाहिये कि पार्लिय।।मेंट में जो इस विधि के द्वारा जो उस के सामने आज प्रस्तुत है, निर्धारित कर देती है, उस के अनुसार प्रैसीडेंट की आज्ञा ले कर उन विषियों को जारी रखे। जो विधिया पहले से स्टेटस में प्रचलित थीं वह भी और जो आगे बनेंगी उन सब पर यह समान रूप से लागू होगी । वह समान रूप से लागु न हो तो समानता मिट जायेगी । यदि ऐसा न हो तो इन आवश्यक साम-ग्रियों के मुल्य में बड़ा भारी अन्तर रहेगा । एक स्टेट में उस का दाम कूछ होगा और दूसरो में कुछ होगा। इस तरह से एक अव्यवस्था जारी रहेगी और जो राहत २८६ की धारा जनसाधारणको इन सामग्रियों के मुल्य के विषय में, इन के उपयोग के विषय में पहंचाना चाहती है वह सुविधा उन को नहीं मिल सकती है और वह सुविधा उन को मिलनी चाहिये क्योंकि जैसा मैं ने पहले आप से नम्त्र निवेदन किया यह सामग्रियां जीवन के लिये उतनी ही अनिवार्य हैं, उतनी ही आवश्यक हैं, जितना कि सूर्य का प्रकाश और बहती वायु का सुन्दर प्रवाह और बहती हई जल धारा का पानी । यह सब जैसे आवश्यक हैं वैसे ही वह भी आवश्यक हैं । इसलिये इन के बारे में भी वैसी ही समानता होनी चाहिये। जैसे प्रकाश सब को समान रूप से मिलता है, हवा सब को समान रूप से मिलती है, पानी सब को समान रूप से मिलता है बैसे ही यह सब को मिलनी चाहिये । पहले किसी ने कोई क़ानून बना

दिया है और वह उस से लाभ उठा रहा है। इस से अ। 4 कहते हैं कि उन स्टेट्स की आमदनी कम हो जायेगी। आमदनी और खर्च का हिसाब तो पहले ही आप के सामने था और इस लिये आप ने इस को बनाया। आमदनी तो स्टेट्स की हो, लेकिन जनता का रक्त शोषण कर के नहीं, उस का पोषण कर के होनी चाहिये। इमलिये जो विधि बनी है और जो बनेगी सब पर यह विधि समान रूप से लागू होनी चाहिये। यही मेरा निवेदन है।

पंडित ठाकुर दास भागंव (गुड़गांव) : जनाब स्पीकर साहब, जब यह बिल सिलेक्ट कमेटी के सुपूर्द हुआ उस वक्त मैं ने हाउस भैं अर्ज की थी कि दरअसल जो ची ज़ें हम चाहते हें और जो कांस्टीट्युऐंट असेम्बली(Constituent Assembly) में कानून बनाते वक्ष्त हम ने जिन को मद्देनजर रखा था वे दो थीं। अव्वल तो यह कि जो ऐसी चीजें हैं कि जो ज़िन्दगी के वास्ते जरूरी हैं उन ऊपर टैक्सेशन (taxation) न के लगाया जाय और दूसरी चीज यह थी कि हिन्दुस्तान में टैक्सेशन की यूनीफार्मिटी (uniformity) की जाय। हम रोज शिकायतें सूनते हैं कि बम्बई के लोग कहते हैं कि पंजाब व उत्तर प्रदेश में अनाज पैदा होता है और हम को वह उस भाव से नहीं मिलता है जिस भाव पर कि उत्तर प्रदेश में और पंजाब में मिलता है। कुछ लोग कहते हैं कि अगर बम्बई वाले कपड़े पर कुछ कर लगाना शुरू कर देंगे तो जायज होगा क्योंकि कपडा बम्बई में बनता है। इसी तरह बिहार के कोयले का सवाल आता है। मैं अर्ज करूंगा कि यह असूल हिन्दूस्तान की एकता के बिल्कुल खिलाफ है। यह एकता तभी होगी जब कि सांरे हिन्दूस्तान में जो जिन्दगी की जरूरी-चीर्जे हें वह हिन्दूस्तान में रहने वाले हर एक इन्सान

को उसी भाव से मिलें कि जिस पर वह दूसरे को मिलती हैं ।

**Shri Bansai** (Jhajjar-Rewari): **Is** it not a fact that exports are exempted? If cloth is exported from Bombay, it is not subjected to sales tax?

पंडित ठाकुर दास भार्गव : मेरे लायक दोस्त ने उस नुक्ते ख़याल को नहीं सोचा जो मैं ने अर्ज किया। मैं ने किसी खास चीज के कर के बारे में अर्ज नहीं किया। मैं तो उसूल की बात कह रहा हूं।

तो में जनाब वाला की खिदमत में अर्ज कर रहा था कि मैं तो शर्म के मारे मर जाऊंगा अगर मुझे कोई कहे कि पंजाब का पैदा होने वाला अनाज किसी दूसरे प्राविन्स (Province) को या किसी दूसरी जगह के रहने वाले को हिन्दूस्तान के अन्दर <mark>उस</mark> भाव पर नहीं मिलना चाहिये जिस पर कि पंजाब में मिलता है और उसे उस से फ़ायदा उठाना चाहिये । पंजाब में वह सस्ता मिले और मद्रास में मंहगा मिले। हम इस तरह से उस यूनी-अगर फ़ामिटी के उसूल को छोड़ देंगे तो हिन्दुस्तान का कोई भी सवाल तय नहीं होगा। हिन्दू-स्तान की इकानामी (Economy) एक है। इस वास्ते जरूरी है कि जहां तक जिन्दगी की जरूरी चीत्रों का सवाल है उन के बारे में यनीफामिटी आफ टैक्सेशन होनी चाहिये ।

इस यूनीफ़ार्मिटी आफ़ टैक्सेशन के अलावा दूसरा सवाल जो कांस्टीट्यूऐंट असेम्बली के सामने था जब हम ने यह घारा बनाई वह यह था कि जहां एक तरफ़ हिन्दुस्तान में एक सा टैक्स हो वहां दूसरी तरफ जरूरी चीजों पर टैक्स न लगे। अब सवाल यह है कि हम इस असूल को कैंसे तय करें। अगर में वकील न होता तो मेरे [पंडित ठाकुर दास भार्गव]

लायक दोस्त श्री अलगु राय शास्त्री की बरह से इस सवाल को देखता तो में यही कहता कि जरूर हमें इस मंशा को पूरा कर देना चाहिये जो कि दफ़ा २८६ की रू से निकलती है । लेकिन, जनाब वाला, २८६ दफ़ा के अन्दर जो उस के अल्फ़ाज है, आखिर वह अल्फ़ाज ही डिटरमिन (determine) करेंगे कि यह पालियामेंट इस बारे में इस बिल के द्वारा क्या कर सकती है, इस का क्या हक है। उस के बो अल्फाज हैं, वह जैसा मैं ने पिछली दफ़ा भी अर्ज किया था, वह जनाब की खास तवज्जह के काबिल हैं कि उन को इंटर-प्रैट (interpret) किया जाय। अगर जनाब वाला २८६ की दफ़ा २ को देखें, तीन के बजाय, तो जाहिर होगा कि पहले कानून का मंशा यह था कि जिन कानून को जीवित रखना था उन को खुस तौर से २८६ (२), में बचा दिया। इसी तरह २८८ की घारा २ को देखें तो उस में उसी तरह के अलफ़ाज हैं जो कि २८६ (३) में हैं। २८८ (२) में है

"no such law shall have any effect."

चाहे वह पहले के हों, चाहे बाद के हों लेकिन में यह भी मानने के लिये तैयार हूं कि २८६ (३) में दो तीन लफ़ज ऐसे हैं कि स्टेट्स में जो कानून वजूद में नहीं बाये उन के अन्दर प्रैसीडेंट की सैंक्शन ( sanction ) की जरूरत है। प्रैसीडेंट साहब २६ जनवरी, १९५० से पहले बजूद में नहीं आये। ला मिनिस्ट्री(Law Ministry) की जो राय कल हमें सुनाई बई थी उस में दो बातें दर्ज हैं। मैं ने अपनी बहली स्पीच में इन दोनों बातों को अर्ज किया था। इसलिये मैं कहता हूं कि यह बाउटफूल (doubtful) चीज है। ला मिनिस्ट्री कहती है वह भी मतलब निकल सकता है। इसलिये यह डाउटफुल इंटर प्रि-टशन (doubtful interpretation) का सवाल है। लेकिन यह चीज़ डाउटफुल नहीं है कि पालिसी क्या थी, कांस्टीट्यूए न्ट असेम्बली क्या करना चाहती थी और देश क्या चाहता है।

चनांचे जो हो चुका है वह हो चुका। अब यह बात "रैस्ट्रिक्शन आन दी इम्गोजीशन औफ़ टेक्स " जो २७९ का हेडिंग है, का क्या मतलब है ? मैं ने निहायत अदब से फायनेन्स मिनिस्टर साहब की खिदमत में अर्जनियाथा और वही बात अब अर्ज करता हूं कि वड़ मुझे यह बतायें कि सैंट्ल गद रंमेंट की क्या पालि गी (dolicy) है। क्या वह ऐसे प्राविसेज को जिन म कि पहले से टैक्स लगे हुए हैं उन को परमुएड (persuade) करना चाहते हैं कि वह युनीफामिटी कर दें। मैं जानता हुं कि यह सवाल स्पये आने पाई का है । यह तकरीबन २० करोड रुपये मद्रास स्टेट के टैक्स का सवाल है। इसी तरह से और जितने भी प्राविंसेज हैं उन के अन्दर यह बड़ा अहम सवाल है। हम रोज कहते हैं कि अच्छी सड़कें बन जायें, अस्पताल बन नायें और तालीम अच्छे हो जाये । और जब टैक्स का मवाल आता है तो कहते हैं कि टैक्स न लगायें। यह टोनों बातें एक दूसरे के खिलाफ़ पड़ती हैं । लेकिन हमें इन के अन्दर बैलेंस ( balance ) निकालना पड़ेगा । मै नहीं चाहता कि जिन स्टेडों ने पहले टक्स लगा दिये हैं उन को सरकार वैसे ही छोड़ दे। सैंट्रल गवर्नमेंट को यह करना चाहिये कि अपनी पालिसी को वह रिव्यू (review) करे । मैं ने पिछली दफ़ा भी फ़ायनेन्स मिनिस्टर साहब से पूछा और कल त्यागो साहब से खास तौर से पूछा जब बह अपना

भाषण दे रहे थे कि गवर्नमेंट अपनी पालिसी को साफ़ करे। मैं चाहता हं कि सैंट्ल गवनंमेंट अपनी पालिसी इस तरह से कायम करे कि जिन स्टेट्स में एसेंशियल गुड्स (essential goods)पर टैक्स लग जुका है वह सारे हिन्दुस्तान में एकसा हो । सारे हिन्दुस्तान में युनीफार्म हो। जहां तक कि बह स्टेटस कि जिन में नहीं लगा है वहां उसी हद दसरी **स्टेट**स तक उन को अखितयार दिया जाय कि उन चीजों पर वह टैक्स लगा सकें । इस वास्ते में चाहता था कि आप अपनी पालिसी को साफ कर दें। मैं यह मानने के लिये तैयार नहीं हं कि सारी चीजों पर टैक्स जैसे कोई स्टेट चाहे वैसे लगाती जाय । मैं यह कहना चाहता हं, बहुत जोर के साथ कहना चाहता हं कि कास्टीटयुऐंट असेम्बली गंशा सारे देश का का मंशा. और हमारे हिन्दूस्तान के ३५ करोड़ आदमियों की सामानता का मंशा, हमारे एक मुल्क को (belong) करने का मंशा बिलांग बिल्कुल हट जायगा अगर यह पालियामेंट इस युनीफामिटी को नहीं करेगी। इस वास्ते मेरी अदब से यह गुजारिश है कि में यह मानने के लिये तैयार हूं, कानून दा होने की वजह से, कि २८६ का मंशा बह भी हो सकता है जो कि ला मिनिस्ट्री ने रखा है ।

जनाबवाला यह चीज तवज्जह के काबिल है कि जिन स्टेट्स ने इस कानून के नाफ़िज होने के बाद नई तरह से टैक्स लगा दिये, उन का केस इन अल्फ़ाज में जो इस दफा में दर्ज हैं, बिल्कुल डाउटफ़ुल है और यह कहना बड़ा मुश्किल है कि वह इस के अन्दर आयंगे या नहीं आयेंगे और जैसा कि कल हमारे कामर्स मिनिस्टर साहब ने फरमाया इन अल्फ़ाज का एक दूसरा इंटरप्रेटेशन भी हो सकता है और मैं अर्ज

करता हूं कि उन का वह इंटरऽंटेशन भी मुमकिन है । अभी हमारे लायक दोस्त श्री अलगू राथ शास्त्री ने जो यह कहा कि सेन्टर द्वारा इस कानून के बन जाने के बाद यह कानून सारे प्रान्तों पर लागु होगा और प्रान्तों को इस कानून के मातहत ही अपने यहां टैक्स लगाने होंगे और अगर उन्होंनें कोई दूसरे इससे भिन्न कानून बनाये हैं, तो वे बेकार हो जायेंगें । तो मैं पूछना चाहता हं कि अगर वह इस दफा़ के अल्फ़ाज को इस तरह इंटरप्रेट करते हैं तो फिर प्रान्तों में लेजिस्लेचर्स(legislatures)की जिन को टेक्सेशन का पूरा अखतियार दिया जा चुका है क्या आवश्यकता रह जाती है और उन का क्या मतलब रह जाता है। मैं अर्च करता हं कि किसी शख्स को यह हक नहीं होना चाहिये कि वह जो इंटरप्रेटेशनं करता है वही दुरुस्त है और वाक़ी सब गलत हैं। में तो सिर्फ़ इतनाही अर्जं करूंगा कि उन का यह इटरप्रेटेशन डाउटफ़्ल है। मैं आप के रिये जफिर इस बात को इस ईवान में दुहराना चाहता हूं कि सेन्ट्रल गवर्नमेंट को इस हाउस में साफ़ तौर पर हम को बता देना चाहिये कि हम इस पालिसी को करना चाहते हैं कि जहां तक हो सके हम सब स्टेट्स में एसेन्शयल ऐन्ड नेसेसरी गुड्स (essential and nocessary goods)में टैक्सेज में समानता रक्खें, जहां तक संभव हो एक सा टैक्स हो, जिन स्टेट्स को न इन गुडस पर टैक्स लगाने की डजाजत हो, उन को डजाजत दी जाय ताकि वह भी दूसरे प्रान्तों के समान उन चीबों पर टैक्स लगा सकें। मैं इन अल्फ़ाज के साथ अपनी तक़रीर खत्म करता हं और आखिर में अदब से अर्ज करूंगा कि इस चीज़ को इस दफ़ा में बिल्कुल स्पष्ट कर दिया जाय ।

**Mr. Speaker:** It is better that the hon. the Minister just clarifies the whole position now, as there seems to

#### [Mr. Speaker]

be some confusion in the minds of hon Members, in the light of the dis-cussion that has followed; let us understand from him what the exact position is.

Shri T. T. Krishnamachari; Sir, my object in intervening in the debate at this stage is to try to clear the mis-conception that has been aroused by the Minute of Dissent submitted by two hon. Members of the Select Com-mittee. The intentions of the Constituent Assembly have been called to support the views taken by the two hon. Members. As one who was present at the time when this parti-cular article was framed and right through all the discussion on it. I think I might throw some light on the intentions. The intention of this particular clause of article 286 is merely to ensure consultation with the Government of India by the various State Governments, with a view to secure uniformity as far as possible. If that is conceded, the support the views taken by the two possible. If that is conceded, the pext thing is to look into the particular provisions of this clause which reads like this:

"No law made by the Legisla-ture of a State imposing, or 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 dec-lared by Parliament by law to be essential for the life of the com-munity shall have effect unless it has been reserved for the consi-dention of the Parliadent and her deration of the President and has received his assent."

I would invite the attention of the hon. Members to two passages in this clause, particularly. The first is 'as have been declared by Parliament by law to be essential'. The first condition precedent is that Parliament must declare by law that certain commodities are essential and that is sought to be done by this Bill. The second thing is, a mere declaration is not operative. What the declaration does is that it ensures that it shall be reserved for the consideration of the President. These are the only two things here. We declare these commodities are essential. Having declared, what happens? It does not debar a State from enacting legisla-tion: any State can enact legislation in respect of commodities declared to in respect of commodities declared to be essential and raise the taxes or impose fresh taxes. It is not ultra vires of the Constitution, but it can only be operative when it has been reserved for the consideration of the President and has received his assent. If these two facts are comprehended, then all the points raised by my hon.

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friends would fall in their proper perspective. If in order to tell a State Government that the law en-acted by that Government shall not be operative, a refusal of consent of the President is essential. Therefore how do you expect to make this retrospective or operative from the date of the commencement of the Constitution? There must be some method to say that this has not re-ceived the assent of the President and therefore it is ultra vires of the Con-stitution. There is no liability on the part of the State Governments to reserve a Bill for the assent of the President until this law is passed. It is only after this law is passed that the Government will say that this is a thing that falls within article 286 (3), therefore, it ought to be reserved for the assent of the President. It is for the President to say 'yes' or 'no'. Hon. Members will please note this particular point. If the inter-pretation is, as they say, that the moment we pass this particular law here in Parliament it has retrospective effect, how are the stages to be gone through? When is it to be reserved for the assent of the President? So obviously it is impracticable for this legislation to be ex post facto. It must only operate from the date that it becomes law. If that point is it becomes law. If that point is understood, the very impossibility of your doing anything in the matter is your doing anything in the matter is clear, no matter what the Supreme Court or anybody else may say. It is impossible to put it into practice. If you realise that point, then the meaning of the words 'after the commencement of this Act' becomes very clear. Well, Sir, I quite agree that the words can be removed. That is own view subject to what the is my own view, subject to what the legal advisers will say. I think ny hon. friend on my left is having the position examined by the legal ad-visers, whether it is necessary or not: visers, whether it is necessary or not: because the law becomes operative only when it receives the assent of the President. Unless it is mentioned in the body of the Bill that it will take effect from the 1st August, 1952 or from the 1st of January, 1953, it becomes operative immediately after it is notified in the Gazette after the it is notified in the Gazette alter the President has given assent. I mean I mean Therethat is the normal procedure. There-fore, to fasten an objection to the tenor of the Bill on that particular clause 'after the commencement of this Act' is. I think—it is my own personal view, but it is a matter subject to correction by people who are experts-I am not an expert in this particular case—meaningless. If these two things are understood, I think my hon, friends who have been raising this question here in this House will

see that we are not competent to raise it. Of course it may be that other bodies outside may have their own interpretation. If the Supreme Court gives a different opinion on a particular measure from that intended by the framers of the Constitution, that is a different matter altogether. But as it is now, the intention is very clear. The intention is that only after the Parliament declares by law that these commodities are essential, any enactment has to be reserved for the consideration and assent of the President. These two things operate in regard to any legislation that has been passed before and any tax law that has been operating.

10 A.M.

The second question that my hon. friend, Mr. Sundaram, raised was in regard to the position of States which have not enacted sales-tax laws. Again, I would like to impress upon hon. Members that this is only a legislation which seeks more or less the same powers as are sought by Subjects in the Concurrent List. Where the legislative sphere of the Centre and the States are co-extensive, what is done is that a Bill passed by a State Legislature is reserved for the assent of the President merely to see that there is no overlapping in the jurisdiction, between the Centre and the States. Similarly, in this regard it does not mean that the Centre is likely to say *i.e.*, my hon. colleague, the Finance Minister, is going to advise the President: 'Please is refuse consent for this particular law' refuse consent for this particular law'. It is merely to see if any tax imposed on a commodity is higher than the rate prevailing in the various States. Then very possibly my hon. friend will say: "Well, this affects exports, this affects food consumption, this affects certain industries; please do not raise it to this level but keep it at the same level as other provinces". The position of the States which have not imposed a sales-tax will be amply safeguarded. The Finance Minister will be bound to allow them to levy will be bound to allow them to levy a sales-tax equivalent to and certainly not higher than the rate of tax that is not higher than the rate of tax that is prevalent in the adjoining States. That position is clear. My hon. friend was raising this question about States which had not levied sales-tax or which had not raised sales-tax to the same extent as prevailing in States like Bombay, U.P. or Madras. I have no doubt in my mind that no Finance Minister can possibly refute the assent of the President for any enact-ment where the rate of tax does not exceed the rate in adjoining areas. exceed the rate in adjoining areas. That is where uniformity comes in. Uniformity is not something which is

achieved by reduction of the rate of sales-tax in other provinces. It is a matter of internal autonomy. But it is achieved merely by seeing that it is not raised beyond the rates that are now obtaining—that is the intention of the Government. I am quite categorical on that point. There is nothing more intended than to see that the position is not in any way worsened rather than that the position is bettered.

The other point that my hon. friend, Mr. Sundaram, referred to was in connection with the Taxation Enquiry Committee.

Shri U. M. Trivedi: On a point of information, Sir. Can the hon. Minister say something about the provisions of articles 13 and 14 of the Constitution?

**Mr. Speaker:** I think we are going into a further question which is not relevant to the present discussion.

Shri T. T. Krishnamachari: Sir, that is what I wanted to convey. The other point raised by my hon. friend was regarding the Taxation Enquiry Committee. It is something totally different. Every time the Finance Minister makes his Budget speech or brings in legislation affecting taxation, this question is brought up, and my colleague has given an assurance that before long we shall have a Taxation Enquiry Committee. How are you going to implement the recommendations of the Taxation Enquiry Committee? It is a matter which we cannot prejudge at the moment.

Dr. Lanka Sundaram: In respect of this.

Shri T. T. Krishnamachari: If the Taxation Enquiry Committee says that there should be uniformity in regard to sales-tax—say it should be a particular percentage—it will involve an amendment of the Constitution, rather than a manipulation by means of the powers vested in the Government of India under article 286 (3). As I said, the powers are very limited. The powers cannot be exercised to the detriment of those States who are not levying sales-tax. It cannot be exercised to the detriment of those States which are levying a lower rate of tax. If all these points are conceded, well we must find other means of implementing the recommendations of the Taxation Enquiry Committee. Should we feel that we should do so, that perhaps might lead us to the question of an amendment of the Constitution, with the consent of the participating States, because their consent would be necessary for any amendment of the Constitution.

#### [Shri T. T. Krishnamachari]

That is a question which cannot be brought in in a fairly limited circumstance like this. What I would like to emphasise once again is this: the words 'after the commencement of this Act' are not vital because the law will operate only after the com-mencement of this Act. The liability on the part of the Governor of a State to reserve this Bill for consent of the President will only operate after the commencement of this Act, and no matter how you interpret it here, you cannot make this bill re-trospective. It is not the intention of the Government at all. If the courts hold a different view, that is a different matter altogether. At the moment that is the intention of the Once again I em-ing on behalf of the Government. bhasise, speaking on behalf of the Government, that it is not their inten-tion to jeopardise the interests of those States who have not levied salestax or those who have levied nominal sales-tax in regard to commodities that are envisaged by this Bill. Surely the Finance Minister will give his due consideration to that and the question of uniformity is only uniformity at the stage to which we have reached. It is not a question of achieving uniformity by downgrading things. After all my hon. colleague, the Finance Minister, has told us that he is going to have a conference of Finance Ministers. The matter might be Ministers. The manner "Servered by common "Well agreement. They might say, "Well, on these commodities we should not levy more than one per cent. or one and a half per cent.", and by persuasion and than one per cent. or one and a nair per cent.", and by persuasion and agreement each State might introduce legislation. But that is done not by means of this Act but by means of persuasion. But, if they once cown-grade their tax, well, then this Act will apply and they cannot upgrade it again. They cannot say, "Before the Act was passed we had two per cent.; after the Act was passed we had two per cent., after the Act was passed we volun-tarily put it down to one per cent., now we want to put it up  $\varepsilon$ gain to two per cent., with the consent of the President". No, they cannot do it; once they downgrade it they cannot within the constitution put it up again. That is the as I understand it and as That is the rosition I think generally the Government understands it.

Mr. Speaker: I should like to ask a question of the hon. Minister. I suppose he has explained the legal position and not what the policy of the Government is. To me it appears that, the interpretation of the relevant article of the Constitution is not at all doubtful and it makes no difference whether the words "after the commencement of this Act" are there

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or are not there. In the other view, the interpretation is doubtful and perhaps if these words are dropped this piece of legislation will have a retrospective effect even in respect of laws that are at present existing. I think if the hon. Minister and his legal advisers are very clear on their interpretation, the whole dispute can be ended by dropping these words, "after the commencement of this Act".

The Minister of State for Finance (Shri Tyagi): It is not the intention to give it retrospective effect--let me make it clear. The point is that the States have levied taxes among which sales-taxes are of an important nature. The States are deriving quite substantial revenues through these items howsoever some of essential they may be. Sitting here at the Centre to pass an enactment which might upset their revenues and to dictate to them on their fiscal policy will rather amount to taking a leap in the dark. We know that the Taxa-tion Enquiry Committee will start work soon and their report might be available soon. They will have the right of advising all the States to come to a uniform level of taxation right of advising all the States to come to a uniform level of taxation. They will look into the incidence of taxation everywhere. But if by eliminating the words "after the commencement of this Act" there can commencement of this Act" there can be a possibility that the law can be interpreted to have a retrospective effect, then Government opposes the idea, because, we do not want to take that risk. As far as the achieve-ment of uniformity is concerned. It is our interprior to call a conference. is our intention to call a conference of the State Finance Ministers and by their agreement try to achieve the uniformity if it is possible. Because that can be done only when the Fin-ance Ministers concerned and we are in a position to judge as to how much revenue each State will have to forego on account of this uniformity and what other avenues are open to them. They too have to examine the case. Therefore as I said it is our intention to invite this conference and to secure such a measure of uniformity as far as possible not only in respect of the goods included in this Schedule but also in respect of all commodities if it is possible to do so. That is our scheme, but the success of all such schemes always depends on doing these things with an amount of good-If the States, on the other will. hand, were told that we are compelling them to agree to uniformity then it will only be open to litigation and we will not be able to achieve any-thing. Therefore, for the present the intention is not to give it a retrospective effect.

Shri M. A. Ayyangar (Tirupati): Sir, I want to say a few words. So far as removing this phrase is con-cerned, I am not in favour of that because if the phrase is kept there it will carry out the intention and indi-cate that the Act ought to have no retrospective effect. It largely pends upon the intention of largely dethe Government as has been placed before the House. Let the phraseology remain or not remain—we will come to it later—but the question :.ow is: Is it our intention to give it a retros-pective effect? The question of uni-formity has been referred to again and again on the floor of the House. I believe that under this article of the Constitution no uniformity can be attained. After all it is limited only attained. After all it is limited only to essential goods and not the other goods; on other goods each State can impose any kind of sales-tax or multiple tax and there cannot be uniformity in that matter—so far as I am aware there is no provision in the Constitution giving a right to the Centre to impose a uniformity upon the Constitution giving a right to the Centre to impose a uniformity upon the States. But with respect to essential goods a kind of uniformity may be sought. It is not more in the interest of uniformity that this article has been included as to see that heavy burdens are not imposed on consumer by upon of taxes on on consumers by way of taxes on essential commodities like vegetables, cereals, etc. The intention is that they ought to be available to the consumer though to that extent the community may suffer; it is a question of balance of interest. The question was whether the interest of the con-sumer should prevail or the general interest of the State should prevail by way of getting taxes for the pur-pose of other ameliorative measures. As between these two considerations it was decided that essential commo-dities such as cereals, vegetables and such other things, even coarse cloth, medium cloth, handloom cloth, should not be taxed under normal circum-stances. But if for any particular reason, for the purpose of laising taxes some tax is levied in some States, it must be open to the Centre to advise the President to see such taxation is not burdensome, that that in particular cases no taxes ought to be imposed at all, and with respect to others there ought to be uniformity.

**Shri Kelappan** (Ponnani): Cannot we leave it to the State......

Mr. Speaker: Order, order. I do not wish to encourage these questions and cross-questions. It has got the effect of pro'onging the speeches. He can have an opportunity later if he likes. Shri M. A. Ayyangar: This question of uniformity is only one of the side issues so far as this Bill is concerned. These are essential goods and the question is whether with respect to these goods any State should be allowed to impose any taxes and if so how low it ought to be. To see whether such taxation is burdensome or not is the main purpose for which this article has been enacted and power given to the President so that he may regulate it or restrict it. But so far as the majority of goods are concerned which do not come under the category of essential goods, they are still untouched, the President has no power in the matter and they cannot be reserved for the consideration of the President.

Now let us examine the need for this particular clause. Normally, as the hon. Commerce Minister has told us, no law is retrospective unless it is stated in the law, but there is an article in the Constitution which says article in the Constitution which says in general terms that particular things have to be reserved for the Centre, and so far as essential goods are con-cerned the moment this Parliament declares a commodity as being one of the categories of essential goods immediately the question will arise as to whether the article of the Conas to whether the article of the Constitution will apply or not notwith-standing the general law that no law can be presumed to be retrospective. In view of the article that is in the Constitution, the question is whether, the moment a particular commodity is brought into the category of essen-tial goods, that commodity will not come in the ambit of this article and give it retrospective effect even against the rules of ordinary law. Sir, it is a question of intention: Do we want to give it a retrospective effect or not? As the hon. Minister has said, it is not the intention of Government to upset the whole scheme cf ernment to upset the whole scheme cf the States. It was not yesterday or day before yesterday that the Sales Tax Acts were passed in the States but they were enacted so early as 1941. In some States they were passed earlier, it was in 1937 that the Sales Tax Bill was introduced and passed in the Province of Madras. After the introduction of prohibition today it is the sales-tax that is con-tributing practically the bulk of the revenues of the Madras State. Thus it is not the intention and it ought not to be the intention or right of this Parliament to go and upset the whole taxation structure on which most States are standing today. From a practical point of view and from the point of view of principle, I would like that

#### [Shri M. A. Ayyangar]

this ought not to be given retrospective effect, but in order to avoid any chance of an interpretation by the Supreme Court or any other court that on account of this article it may have retrospective effect merely because it is included in this category, I would like that these words should continue in the Statute itself. Let us not waver, and leave it to the interpretation of the courts. Let us make up our minds whether we want to give it retrospective effect, in which case let this be removed. Otherwise, if no retrospective effect is to be given to this, we ought to retain those words and I would humbly request the Government not to yield on this matter.

**Pandit Thakur Das Bhargava:** May I, with your permission, put one question to the hon. Member who has just concluded in regard to article 286? If according to him this should have retrospective effect, then will the Supreme Court not be competent to hold that this legislation is infructuous?

Mr. Speaker: Order, order. Let us not go into this question. That is why. if the hon. Minister feels that, according to the advice tendered by his legal advisers this legislation connot be retrospective. I suggested to him that we may consider the question of dropping those words "after the commencement of this Act"; because if he is certain in regard to the interpretation the presence or absence of those, words is not going to make any difference. If there is any doubt about it. I have nothing to say. I think that we should now proceed to the main question.

Dr. Lanka Sundaram: May I have your indulgence for raising a small point of some importance? Every year, the State Governments bring forward Finance Bills and sales-tax where it exists today is part of the Finance Bill. If this Bill becomes law and the States of Madras and Bombay continue to allow the sales-tax to figure in their annual Finance Bills, then will that not mean that they will have to reserve Finance Bills for the consideration of the President?

**Mr. Speaker:** Certainly, if they want to pass a Bill by way of amendment, it will be a new law and that position will obtain. It is very clear.

Shri T. T. Krishnamachari: May I point out that both in Madras and Bombay where sales-tax is levied—I am not familiar with other States—, only the rates are varied at the time of the Finance Bill. Mr. Speaker: His point is restricted to the annual Finance Bill.

Shri T. T. Krishnamachari: I think it does not come in the Finance Bill in Madras and there is a separate law. Only in Bombay it does come in as part of the Finance Bill.

Mr. Speaker: But even in other States, if there is any attempt to amend the legislation, that amendment will come within the purview of this Act.

**Dr. Lanka Sundaram:** Apart from amendment, the existing level of taxation is included in the Schedule to the Finance Bill, which is an annual Bill.

Mr. Speaker: It is the same thing, and much more so in the case of annual taxes. Whether it is annually in the Schedule of the Finance Bill or whether it is by way of an amendment of the Sales Tax Act in that particular State, it makes really no difference. It becomes a new legislation. On a proper interpretation of the matter, I feel that there is no doubt. After all, my interpretation may be taken for what it is worth. I do not know how far it will weigh with the courts, but it cannot be said that merely because you amend an old legislation therefore that legislation is now new. So far as that point is concerned, the position is clear.

**Dr. Lanka Sundaram:** What about continuation of the existing legislation?

Mr. Speaker: Order, order. I think it is not necessary to discuss the matter any further. Let us leave it to the courts to interpret it. If the hon. Minister is not sure of his ground, he may insist upon the retention of these words as the hon. Deputy-Speaker suggested. It is for him and the hon. Members to decide. Let us make up our minds as to whether this legislation is to have retrospective effect or not. That is the chief point.

Shri M. S. Gurupadaswamy (Mysore): I want to draw your attention to article 288.

**Mr. Speaker:** I do not think it is necessary to go into the legal aspect. The matter has been sufficiently discussed.

Shri M. S. Gurupadaswamy: It is a related article.

Mr. Speaker: I know, but article 286 has been referred to so many times and the matter has been fully dealt with.

Shri M. S. Gurupadaswamy: I will try to throw some new light on the interpretation. 4599

**Mr. Speaker:** I do not think that the matter is so dark to hon. Members as he seems to think. They have had a proper appreciation of article 286 and we may leave it there.

**Dr. Lanka Sundaram:** Is the Finance Minister replying to the debate or has he concluded?

**Mr. Speaker:** He has concluded, but the debate continues.—Yes, Shri Gandhi.

[MR. DEPUTY-SPEAKER in the Chair.]

Shri V. B. Gandhi (Bombay City-North): Sir, when this Bill was first moved, very high hopes were raised in the minds of many in this House that at last here was being initiated a legislation to bring about some kind of uniformity in the sales-tax laws as they prevailed in the various States. It was as a result of these rather high hopes entertained by many that there was that very great enthusiasm to try and get included in the Schedule as many new categories of goods as possible, but now it is becoming very apparent that what many in this House thought was to be the result of this Bill is not going to be realised.

Let us first understand clearly that it appears to be the intention of the Government in sponsoring this Bill that the categories included in the Schedule attached to this Bill are categories which are not going to be exempted from sales-tax as some of us had hoped. The sales-taxes on these categories which are already in existence will be allowed to continue and what is more, other States which do not at present have any sales-taxes will be permitted to impose new salestaxes but only after they have reserved their legislation for the consideration and consent of the President. Therefore, the much-talkedabout uniformity and the high hopes about uniformity which we have been entertaining all reduce themselves to this that that uniformity will be that new sales-tax laws will not be permitted to impose taxes at a rate higher than the rate prevailing in other States which have had these sales-taxes. This is very clear from the speeches of the hon. Minister Shri Tvazi and the hon. Minister Shri tvazi and the hon. Minister Shri tvazi and the States which do not have sales-taxes. It is very clear that they are free to have sales-taxes and the idea of uniformity is now so modified or qualified that uniformity will be enforced only in respect of the rates of taxes. Now, if that is so, then where is the point in making so much noise about the question of giving effect retrospectively to this Bill? After all, the taxes that are already in existence will continue. So, whether you say that it will have retrospective effect or you do not say so, those taxes are not going to be abolished. In the light of the explanation given by the two hon. Ministers, the raison d' etre of the demand for giving retrospective effect to this new Bill disappears altogether.

About the intention of the framers of the Constitution in respect of article 286, there is one point which I would like to submit. It seems in some of the discussions that we have had in this House, we have been proceeding on the assumption that the framers of the Constitution were chlivious of the existence of the salestaxes in the States when they framed clause (3) of article 286. I think it would not be right to assume that they were oblivious of the existence of sales-taxes in the States. Now if the framers of the Constitution had wanted that clause (3) should have retrospective effect or if they had any intention to deal in any particular way with the sales-taxes that existed in the States at that time they would certainly have made some kind of a provision, just as they have made a provision in clause (2). In clause (2) they have added a proviso to the effect that those sales-taxes which deal with inter-State commerce shall continue to have effect only until the 31st day of March, 1951. That is clear evidence of the fact that they did take notice of the salestaxes that were being levied at the time and where they wanted that a clear provision should be made a proviso has been added. They could just as well have added a similar proviso to clause (3) if that was their intention.

Finally, I would say that our only hope for a real uniformity in salestaxes rests in having Sales-Tax some day made a Central subject and I want to assure my hon. friend Dr. Lanka Sundaram that he has friends on this side also wishing to see some day as a result of the efforts of the Taxation Enquiry Committee uniformity being achieved. Therefore in this attenuated form I do not think this House ought to spend much of its ardour on consideration of this Bill. As it is it is neither going to achieve much good nor result in much harm.

Shri T. S. A. Chettiar (Tirupour): I have nothing more to add to what has been clarified. I certainly agree with you. Sir, that there are already doubts thrown on the original article

#### [Shri T. S. A. Chettiar]

in the Constitution and it would not be good to leave this matter in doubt. So, the phrase "after the commencement of this Act" is absolutely essential, so that the States' thances may remain undisturbed.

Dr. Lanka Sundaram said something about the sales-tax in Madras. If I may correct him, it is nearly one-third of the total collection of sales-taxes in India—that is, nearly Rs. 15 crores comes from sales-tax in Madras.

**Dr. Lanka Sundaram:** I did not say one-third; I said 46 per cent. in my opening speech.

Shri T. S. A. Chettiar: The point is that we have to be practical men. Article 286 (3) enunciates a very good principle that essential goods should not be taxed. But while giving effect to the principle, it is also desirable for us to appreciate the conditions obtaining in the provinces and see that we do not upset the finances of the various provinces. A fear was entertained about this at the time of the framing of the Constitution. Very wisely on consultation with the various States and the Finance Ministers the Government of India have come to the conclusion that this must have effect only after the commencement of this Act.

One of my hon. friends referred to the Finance Bill in the States. May I point out to him that as far as the sales-tax is concerned, in Madras any change in it is not made in the Finance Bill, but by an amendment to the Sales-Tax Act. So, the question of Finance Bill does not arise. So any amendment to the Sales-Tax Act passed in the provinces after this Act will have to be reserved for the approval or consent of the Precident.

Mr. Deputy-Speaker: He wants to know whether in the annual Finance Bills the rates of sales-taxes are included.

**Dr. Lanka Sundaram:** My hon. friend Mr. Chettiar was an old Minister of Madras Government. What about the budgetary statement of yields of various taxes? Is the sales-tax not reckoned in the Budget statement?

Shri T. S. A. Chettiar: It does not recur every year.

**Dr. Lanka Sundaram:** How do you make up your statement of revenue and expenditure every year?

Mr. Deputy-Speaker: Even if it is taken into account, why should it be a part of the Finance Bill? As a matter of fact when the tariff rates are changed, it is the Tariff Act that is amended.

Shri T. S. A. Chettiar: The sales-tax is not for one year; it is a permanent tax, unless it is changed.

There was one point raised by certain Members of the House, that inter-State trade will be affected. May that I point out to them that clauses (1) and (2) of the same article amply make provision that any sales tax levied in any one State does not affect inter-State trade when things are exported to other that fear need not be States. So that fear need not be The time-limit has also entertained. been given beyond which sales-tax on inter-State trade cannot be levied, that is 31st day of March, 1951. Today sales-tax can be levied on goods no exported from one State to another. So no fear need be entertained on that score.

Now, Sir, I would like to say a few words about the Schedule, where I have not been able to understand certain items. In item 16 antibiotics and sulpha drugs have been added. They are very important. But equally important, I should think, are anti-malaria and anti-tuberculosis medicines.

Mr. Deputy-Speaker: The  $\sim$  hon. Member may table an amendment to that effect.

**Shri T. S. A. Chettiar:** Before doing so, I would like to know whether they would accept it.

Malaria is a big scourge and tubercu'osis is becoming one of the biggest scourges of India. I understood that one of the objections for their inclusion is that there are various anti-malaria medicines, Ayurvedic, etc. I would suggest that there are certain specifics with regard to antimalaria: there are also certain specifics with regard to tuberculosis and it should not be difficult for Government to include them in the Schedule.

Secondly, I would refer to item 15. Item 15 is "books. exercise books and periodical journals". Surely books are very important and exercise books should go with them because they are necessary for education throughout the country.

Shri Velayudhan (Quilon cum Mavelikkara—Reserved—Sch. Castes): Printed textbooks should also be included.

Shri Tyagi: Books will include printed textbooks.

Shri T. S. A. Chettiar: May I say one word about periodical journals? There are journals and journals. In my State—I do not wish to mention them—there are certain journals against which action has been taken so many times. Today certain journals are being published in our Indian languages which cater to the worst tastes and these will get the advantage of limited sales-tax. These in my opinion should be discouraged in every way. If they are also to be encouraged as an essential commodity and be declared in a Bill like this that they are essential for the well-being of the people of this country I think that is a gross misunderstanding of what was the intention of article 286 (3) as well as what we intend, and I would very earnestly request the Government to consider the matter. I have given an amendment to omit "periodical journals", or they can have it as "educational journals". But to give such a wide phraseology as in the Bill will encourage a kind of literature which it is not our intention to encourage—which it is not the intention of either the Government or, I believe of the House to encourage.

**Mr. Deputy-Speaker:** May I ask the hon. Member if it is open to Parliament to arbitrarily include any article under these 'essential articles'?

**Shri T. S. A. Chettiar:** Any article which this Parliament considers essential for the life of the community can be included.

Mr. Deputy-Speaker: Is it oven to any State to call it in question and say "these are not essential, Parliament is wrong in doing so, and Parliament is thereby taking away from our jurisdiction"?

Shri T. S. A. Chettiar: There is no power for the State to question it. Under article 286 (3) "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.......".

Mr. Deputy-Speaker: I am afraid the hon. Member has not understood my question. Is it open to a State to call in question the propriety of including some articles as 'essential' in the opinion of Parliament when as a matter of fact, according to them, they are not essential and the jurisdiction of the State is being taken away?

Shri T. S. A. Chettiar: No State can call it in question.

Mr. Deputy-Speaker: It is not said expressly. 123 P.S.D. Shri T. S. A. Chettiar: As far as this section is concerned, whatever is considered essential by Parliament.....

Mr. Deputy-Speaker: I am only referring to it for the purpose of telling hon. Members that merely because we have got the power we cannot include all and sundry articles unless they are essential. The main point ought to be whether a particular newspaper or a class of newspapers is essential for the life of the community—whether a distinction ought not to be made in this respect or whether it is absolute and because it is declared as essential by Parliament the State should not call it in question.

**Shri K. P. Gounder** (Erode): Such a thing would be a fraud on the use of the power. That would be *mala fide*.

Shri T. S. A. Chettiar: Whatever is considered as essential by Parliament, the State Government cannot call it in question whether that is essential or not.

There is one other matter which requires clarification. Agricultural machinery is added on to the Schedule, and 'very' correctly because agricultural machinery is a very essential instrument of production in this country. But today in a large part of the country electric motors and pump-sets are being utilised as part of agricultural machinery. I hope it will be made clear that "fertilisers and manures, agricultural machinery and imolements" will include such things as electric motors and pumpsets which are actually utilized for agricultural purposes. I hope the Government will make it clear that it is so. That is all that I have to say, Sir.

**Shri Neswi** (Dharwar South): On a point of information. May I know whether daily newspapers come under the category of 'periodical journals'?

**Mr. Deputy-Speaker:** The hon. Minister will take a note of all the questions and he may reply to them when he speaks in reply.

श्री सिंहासन सिंह (जिला गोरखपुर---दक्षिण): उपाध्यक्ष महोदय, यह विषेयक जो इस सदन के सामने है उस पर एक ही दृष्टि से बातें हो रही हैं और वह सही दृष्टि है। इस विषेयक को पास कर देने के बाद इस का असर हमारे सारे प्रान्तों के उन विषयकों पर क्या पड़गा जो अब तक मौजूद हैं। सेल्स टैक्स (sales tax) लगाने का अधिकार [श्री सिहासन सिंह]

इस भारतीय विधान के अन्दर केवल प्रान्सों को है। सेल्स टैक्स लगाने का अधिकार इस केन्द्रीय सरकार को नहीं है, केन्द्रीय सरकार को केवल अखबार के कागज पर सेल्स टैक्स लगाने का अधिकार है। सातवें शेड्यूल की सेकेन्ड लिस्ट (second list) में जो कि प्रान्तों की लिस्ट है उस के ५४ वें भाग में इस प्रकार है कि :

"Taxes on the sale or purchase of goods other than newspapers."

न्यूज़ पेपर पर सेल्स टैक्स लगाने का अधिकार केन्द्रीय सरकार को है और वह आडटेम ९२ केन्द्रीय सुची में है :

"Taxes on the sale or purchase of newspapers and on advertisements published therein."

तो चूंकि केवल प्रान्तों को ही अधिकार है, अन्य वस्तुओं पर टैक्स लगाने का, इसलिये प्रान्तों में आपस में विषमता हो सकती है । एक प्रान्त किसी वस्तु को एसेन्शल (essential) समझ सकता है दूसरा उसे एसेन्शल न समझे यह हो सकता है । हो सकता है कोई अधिक टैक्स लगाये कोई कम लगावे । इस विषमता की दूर करने के लिये हमारे संविधान में एक दफ़ा रक्सी गई है और उस दफ़ा में उस का जो कोष्ट है उस में लिखा दुआ है :

"Restrictions as to imposition of tax on the sale or purchase of goods."

यानी सेल और पर्चेज आफ गड्स (sale or purchase of goods) पर जो कानून बनेगा उस TT. हमारी केन्द्रीय संसद् रेस्ट्रिक्शन (restriction) लगा सकती ਛੋ. के इस लि ये दफ़ा २८६ दी Ì हइ और उसी के अन्दर आज हम इस विघेयक को लाये है, और इस विधेयक के लाने मैं जो उस का कारण दिया गया है उसके अन्दर भी यही कारण दिया गया है कि चूंकि विषमता हो सकती है इसलिये उन विषमताओं को दूर करने के लिये इस विषेयक की आवश्यकता है ।

अब दफ़ा २८६ के अन्दर जो विषेयक बन रहा है उस के अन्दर यह शब्द आये हैं :

"After the commencement of this Act."

वे अमक अमक चीज़ें जो शेडयुल में दी गई हैं वह ऐसी आवश्यकीय वस्तूयें मानी जायेंगी जिन पर बिना हमारे राष्ट्रपति की अनुमति के सेल्स टैक्स नहीं लग सकता । यानी आवश्यकीय वस्तूओं पर सेल्स टैक्स लगाने का प्रान्तीय सरकारों को होने के अधिकार बावजद वह अधिकार सीमित हैं। उस पर सेल्स टैक्स नहीं लग सकता जब तक हमारे राष्ट्रपति की स्वीकृति उस के लिये नहीं अब तक बहुत से विधेयक बन मिल जाती । चके हैं, उन के लिये राष्ट्रपति की स्वीकृति नहीं थी, की आवश्यकता आज इस विधेयक के जरिये हम चाहते हैं कि वह विषमता दूर हो और सब कानून एक प्रकार से लाये जायें । हमारे कामर्स के मिनिस्टर महोदय (Minister of Commerce)ने कहा कि हम वह विषमता इस तरीके से दूर करेंगे कि जिन प्रान्तों में कानून बन गये हैं अगर उन में कोई चीज ऐसी है जिस पर ज्यादा टैक्स हो, तो आइन्दा जो कानून बनेंगे उन में उन ची जों पर भी उतना ही टैक्स रखा जायेगा जिस में सब जगह समानता हो। यानी जो दष्टिकोण आप की सरकार না है उस के अनुसार आवश्यक वस्तुओं पर भी टैक्स वड़हाने का इरादा है कम करने का नहीं है।

दूसरा प्रांत समझता है कि यह आवश्यकीय वस्तू है । और उस को जीवन यापन के लिये जरूरो समझ कर उस पर टैक्स नहीं लगाता । जैसा कि मेरे मित्र कृष्णमाचारी **लेकिन** ने इस का मतलब लगाया उस को उतना ही कर लगाना पड़ेगा जैसा कि और प्रान्तों ने लगाया है । अब इस विधेयक के रहते हमारे हुए इस का असर क्या होगा । एक श्रेणी के प्रान्तों में से सब ने यह कानून बना रखा है। बी० श्रेणी के प्रान्तों में से भी मसूर, कोचीन और मध्य भारत ने यह कानून बना लिया है। अब बी० और सी० श्रेणी के छोटे छोटे प्रान्त रह गये हैं जिन्होंने सेल टैक्स का कानून नहीं बनाया है। दिल्ली ने भी सेल टैक्स का कानून बना लिया है। जिन प्रान्तों ने सेल्स टैक्स का कानून बना लिया है उन पर यह विधेयक जो हम पास करने जा रहे हैं कोई असर नहीं हल सकता हम चाहे वस्तुओं 1 को आवश्यकीय करार भी दे दें तो भी उन प्रान्तों पर यह लागू नहीं होगा । नतीजा यह होगा कि भारत के चार बटे पांच हिस्से पर इस विधेयक का कोई असर नहीं होगा। तो हम इस सदन में जो विधेयक पास करें अगर उस का असर भारत के बड़े भाग पर न हो कर एक छोटे भाग पर ही होता हो तो उस के लिये हम लाखों रुपया क्यों खर्च करें। मेरे विचार से हम ऐसा विघेयक बनायें ताकि और प्रान्तों में जो विधेयक बने हुए हैं वे भी इस के अनुरूप हो जायें। अब इस के लिये एक राय जो कल हमारे मंत्री महोदय की तरफ से पढ़ कर सुनाई गई उस के अनुसार उन को कानूनी सलाह-कारों ने यह बताया है कि इस दफा की रू से हम ऐसा कानून नहीं बना सकते जिस के जरिये उन कानूनों पर भी जो कि बन चुके हैं और प्रान्तों ने बना लिये हैं इस का असर पडे इसी संविधान के अन्दर एक दफा है जो कि हमारे राष्ट्रपति को यह अधिकार

Bill देती है कि वह ऐसे किसी कानून को कि किसी प्रान्त ने बना लिया हो लेकिन जो इस संविधान की किसी धारा के या किसी पैरा के विरुद्ध हो तो उस को संतुलित कर दें जिस से कि जो कानून बनें वह सब एक लाइन में आ जायें। इस सम्बन्ध में मैं संविधान की दफा ३७२ के क्लाज २ को पढ़ देना चाहता हूं।

Continuance in force of existing laws and their adaptation.

जो पुराने कानून हैं वह ला (Law)के रूप में कायम रहें और वह किसी तरह से नवीन ला के साथ मिला दिये जायें इस के लिये दफा ३७२ हम ने संविघान बना रखा ह । संविघान की दफा ३७२ क्लाज २ इस प्रकार है :

"372. (2) For the purpose of bringing the provisions of any law in force in the territory of India into accord with the provisions of this Constitution, the President may by order make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law."

फिर आप इस का ऐक्सप्लेनेशन ( explanation ) देखें । ऐक्सप्लेनेशन नम्बर १ इस प्रकार है :

"Explanation 1.—The expression 'law in force' in this article shall include a law passed or made by a Legislature or other competent authority in the territory of India before the comencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas."

यानी जो ला इन फोर्स (law in force) है उस को भी डिफाइन ( define ) किया है और यह पावर्स ( powers ) भी दी हैं कि अगर किसी प्रान्त की विधान सभा

# [ श्री सिंहासन सिंह ]

ने इस संविधान के लागू होने के पहले कानून बना दिया हो तो उस क़ानून को भी संविधान के समानान्तर लाने के लिये राष्ट्र-पति को अधिकार है कि वह उस को अपने आर्डर से जिस तरह चाहें माडीफाई (modify) करके एक लाइन में ला सकते तो मेरा सुझाव यह है कि हम जो 1 वक्त विधेयक लाये हैं अगर हम ने इस इस को पास कर दिया तो वह इस प्रकार का कांनून होगा जिस का असर भारत के चार बटे पांच भाग पर नहीं होगा, केवल एक बटे पांच भाग में आवश्यकीय वस्तुओं पर वह लागू होगा। अगर हम कुछ और वस्तुओं को आवश्यकीय मान लेते हैं तो जो कानून बन चके हैं उन को भी हम इस के अन्दर लावें। हम आज बहुत सी वस्तुओं को आव-श्यकीय करार दे सकते हैं परन्तू सम्भव है कि दूसरे प्रान्त उन को आवश्यकीय वस्तु न मानते हों। जैसा आप ने कहा यह उन वस्तुओं पर लाग नहीं होगा जो कि आवश्यकीय नहीं मगर जो आवश्यकीय वस्तुयें करार हैं। दी जायेंगी, जैसा कि पार्लियामेंट को संविधान के अनसार अधिकार है, उन पर अगर किसी प्रान्त में पहले से कानून बना है तो उन वस्तुओं पर यह लागू नहीं होगा। तो यदि ऐसे प्रान्तीय कानून को संविधान के समानान्तर बना दिया जाय तो यह विधान के विरुद्ध नहीं होगा। एक ही वस्तू पर इस भारत में दो तरह का कानून न लागू हो इसी लिये दफा २८६ सब क्लाज ३ इस संविधान में रखागया है। तो मेरा सुझाव है कि अभी हम इस विधेयक को मुल्तवी कर दें । यह जरूरी नहीं है कि जो विधेयक यहां लाया जाये वह पास हो ही जाय चाहे उस का असर कुछ हो या न हो । अगर कोई विषेयक लाना है तो इस प्रकार लाना चाहिये कि वह सारे **दे**श के लिये लाभप्रद हो । मैं यह नहीं कहना

चाहता कि हम यहां जो विघेयक पास करते हैं और जिन पर लाखों रुपया खर्च करते हैं वह बेकार हैं । पर में यह कह सकता हं कि उन में से कुछ ऐसे हैं कि जिन की कभी जरूरत नहीं पड़ेगी । अभी आप ने किमिनल ला अमेंडमेंट ऐक्ट पास किया जिस के अनुसार घस खोरी को बन्द करने के लिये दफा १६५ए बनाई है कि घुस देने वाला भी उतना ही अपराषी है जितना कि घूस लेने वाला। इस का परिणाम यह होगा कि घुस खोरी पकडी ही नहीं जायेगी क्योंकि घुस देने के बाद कोई आदमी यह कहने नहीं आयेगा कि मैं ने घुस दी है। क्योंकि अगर काम बन गया तो कौन आयेगा, और अगर काम नहीं बना तो वह पकड़ा जायेगा । कहा गया कि उसको ऐप्रुवर (approver) बना अब ऐप्रूवर बनने के लिये दिया जायेगा । कितनी दिक्कतें उठानी पड़ती हैं यह ऐप्रूवर ही जान सकता है। और ऐप्रवर बनने पर भी जब तक मुकदमा चलेगा तब तक उस को जेल में रहना पडेगा । तो कौन सा ऐसा आदमी मिलेगा जो रुपया भी दे और जेल जाये और अपने हथकड़ी लगवाये और ऐप्रुवर बने । इस के अलावा आप ने एक दूसरा विधेयक भी पास किया । इस कानून को आप ने इसलिये पास किया कि गैर कानुनी असेम्बली के खिलाफ अब नेवी (Navy) और एअर फोर्स (Air force) को भी इस्तेमाल किया जा सकेगा। हम ने देखा कि ब्रिटिश हुकुमत के जमाने में भी यह कानून बना हुआ था कि ऐसे मौकों पर मिलिटरी को काम में लाया जा सकता था लेकिन हम ने देखा कि सिवा एक दो जगहों के, जैसे कि जलियां वाला बाग में, उस का इस्तेमाल कभी नहीं हुआ । अब हम ने इस में एक नई धारा लगा दी जिस का कि कभी इस्तेमाल नहीं होगा । **इ**सलि**ये** में इस सदन से और अपने मंत्री महोदय से

बड़े अदब से प्रार्थना करना चाहता हं कि महज विधेयक के लिये विधेयक न लाया जाय। वह विधेयक लाया जाय जो कि पास होने के बाद हमारे देश के लिये कल्याणकारी हो। तो मैं कहता हं कि आप इस पर गौर करें और अगर इस को रखना है तो इस को रिट्रास्पैक्टिव (retrospective) बनायें। इस के लिये जो मैं ने अमेंडमेंट (amendment) दिया है उस को अगर आप मंजूर कर लें तो यह रिट्रास्पैक्टिव हो जायेगा और सब स्थानों पर भी लागू हो जायेगा। ऐसा करने के लिये अगर इस बिल को कुछ समय के लिये मुल्तवी कर दिया जाये तो कोई हर्ज नहीं होगा। मैं ने अपनी सही राय हाउस के सामने रख दी वैसे अगर वोट का वक्त आयेगा तो इस बिल के मुआफिक ही वोट देना होगा, चाहे यह बिल सही हो या गलत हो । लेकिन जो मेरी सही राय है वह मैं ने हाउस के सामने रख दी है। इसलिये मैं फिर कहना चाहता हं कि यह जो आप इतना बड़ा विधेयक यहां पास कर रहे हैं इस का असर ए क्लास के ९ प्रान्तों पर नहीं पड़ेगा। बी क्लास की जो आट स्टेट्स हैं उन में से तीन ने सेल्स ऐक्ट पास कर दिया है। उन पर यह लागू नहीं होगा । इस के अलावा आप ने इस में यह भी दिया है कि जिन प्रान्तों के संविधान लागू होने के बाद भी ऐसा कानून पास कर दिया है उन पर भी यह लागू नहीं होगा । दिल्ली ने पास कर दिया है तो सब ने पास कर दिया है सिर्फ रह गये हैं दो तीन स्टेट जैसे कुर्ग या कच्छ । तो सिर्फ इन छोटी स्टेट्स पर लागू करने के लिये इस बिल को यहां पास करना बेकार होगा । यह छोटी छोटी स्टेट्स हैं। रहा राजस्थान सो वहां के आदमी ज्यादातर बाहर रहते हैं। इसलिये मेरा सुझाव यह है कि गवर्नमेंट इस पर गौर करे और गौर करने

के बाद इस विघेयक को ऐसा रूप दे कि यह सारे भारत पर लागू हो जिस से सारे देश का लाभ हो ।

Shri M. S. Gurupadaswamy: Sir, the trend of the debate......

Mr. Deputy-Speaker: Hon. Members will be kindly brief. The principle of the Bill has been argued at length. The question of law has also been argued at length. No doubt some more articles may be cited. The matter has been debated at length.

Shri M. S. Gurupadaswamy: The recent trend of the debate seems to take a turn from the more important to the less important, from the more essential aspects of the Bill to the less essential aspects. The question is whether there should be a declaration of certain goods as essential. And, if it is the intention of the Government to declare certain goods as essential, whether there should be any tax at all, and if there should be any tax, then the question should it be retrospective or not? That is the whole point.

I gather the intention of the Government is that the tax should not be retrospective. But, the provision of the Constitution is very clear and unambiguous. I wish to draw the attention of the hon. Minister to certain related provisions of the Constitution. I want him to see articles 288 (1) which is very clear. It says:

"Save in so far as the President may by order otherwise provide, no law of a State in force immediately before the commencement of this Constitution shall impose, or authorise the imposition of, a tax in respect of any water or electricity etc......"

There, the phrase, "no law of a State in force immediately before the commencement of this Constitution" is deliberately included. The intention here is not to make it retrospective, but to make it apply only to future cases, after the commencement of the law. If it is the intention of the authors of the Constitution not to make it retrospective, then, the same wording should have found a place in article 286 (3).

**Shri Tyagi:** In that case, it becomes retrospective till the time when the Constitution came into force.

Shri M. S. Gurupadaswamy: Yes; that is what I mean. The retros-

#### [Shri M. S. Gurupadaswamy]

pective aspect of this law should commence of course after the commence-ment of this Constitution. That is My only point is this. very clear. If the Government's intention is to apply this law only to future cases. then this phrase ought to have found a place in article 286 (3). That is not to be found. What we find there not to be found. What we find there is this, "No law made by the Legisla-ture of a State imposing, or autho-rising the imposition of, a tax......" Therefore, if it is the intention of the Constitution makers to make this law to apply after the commencement of the Act that is passed by Parliament, then, you should have found after the words 'No law' the word 'hereafter'. I am of opinion that the words 'No law made .....' should be interpreted.....

Mr. Deputy-Speaker: Is it not the other way? I thought the hon. Member was saying that because in article 288 (1) a particular provision is made, after the comencement of the Constitution, notwithstanding the provision in the earlier law, that provision will cease to be in operation. That is what I understood. Whenever the Constitution wanted to apply a parti-cular law to modify a pre-aviating law cular law to modify a pre-existing law. it has stated so definitely. Here, it is not so stated. Therefore, it is not retrospective. That is what flows from the argument of the hon. Mem-He seems to argue conversely. ber.

Shri M. S. Gurupadaswamy: Sir, what I have understood from this provision is this. If it is the intention of the Government or the Constitution makers not to make this law retrospective, then, this phrase should have found a place. It is explicitly provided here.....

Deputy-Speaker: No, no. On Mr. the other hand, the hon. Member will read article 288 where it says:

"Save in so far as the President may by order otherwise provide, no law of a State in force imme-diately before the commencement of this Constitution......."

That is, unless he says that this shall not be retrospective, no law of a State in force shall impose or autho-rise the imposition. That is, in force already. And, if it is imposed, to that extent it is repugnant, in the case of water, electricity, etc. But for the words "no law in force" this will not be retrospective. The hon. Member says that because these words are not there. It is not retrospective are not there, it is not retrospective. The argument is the other way.

# Wherever the Constitution wanted to say that a particular law must be retrospective, it is said so. Wherever it did not want, it did not say so and left in general terms as in article 286. I am afraid the hon. Member is put-ting into article 288 a construction which is absolutely contrary to the intention of the framers. Possibly

intention of the framers.

corrected.

Shri T. T. Krishnamachari: I may also explain, Sir, that the position here is this. It is a question of immunity of instrumentalities. Immunity is withdrawn only by Presidentiai action. It does not really apply the other question at all.

I may be wrong. I would like to be

Mr. Deputy-Speaker: Is it not in article 288?

Shri T. T. Krishnamachari: Article 288 (1) says that there should he absolute immunity of instrumentalities. But, that is saved by Presidential action. If the President says, well, immunity cannot be withdrawn in certain cases, then, it operates. Other-wise, there is no Presidential action and there is absolute immunity of instrumentalities.

Mr. Deputy-Speaker: The wording in article 288 is "no law in force immediately before the commencement of the Constitution"; that is what we are concerned with.

11 A.M.

Shri T. T. Krishnamachari: Your interpretation, Sir, is quite correct. There is express provision there. It says there is absolute immunity. If the immunity is to be saved, Presi-dential action is necessary. There is no such provision here. Your inter-pretation so for as I understand at any rate, the intention of the framers of the Constitution is more in line with your interpretation rather than the interpretation of my hon. friend.

Shri M. S. Gnrupadaswamy: My only point is this. There is the phrase "no law of a State in force immediately before the commence-ment of this Constitution": According to the explanation, "law of a State in force" shall include a law of a State passed or made before the commence-ment of this Constitution and not ment of this Constitution and not previously repealed.

#### Mr. Deputy-Speaker: Exactly.

Shri M. S. Gurupadaswamy: That is in fact my whole doubt.

Mr. Deputy-Speaker: There are preexisting laws today. There are a number of Sales-tax Acts in various States. The question is whether in the absence of any provision in article 286 that notwithstanding the existence of any previous law passed by any State imposing or authorising the imposition of a particular rate of tax, it shall be open to the President to modify or bring them into line, as is contained in article 288, it is open to apply this retrospectively. The hon. Member wants to use the wording for the purpose of proving that the absence of it enables it to be retrospective. As a matter of fact, it is the presence of it that makes it retrospective. The hon. Member will reconsider that position.

Shri T. T. Krishnamachari: May I again point out, Sir, that under the second part, Presidential refusal is necessary in order that article 286 (3) can operate. How can Presidential refusal come in in regard to Acts which have been passed and President's consent or refusal has not been obtained?

Shri M. S. Gurupadaswamy: If it is the intention of the Constitution not to make this law retrospective, then, the word "hereafter" should have been added before or after the word "made". When we do not find such a word explicitly expressing the intention of the Constitution makers, we are not in a position to say that this particular clause does not allow us and does not permit us not to make it retrospective. Rather it makes us say that this particular Act should be made retrospective. It is clear that it is the intention of the framers of the Constitution. And. I may draw the attention of the hon. Minister to article 287 also. There the intention is more clear. And also. Sir, I wish to draw the attention of the House to Part III, Chapter on Fundamental Rights. article 13 (1) and (2). There it is explicitly stated:

"(1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void."

And then, clause (2) says:

"The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void." And along with this. I want the hon. Minister to read article 14 as well.

Mr. Deputy-Speaker: What is the conclusion? He has referred to all these articles, but what is the point? Hon. Members need not read all the clauses. They might say that the conclusion to be arrived at from reading all these articles is this. Let us proceed to the point.

Shri M. S. Gurupadaswamy: The conclusion is that there should be equality before the law under article 14. The equality should be applied to all cases of law. Here, according to the intention of the Government, I gather that there should be uniformity of taxation, but it cannot be achieved if we accept the interpretation of the Government. Suppose in Mysore and in Madras the Governments have already taxed certain articles which are declared essential, but according to the intention of the Government, they may continue to tax, they need not amend their existing Acts......

Dr. Lanka Sundaram: At any level.

Shri M. S. Gurupadaswamy: At any level, and only the other States where such taxes are not levied, may be prohibited from taxing such articles. There, it will jeopardise equality under law that is contemplated under article 14.

Mr. Deputy-Speaker: That is, article 14 is to be read to say that a sales tax imposed in any particular state must automatically be extended to other states also because even that will be discrimination.

Shri M. S. Gurupadaswamy: If you intend to interpret it in that way, Sir, I have nothing to say. But that is not the intention of the authors of the Constitution.

**Mr. Deputy-Speaker:** It is unnecessary to go into that, what I would say is that at this stage all those points of order and law can be raised without which we may not be able to go on, but about the further future interpretation as to what they are going to do, let the law take its own course.

**Dr. Lanka Sundaram:** Would that be a correct approach to the Bill in this case? We want to avoid future litigation.

Mr. Deputy-Speaker: It is impossible to avoid. We need not go into matters over which we have no jurisdiction, or where we have jurisdiction. leave it in quiet and give scope for litigation. It is not my intention. This has to be observed. This kind of discrimination.

#### [Mr. Deputy-Speaker]

beiween essential and non-essential goods, is there under the Constitution itself? Then, with respect to essential goods, they have to be reserved. As to what action the President is going to take, whether he is going to be rigorous with respect to particular States which have not yet evolved Sales Tax legislation, whether he is going to allow some higher rates in the interests of a State's revenues whether the other States which have already got other sources of revenue, will be allowed to increase their rates —these are all matters where there is room for discrimination and discretion. If we go further and say that we have to decide now what is going to be contemplated in the future with reference to particular articles of the fundamental rights, it is imposible to know what the President is going to do, and what can this House do?

**Dr. Lanka Sundaram:** My hon. friend's point was simply this. It is not what might be called extension of the incidence of sales tax prevailing in one State to other States in the country.

Mr. Deputy-Speaker: I am arguing on that analogy.

**Dr. Lanka Sundaram:** His point was equality in terms of tax incidence as between one constituent State and another.

Mr. Deputy-Speaker: It is only to lead to that argument, I said by way of analogy. It is not that I did not follow it. We need not go into all these points. If there is such discrimination, each State will take it up. As at present devised, Government seem to think that that should mitigate difficulties and try to bring up the States which have not imposed sales tax and are lagging behind in revenues to the level of some other States which have already imposed the sales tax, and they intend using some discrimination. Whether this discrimination is valid under the law or not is a matter for the future to decide.

Shri M. S. Gurupadaswamy: Apart from the legal aspects, Sir, I want to draw your attention to one or two other points. According to the purposes and objects of the Bill, it is the intention of the Government to exempt essential goods under the Bill from taxation or effect reduction. That is the main intention, and as far as possible, the intentions of the Government should be carried out.

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Shri T. T. Krishnamachari: There is no exemption really.

**Mr. Deputy-Speaker:** There is really no exemption. With respect to a particular class of goods, say, vegetables or cereals, the President may advise that they should not be taxed, or that nlesser amount of tax should be levied. It is not purely exemption.

Shri M. S. Gurupadaswamy: I understand, Sir, that certain goods which are declared essential should not be unnecessarily taxed. That is the intention of the Government. And if there is a particular article that should be treated as essential, then, naturally, we expect, according to the Bill, that the President will automatically give his consent. And that particular article should not be taxed because it is so essential to the community.

**Mr. Deputy-Speaker:** Slightly varied taxes, absolute exemption—all these are contemplated.

**Shri M. S. Gurupadaswamy:** If you allow the States to continue the existing sales tax on certain articles which are declared essential here, then, can you still maintain that those articles are essential when they are taxed? What are essential goods, and what are not essential goods according to your definition? In my opinion, Sir, the difference should be that the essential goods to be called essential as far as possible, should not be unnecessarily taxed because they are so indispensable to the life of the Community. That must be the intention of the Bill.

**Shri Dhulekar** (Jhansi Distt.—South): It is not the purpose of this Bill.

Shri M. S. Gurupadaswamy: That is the whole purpose. If it is the sole intention of the Government to help the living of the people, if it is the intention of the Government not to harass the common man by too much taxation.....

**Babu Ramnarayan Singh** (Hazaribagh West): Hear, hear.

Shri M. S. Gurupadaswamy: ...... then, if you allow the sales tax to operate in certain States, to that extent, your definition of essential goods falls flat. Or suppose, a particular article, say, a newspaper is taxed in Mysore, and you cannot reduce the taxation or exempt it from sales tax, then it follows that so far as Mysore State is concerned, newspaper does not come under the category of essential goods, whereas, if it is exempted in Rajasthan or some other State where they have not yet imposed sales tax on a newspaper and which will not be imposed hereafter because of this Act.

Mr. Deputy-Speaker: The hon. Member has been disillusioned.

Shri M. S. Gurupadaswamy: They are all denying it now, Sir.

Shri T. N. Singh (Banaras Distt.— East): As a matter of fact certain hon. Members stated that they did not want the provincial sources of revenue to be touched. It is quite wrong to say that the hon. members presumed that the Bill is going to have retrospective effect.

Shri M. S. Gurupadaswamy: At least now it is not too late.

Mr. Deputy-Speaker: Why argue all that? Let the hon. Member say that he wants the Bill to have retrospective effect, and then say that this particular clause shall go out.

Shri M. S. Gurupadaswamy: That is all my intention.

Mr. Deputy-Speaker: Then I shall call upon other hon. Members.

Shri M. S. Gurupadaswamy: I shall just conclude by saying that this is a very important aspect which has to be considered by the hon, the Minister. If the Government still feels that it could not be made retrospective, then it is better to withdraw the Bill from the House.

Shri Barman (North Bengal-Reserved-Sch. Castes): I beg to move:

"That the question be now put."

Shri Dhulekar: Sir, I wanted to say a few words.....

Mr. **Deputy-Speaker:** When Mr. Deputy-speaker: when the closure motion has been moved, it is necessary that I first put that motion the to the vote of the House.

The question is:

"That the question be now put."

The motion was adopted.

Mr. Deputy-Speaker: There has been sufficient discussion now. There is ar amendment to clause 3 given notice of by Mr. Sinhasan Singh. When we come to the discussion of that clause, whichever hon. Member has not spoken on this point till no speak. But let them be brief. now, may

Shri Raghavaiah (Ongole): Will you kindly fix a time limit of five or ten minutes for each speaker, in order that those who want to speak on the Schedule may get chances to do so, and the full list of speakers may be exhausted?

Mr. Deputy-Speaker: When I come to this Schedule, I shall consider that matter. Now I shall call upon the hon. the Minister to reply.

then, newspaper will become an essential article to the Rajasthan people or, to some other people. So an article which is essential in one State becomes unessential in some other State. So, this anomaly is there. You cannot get out of this anomaly. If it is the in-tention of the Government to have uniformity of treatment, if it is the inten-tion of the Government to declare certain articles as essential, it should be declared essential throughout the length and breadth of the country. We are independent. We are one united whole. You cannot apply one set of principles in one particular area, and another set of principles in another area. It is nothing but sabotaging the very spirit of the Constitution. The hon the Minister has taken pains to refer the matter to the legal advisers in the Law Ministry. They have not advised him properly, because they have not as a matter of fact taken all aspects into consideration. So my frank submission to the hon. the the Minister is this. If you want parti-cular articles to be treated as essential, then those articles should get equal treatment in all the States, either in respect of taxation or anything else. I want a clear declaration from the Government as to whether they want to have a uniform policy, whether they want this principle to be applied in all the States, irrespective of any other consideration, financial or otherwise. The question is a simple one any way. Goods which are to be treated as essential should be treated so through-out the length and breadth of the country, and should not be subjected to any discriminatory and divergent taxation in any State. On this point, I oppose the Government. On the last occasion when I made my speech before the Bill was referred to the Select Committee, I supported the Bill presuming that this Bill would be retrospective.....

Mr. Deputy-Speaker: How can the hon. Member believe that it is to be retrospective when the words 'after the commencement of this Act.' occur in clause 3?

Pandit Thakurdas Bhargava: These words were there even at the time the Bill was introduced, before it was referred to the Select Committee.

Mr. Deputy-Speaker: So, how can the hon. Member presume that?

Shri M. S. Gurupadaswamy: I only want you to go into the speeches of all the hon. Members delivered on the last occasion. It will be seen from them that the presumption was that this is going to be retrospective.

Many Hon. Members: No, no.

Shri Tyagi: Sir, I do not want to inflict another speech on the House, but I want the House to be so pleased as to learn to pity the position of a Finance Minister. His is the most difficult position. He is also unpopular because he has to realise taxes from everybody, and taxes are always un-popular. Whenever any hon. Members want to speak, it is easier for them to come and plead the cause of the consumer or the taxpayer and create an atmosphere in their favour. But when I have to get up, and oppose them or just express my differences with them, it seems as if in the whole House I am the only villain. Such is the position of a Finance Minister.

I must say at the very outset that I agree with the sentiments expressed by my hon. friends on the other side and also on my right, cent per cent. that also on my right, cent per cent. that this sales tax must be uniform in the whole country. I have only just a few minutes ago announced the policy and intention of the Government. I want to repeat it again. It is my intention to call, as soon as it is convenient, a conference of all the Finance Ministers of the State Governments, to sit with them and try to convince them that the most patriotic policy in the interests of the consumers and the common man, and for the welfare of the people would be for all of us to agree to a uniform policy of sales tax, because this very variety of taxes, and the various types of load on various commodities are such that they obsess the trade. We have already decided in our Constitu-tion that for the purpose of commerce We and trade, India would be always one unit without any restrictions either of customs or of taxes terminal or otherwise. Therefore the intention of the law has been absolutely plain in this matter. But I want to point out to the House the difficulty in doing so. If I were to agree that retrospective effect should be given to this law, then it is very problematical. In the first place, even the learned hon. Members here, whose opinions I always value with respect, have already between themrespect, have already between them-selves differed on this issue. Then the for instance, by saying that this Act is ultra vires or that Act is intra vires. All the taxes which a certain State Government has levied on various commodities which we now want to declare as essential goods, forthwith be declared as ultra vires, because of the passing of this Act, if it were to have retrospective effect. It is very diffi-cult to imagine how it will affect the finances of that particular State. Sir, the State Governments are also demothe State Governments are also democratic. They have also been elected

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by the adult franchise, and so they also have a certain responsibility for the people of their States. And there is no reason to doubt that they are less patriotic than we are. In fact they are the people who directly deal with those persons who pay the taxes. If they are levying certain taxes, they are in-curring the displeasure of their people who pay the taxes direct to them. We come in only indirectly, and we are slightly more distant from them than those State Governments are. But their needs might be such that they could not do without sales tax. They might well have committed themselves already to some programmes of public welfare. or some development pro-grammes. If there is a democratic State, and it chooses to have prohibi-tion, then it is a democratic right on their part to have it. You cannot surely enforce your views on the repre-sentatives of the State. Whatever their programmes are, they stand com-mitted to them, and they have gone sufficiently far enough towards the fulfilment of these commitments, and how far they are involved, one cannot know. Now it is very easy to upset their economy; sitting here in the Centre it is easy to pass a law being guided by high ideals, but then who is to com-plete or fulfil your ideals? You have to see to it that they are so aptly applied that they do not upset the very programme of improvement for which you are applying those ideals. So I submit, Sir, it will be very, risky to say: 'Give retrospective effect to this measure'. Firstly, it is problematical whether it will be ultra vires or intra vires of the Constitution. That is one thing. If retrospective effect is given, then we should also know what is the risk from the point of view of the interest of the State Governments to their finance. In these circumstances it is not possible for me to agree to the idea of giving retrospective effect to this Bill. Legal difficulties apart, I have already pointed out those diffi-culties yesterday and also my friend has clarified the position today.

I must again repeat that the Taxation Enquiry Committee is soon going to be appointed and it will be its business to look into the incidence of all taxes in the country. They would look into the incidence of sales tax as well and through that enquiry we may be able to come to some sort of settlement. It is open to the Taxation Enquiry Committee to recommend that the sales tax must be on a uniform basis in the whole country. When uniformity is achieved, then each State will know at what cost it is achieved. Some States may be faced with the problem of

giving up some revenues on some items. Well then they shall have to find that revenue from other avenues and so they must be given opportunity to substitute the avenue which you take away from them, so as to bring them the same amount of revenue to carry on their work, from some other source. They must have a right to have that chance. In addition to the Taxation Enquiry Committee's recommendations, there is going to be a Conference which I have suggested just now and which it is the intention of the Central Government to call as soon as it is con-venient. We shall sit together there, to understand their difficulties and in their consultation alone we can have the best uniformity. Otherwise, uniformity will be a difficult task, for it will be open to all sorts of litigation. If the House wants to enfore uniformity-the State Governments have also got some rights of their own given to them by the Constitution, they have got their own list of authority. From the Centre without knowing how and where and how much would be the incidence of this enforcement on the finances of each State, it will be rather taking a leap in the dark altogether,

and I think, as the representative of the Finance Department in the Centre, it is my care to see that my colleagues, my counterparts in the State Governments, are not in the least inconvenienced. It seems to me there is no sympathy for the Finance Minister at all in this House or even for the Finance Ministers elsewhere. Well, I stand as the protector of their interests and it is my duty to safeguard their interests because they are not here. In these circumstances, I hope the House will agree and will trust the intentions of the Government to carry out the wishes of the House in establishing uniformity not only on those essential commodities alone, but as I have said and as I promised, we shall strive to achieve uniformity on all the commodities as regards sales tax so that sales tax may be uniform from end to end of the country. That is what we also desire. After this I hope my friend, Pandit Thakur Das and Dr. Lanka Sundaram and all the rest who are very keen for it will now see and give me way to get this Bill passed so on.

There are some objections raised about the States who have not yet been able to pass any enactment regarding the sales tax. I have already promised that those States will not suffer on that that those States will not suffer on that account. If they have not passed their Acts and if in the conference we succeed and these commodities which the House today is declaring as essen-tial for the life of the community go we. free, then of course those States will also not be able to levy any tax on

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them, but if there is unanimity in the conference and by agreement some conference and by agreement some small tax which they have been levy-ing so far is decided to be continued further, then those States who have not yet had the benefit of this avenue of tax will surely be allowed to go that far, to the extent to which the neigh-bouring States have gone. And when their Bills come up, they will be their Bills come up, they will be scrutinised from this point of view, and full justice and uniform treatment will be given to those who have not yet come in the field. So there is no question of fear on that account and I hope that will be convincing to the Members.

There are other matters which, of course, are coming up in the amend-ments and I shall then deal with them. would therefore beg leave of this House to move that the Bill be taken into consideration.

### Mr. Deputy-Speaker: The question is:

"That the Bill to declare, in pursuance of clause (3) of article 286 of the Constitution, certain goods to be essential for the life of the community, as reported by the Select Committee, be taken into consideration

The motion was adopted.

Clause 2.-(Declaration of certain goods to be essential for the life of the community)

Mr. Deputy-Speaker: There is no amendment to clause 2. The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clasue 2 was added to the Bill.

Clause 3.—(Regulation on tax on sale or purchase of essential goods)

Mr. Deputy-Speaker: Does the hon. Member, Shri Sinhasan Singh, wish to move his amendment or shall I allow a general discussion on this clause?

Shri N. Somana (Coorg): The hon. Member is not present here.

Mr. Deputy-Speaker: So it is not moved. Mr. Hon. Jhunjhunwala. Members have heard so much and also the reply of the hon. Minister.

**थो सुनसुनवाला (**भागलपुर मध्य) :

I shall be very brief, Sir.

उप वाचस्पति जी, जब इस बिल को िंसरकार का सिलेक्ट कमेटी में भजने का **इरादा** 

## [श्री झुनझुनवाला]

4625

शरू में नहीं था उसी समय में ने यह अमेंडमेंट (amendment) दिया या कि "After the commencement of the Act' यह हिस्सा बिल में से निकाल दिया जाय । पर पीछे जब यह सिलेक्ट कमेटी में चला गया तो मेरे पास सबर आई कि यदि आप अमेंडमेंट देना चाहते हैं तो अभी आप न दें, सिलेक्ट कमेटी की रिपोर्ट जब आ जाय उस के बाद आप यह अमेंडमेंट दें। उस के बाद में ने देखा कि गवर्नमेंट इस बात पर अच्छी तरह विचार कर चकी है और जो गवर्न-मेंट करेगी सो होगा तो जो कुछ मुझे कहना होगा बिना अमेंडमेंट के ही कह दूंगा। आखिर में मामले को तै करना तो गय मिंट के ही हाथ में है । इसलिये मैं ने अमेंडमेंट नहीं पर मैं इस के विषय पर बोलना दिया । चाहता हूं ।

Shri N. Somana: Off a point of order, Sir. May I know on what amendment my hon. friend is speaking?

Shri Jhunjhunwala: You should have heard before.

Mr. Deputy-Speaker: The hon. Member is speaking on the clause itself.

श्री मुनमुनवाला : में कह रहा था कि इस विषय पर मुझे ৰুন্ত कहना उपवाचस्पति जी, आप ने अपने है। व्याख्यान में इस बात को बहुत ही साफ़ कर दिया है और मैं आप की बातों से पूरी तरह से सहमत हूं। आप ने यह कहा है कि इस में द्नीफारमिटी (uniformity) का इतना सवाल नहीं है। बेसी सवाल इस में यह है कि कौन कौन सी ऐसी मुख्य वस्तुयें हैं जिन की सब साधारण लोगों के लिये अति आवश्यकता है। यह मुख्य सवाल इसी के लिये यह घारा २८६ सब है। क्लाज ३ कास्टीट्यूशन में आया है। में व्याख्यान से यह समझा कि आप के का सवाल इतना नहीं है यनीफारमिटी

क्योंकि यदि यनीफारमिटी का सवाल होता तो बहुत सी स्टेट्स में बहुत सी चीजों के ऊपर टैक्स ( tax ) लगाये जाते हैं और बहुत सी स्टेट्स में उन्हीं चीबों के उपर टैक्स नहीं लगाये जाते हैं, इस पर कहीं भी किसी तरह से भी आपत्ति नहीं आती । मेरा कहना यही था कि गरीब जनता जो है उस के लिये उन पदार्थों को खरीदने में दिक्कत न हो जिनकी उन के प्राणों के लिये आवश्यकता है । उपवाचस्पति जी. में आप की ही स्टेट का उदाहरण देता हं। मेरे पास एक बड़ा भारी रिप्रेजेंटेशन (representation) आया था. ਸੈਂ उस की कापी नहीं लाया हं। उस में कहा गया है कि वहां पर केले के ऊपर तीन जगह टैक्स लगता है। उस चीज पर तीन जगह टैक्स लगाया जाता है। उस में उन्होंने यह लिखा था कि यदि यह टेक्स न लगाथे जायें तो हम एक आने में तीन केले दे सकते हैं और दो आने में एक आदमी अपना पेट भर सकता है । हमारे प्राइम मिनिस्टर साहब और दूसरे लोगों ने भी यह कहा है कि जहां सीरियल (cereal) खाने के लिये नहीं मिलते हैं, तो वहां पर लोगों को सबस्टीठयट फुड (substitute food) खाने की आदत डालनी चाहिये। लेकिन अगर आप उस को इतना मंहगा कर देंगे और कोई स्टेट उस को अपने यहां मंहगा कर देती है तो लोग उस को खाने में भी असमर्थ हो जायेंगे और बड़ी दिक्क़त होगी । इस क़ानून का उद्देश्य ही यह है कि जहां तक हो सके सर्वसाधारण की आवध्यक चीजों पर कर न लगाया जाय । आप ने यह भी कहा कि यदि इस चीज को रिटौस्पेक्टिव एफेक्ट (retrospective effect) दे दिया जाये तो बैसी हालत में हमारी जितनी स्टेट्स हैं जिन का काम इन सेल्स टैक्स (sales tax) के उपर निर्भर है और सेल्स टैक्स की आमदनी से जिन का

काम चल रहा है, उन के फाइनेंस (finances) एकदम से गडबडा जायेंगे और वह बडी मुश्किल में पड़ जायेंगी। मैं आप की इस बात से भी पूर्णरूप से सहमत हं। अब सवाल यह आता है कि एक जगह तो एक स्टेट को अधिकार था सेल्स टैक्स लगाने के लिये तो उन्होंने उस को लगा लिया. और इस तरह उस स्टेट ने तो अपने फाइनेंसेज को ठीक कर लिया, लेकिन एक दूसरी क्या उपाय हो, यह हमारे स्टेट के लिये फाइनेंस के स्टेट मंत्री ने कुछ भी नहीं बताया । अभी उन्होंने केवल यही कहा है कि इस पर विचार किया जायगा और सब स्टेटस वालों की एक कान्फ्रेन्स की जायेगी और इस कान्फ्रेंन्स में यह बात सोची जायेगी कि सब स्टेट्स को किस तरीक़े से अधिकार मिले । परन्तू मेरी समझ में यह नहीं आया कि जो लोग टैक्स लगा चके हैं और जो लोग टैक्स नहीं लगाये हुए है, वह दोनों आदमी बैठ कर आपस में किस तरीके से एकमत होंगे। यह तो ऐसी हालत में हो सकता है जैसे हमारे भाई लंका सुन्दरम ने कहा कि यह चीज ऐसी है कि अगर इस को सेंटर (centre) अपने हाथ में ले ले, तभी यह चीज ठीक हो सकती है। आप ने यह भय प्रकट किया कि यदि आज हम-इस को रिट्रौस्पेक्टिव एफेक्ट देते हैं तो उन लोगों की दिक्कत बहत बढ़ जायेगी। मेरा यह कहना है कि उन की दिकुक़त नहीं बढ़ेगी। जैसा हमारा क्लाज (clause) है, यदि आज हमारे कामर्स मिनिस्टर(Minister of Commerce) साहब जो कि कांस्टीट्यूशन बनाने में बहुत ही दिलचस्पी लेते थे, और बहुत योग्यता से उस काम में अपना भाग लिया और हांलांकि वह कहते हैं कि वह कानून नहीं जानते, तो भी क़ानुन के अमल पर वह अच्छी ही राय देते थे. उन्होंने इस बात के ऊपर हम लोगों को समझाया है, पर जितना भी अभी

सूनाया गया, उस से यह तय नहीं हो पाता कि यदि "आफटर दी कमेंसमेंट आफ दिस एक्ट " ये शब्द इस में से उठा दिये जायें तो यह क़ानुन रिट्रौस्पैक्टिव होगा या नहीं होगा । इस के ऊपर अभी पूर्णरूप से मतभेद है। गवर्नमेंट ने अपना इरादा साफ बतला दिया है कि हमारा इरादा रिटौस्पेक्टिव इस को करने का है और इस तरह से उन्होंने अपनी राय इस के ऊपर बना कर हम लोगों के सामने रख दी है कि इस का इरादा इस को रिट्रौस्पेक्टिव बनाने का है ही, चाहे यह शब्द रखें या न रखें। में ने काननी है और मझे यह बतलाया राय ली गया कि यह रिट्रोंस्पैक्टिव ही होगा । यदि ऐसा हो तो जैसा कि हमारे स्पीकर साहब ने कहा यह शब्द आप उठा लीजिये अब उठाने में यह दिक्क़त आ सकती है कि इस के सम्बन्ध में दो रायें हैं । हम लोग लिटीगेशन (litigation) नहीं चाहते कि वह हो, परन्तु जो मुख्य चीज है खाने की उन पर सेल टेक्स लगा दी गई है। उसको उठाने का क्या उपाय किया जाय कुछ समझ में नहीं आता है । हमारे उपाघ्यक्ष महोदय ने कहा कि हमें भय है कि यदि हम इस को रिस्ट्रीस्गेक्टिव ऐफेक्ट दे दें तो उन स्टेट्स का समुचा फाइनेन्स गड़बड़ा जायगा । इसलिये मेरा यह कहना है कि जैसा कि उस में सैक्शन २८१ में लिखा है :

"No law made by the Legislature of 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 combeen reserved for the consideration of the President and has received his assent." munity shall have effect unless it has

मेरा यहां पर यह कहना है कि आखिर जो पहले का ला (law) बना हो और जो आप अभी लाबनावें और जिन ची बों [श्री झुनझुने बाला ]

की फ़ेहरिस्त हम ने इस एक्ट में लगा दी है उन चीजों पर पहले का टैक्स ही लगायें, या अभी और टैक्स लगावें दोनों में ही आप को प्रेसीडेंट (President) की मंजूरी लेनी होगी । हमारे प्रेसीडेंट तो एक बहत रिस्पौंसिबल (responsible) आजमी हैं और सारे देश के हेड (head) हैं, और यदि वह यह देखेंगे कि अगर बम्बई बंगाल या मद्रास स्टेट्स में जो टैक्सेज लगे हुए हैं, उन टैक्सेज को अगर हम गड़बड़ाते हैं तो उन की हालत बहुत बुरी हो जायेगी, तो ऐसी हालत में आप यह कैसे पहले से सोच लेते हैं कि वह उस पर अपनी एसेंट (assent ) नहीं देंगे, वह तो जब मनासिब समझेगे तब ही अपनी एसेंट देंगे। अब जो नया ला बनने वाला है उस पर भी अगर प्रेसीडेंट मुनासिब समझेंगे तो अपनी मंजुरी देंगे। हम यदि किसी भी तरह से यह इंटरप्रेटेशन (interpretation) कर के यहां पर यह कह दें कि इस क़ानुन को रिट्रौस्पेक्टिव ऐफेक्ट होगा, तो उस का असर यह होने वाला है कि सब स्टेट्स एक जगह आ कर ठहर जायेंगी और उन में एक समानता आ जायेगी और सब स्टेट्स की पोजीशन एक सी हो जायेगी और सब एक जगह में रह कर काम कर सकेंगे और इस तरह सब में मेल हो जायेगा और आप का जो उद्देश्य है और मक़सद है वह जल्दी से जल्दी पूरा हो सकेगा । गवर्नमेंट तो वर्षों से इस बात को कह रही है कि हम इस सेल्स ऐक्ट के बारे में कुछ न कुछ करना चाहते हैं, उस को सेन्ट्रालाइज् (centralize) करना चाहते हैं और उस में जो दिक्क़तें हैं उन को दूर करना चाहते हैं। बहुत सी स्टेट्स ऐसी चीजों पर टैक्स लगाती हैं जिन पर नहीं लगाना चाहिये, हम इस को ठीक करना चाहते हैं, परन्तु इमारे चाहने पर भी हम इस को अभी तक छीक नहीं कर पाये हैं, अतएव मेरी गवर्तमेंट से और सब सज्जनों से प्रार्थना है कि वह लोग इन शब्दों को उठाने के लिये वोट करें और गवर्नमेंट भी इस को मान ले कि यह शब्द यहां पर न रहें।

बाबू रामनाराथण सिंह : में इस घारा तीन (३) का घोर विरोध करता हूं। और यह कहता हूं कि इस लोक सभा को कोई अधिकार नहीं है कि इस विधेयक को पास करे। हमारे संविधान में जो धारा २८६ है उस के मुताबिक़ इस लोक सभा को अधिकार है कि वह इस की घोषणा कर दे कि कौन कौन से पदार्थ आवश्यक पदार्थ हैं। उस को एकमात्र इतना ही अधिकार है, और अधिक नहीं। इस अधिकार से इघर उघर जाना घोर अन्याय है । उपाध्यक्ष महोदय, जिस वक्त संविधान बन रहा था आप लोग भी थे, हम लोग भी थे, वहां पर इतनी बातें लोगों के दिमाग़ में नहीं थीं कि सेल्स टैक्स ( Sales tax ) वहां जारी है और वहां नहीं जारी है। इन को कठिनाई होगी, उन को नहीं होगी, यह सब उन के दिमाग़ के अन्दर नहीं था । हम लोगों के दिमाग़ में चीज यह थी कि देेश के लिये सच्ची बात और भली बात क्या है, और वह यह थी कि कुछ ऐसे पदार्थ होने चाहिये जिन के बारे में लोक सभा घोषणा कर दे कि उन पदार्थों पर टैक्स न लगे । सीधी सी बात इतनी हैं । इसलिये में तो विरोध करता हूं और कहता हूं कि इस लोक सभा को कोई अधिकार नहीं है । और इस सरकार का तो क्या कहना है। सरकार तो सब काम गड़बड़ करती ही है। सरकार खुद भी ड्बेगी और हमारी लोक सभा को भी बुबायेगी। अपने भी बुरा काम करती है और हम से भी कराती है।

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उपाध्यक्ष महोदयः आप उन के साथ में बैठे हैं आप भी तो डूब सकते हैं।

बाबू रामनारांवण सिंह : लेकिन में बच जाऊंगा । उपाध्यक्ष महोदय, यह विचारने की बात है आप ने भी इसी तरह से कहा था कि अगर "आफ़टर दि कमेन्समेन्ट आफ़ दिस ऐक्ट " यह नहीं रहता है तो कई राज्यों की जो आर्थिक तस्वीर है वह गडुबड़ा जायेगी । में आप से कहता हूं कि यदि आज हम लोगों को जो अधिकार हैं और हम लोगों के लिये जो करना मुनासिब है वह करेंगे तो सारे देश में जो ३५ करोड़ लोग हैं वह हम लोगों से प्रसन्न होंगे । लोग कहेंगे कि हां, हमारे प्रतिनिधि सच्चे थे, और उन लोगों ने ठीक काम किया है कि जिन जिन पदार्थों पर टैक्स नहीं लगना चाहिये उन को उन लोगों ने बरी कर दिया । तो सारा देश हमारा प्रसन्न हो जायेगा । मैं आप से कहता हूं कि टैक्स लगाने में या नियम बनाने में हमेशा हम लोगों को यह सोचना चाहिये कि हमारी लोक सभा क्या है और समाज सरकार के लिये है या सरकार समाज के लिये ।

**कुछ माननीय सदस्**य : दोनों एक दूसरे के लिये हैं ।

**बाब् रामनारायण सिंह** : नहीं साहब जो दोनों कहते हैं ग़लत कहते हैं । जान लीजिये कि सरकार प्रत्येक व्यक्ति के लिये हैं और समाज के लिये है । समाज सरकार के लिये नहीं है, सरकार तो हम रोज बनायेंगे रोज बिगाड़ेंगे । एक सरकार से काम नहीं चलेगा तो दूसरी बनायेंगे, लेकिन समाज तो ज्यों का त्यों रहेगा । इस वास्ते यह सोचन की बात है और इस में ईमानदारी की बात है और हम लोगों को जो यहां प्रतिनिधि हो कर आये हैं यह जानना चाहिये कि हम को लोक हित का ध्यान हर बात में करना चाहिये यह नहीं कि सरकार को कहां कठिनाई होगी ।

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में तो कहता हूं कि आज जो इतना रुपया हम.रे भाईयों के ताथ में ज.तः है उस का क्या होता है। हमारे त्यागी जी ने बहुत नम्र शब्दों में कहा, ऐसे शब्दों में कहा कि जिस से मालूम होता था कि वह कुसूर कर रहे हैं लेकिन उन को अपनी कठिनाई भी होगी, लेकिन उन का खयाल अनुचित था। वह प्रार्थना करते हैं कि किसी तरह से इस को पास कर दो, फिर देखा जायगा । फिर क्या देखा जायेगा ? त्यागीजी महोदय, में कहना चाहता हूं कि जब कभी लोक सभा में कोई बात पेश होती है तो हम लोगों को यह भी ध्यान रखना चाहिये कि कहीं गड़बड़ होती है तो उसे दुरुस्त कर दें कही ज्यादा मुक़दमे होते हैं तो उन को क़ानून के द्वारा कम करें, या खत्म करें, यह नहीं कि बढ़ा दें। जहां तक मुझे मालूम है कि यह सुप्रीम कोर्ट में आयेगा और वहां अल्ट्रावायर्स (ultra vires) डिक्लेअर (declare) होगा, और हम लोग जितने ३५ करोड़ भारतवासियों के प्रतिनिधि है सब का मुंह काला होगा। हम में अक्ल नहीं है कि हम क़ानुन बना सकें ।

**कुछ माननीय सदस्य**ः कम कड़े शब्द नहीं कह सकते ?

**बाबू रामनारायण सिंह** : मुझे कुछ नर्म होना चाहिये इस में कोई शक नहीं, और मैं आप लोगों से इस बारे में सहमत हूं, और मैं कह देना चाहता हूं कि यदि मेरे मुंह से कोई कड़े शब्द निकलते हैं तो उस के लिये मैं शर्मिन्दा होता हूं, पर इस तरह के अनर्थ को देख कर हृदय में आग लगती है । जले हुए हृदय से मधुर शब्द निकल्ना मुश्किल बात है । [ बाबू रामनारायण सिंह ]

उपाध्यक्ष महोदय, एक और बात है और वह यह कि जिस तरह से हम लोग यहां कोई नियम बनाने लगते हैं खास कर रुपये पैसे के बारे में, मैं ने पहले भी कहा था कि हमारी सरकार जो है और हमारे त्यागी जी जो हैं वे हर राज्य के फ़ाइनेंस डिपार्टमेंन्ट (Finance Department ) के लोगों का समर्थन करते हैं जनता के जो पैसे इन के हाथ आते हैं उस पैसे को जनता के हित में **खर्च करना चाहिये और इ**सी विचार से जहां जरूरत हो वहीं खर्च करना चाहिये। \*\*\* लेकिन, उपाध्यक्ष महोदय, मुझे दुःख है कि आप भी कभी कभी बहुत मुलायम हो जाते हैं । आप को इतना मुलायम होना नहीं चाहिये। शास्त्र का वचन है : "हित मनोहारि च दुर्रुभं वचः "

हित की बात मीठी हो, यह बड़ा कठिन है।

उयाध्यक्ष महोदय : इतनी खट्टी नहीं होनी चाहिये ।

**बाबू रामनारायण सिंह** : एक बार एक भाई मुझ से कहते थे कि अरे भाई तम तो हमेशा जहर ही उगला करते हो। में ने कहा था और आज फिर कहता हं भाई त्यागीजी को, उन के सारे समाज को. कि इतने बडे देश का शासन करना खेल नहीं है। उन लोगों का हृदय इतना विशाल होना चाहिये कि जो बात कही जाय वह सुनें और मेरे ऐसे आदमी के कड़े शब्दों में भी आशीर्वाद देखने की ताक़त पैदा करें और कोशिश करेंगे तो मेरे शब्दों में उन को आशीर्वाद ही मिलेगा । और उस में कोई बुरा शब्द भी नहीं है । लेकिन शब्द के बारे में मधुर हों, यह तो मैं चाहता हूं, जैसा मैं ने पहले कहा । किन्तु जैसी परिस्थिति है उस में उपाध्यक्ष महोदय, मघुर होना बड़ा मुक्किल हो जाता है ।

खैर, तो मैं कह रहा था कि यह लोग जितने हमारे देश के पैसे रखते हैं उस के ये थातीदार हैं। यह तो मैं ने पहले भी कहा था और आज फिर कहता हूं और मेरी नसों नसों में यह बात घुस गयी है और मैं समझता हूं, ईमानदारी के साथ समझता हूं, कि हमारे जितने पैसे हैं उन सब को ये बरबाद करते हैं, कोई काम ठीक नहीं करते।

Mr. Deputy-Speaker: Why should not the hon. Member come to the Bill under discussion. These  $\varepsilon$  re all general observations.

बाब रामनारावण सिंह : सभापति महोदय वही में कह रहा हूं कि जिन लोगों के बारे में आप ने कहा है कि आर्थिक तस्वीर गड़बड़ा जायेगी राज्यों की । उन्हीं के बारे में में कहता हूं कि पैसे तो जितने भी उन के पास जाते हैं उभ से यह भला काम करते नहीं। तो कम पैसा मिलेगा गड़बड़ ही करते हैं । गड़बड़ होगी । जो पैसा तो क म इनको मिलता है उस का सद्व्यवहार हो यह तो में चाहंगा और वह भी चाहेंगे । लेकिन चाहे प्रादेशिक राज्य हों, चाहे जो राज्य हों, इन लोगों को कम पैसा मिलेगा, उपाध्यक्ष महोदय, तो इन लोगों को धर्म होगा, यह लोग गड़बड़ ज्यादा नहीं करेंगे।

Mr. Deputy-Speaker: I am sorry to say that all this is irrelevant. What is the good of saying the less the Finance Minister gets, more economy will there be. It is irrelevant to this Bill.

बाबू रामनारावण सिंहः उपाध्यक्ष महोदय, जब आप ही बोल रहे थे तो आप ने कहा था कि ऐसा प्रावीजन (provision) आफ़ुटर दी कर्मेसमेंट आफ़ दी एक्ट commencement (after the ताकि रहना चाहिये of the Act ) यह क़ानून जिस दिन पास से होगा

rxpunged as sordered by the Deputy-Speaker.

**Essential** Goods

उस के पहले से लागू न हो । यदि ऐसा नहीं होता है, तब क्या होगा ? कई राज्यों की आर्थिक तस्वीर गड़बड़ा जायगी । आप ने कहा था और उसी के ऊपर मैं कहता हूं कि आर्थिक तस्वीर गड़बड़ नहीं होगी, सुघरेगी । वह जो गड़बड़ करते हैं वह नहीं करेंगे और काम ठीक होगा ।

सौर, और अधिक बात न कहकर में खत्म करता हूं और मैं सबों से कहता हूं कि मैं देश के हित की बात करता हूं, जनता के हित की बात करता हूं, किसी सरकार के भले बुरे की बात नहीं करता हूं। सरकार तो गड़बड़ रहती ही हैं। खैर, मैं तो उन को आशीव दि देता हूं कि उन को बुद्धि हो और वह गड़बड़ न करें।

यह कह कर मैं इस घारा का विरोध करता हूं और उम्मीद करता हूं कि यह घारा अल्ट्रा वायर्स तो डिक्लेयर होगी ही और हम लोग अपमानित होंगे कि ३५ करोड़ भारतवासियों के जो प्रतिनिधि हैं उन को नियमकानून बनाने की अक्ल नहीं है । 12 NOON

भी धुलेकर : श्रीमान् उपाध्यक्ष महोदय, में ने इस बिल को पढ़ा और जब में ने इस को दो हिस्सों में पाया कि इस में "एसेंशियल गुड्स डिक्लेरेशन एंड रैग्यलेशन आफ़ टैक्स आन सेल आर परचेज " [Essential goods (Declaration and Regulation of tax on sale or purchase)]तो में यह समझता था कि डिक्लेरेशन (Declaration)के साथ तो जो वस्तुएं कि आवश्यक हैं उन की फ़ेहरिस्त बना दी जावंगी और जब रैग्यूलेशन (Regulation) किया जायेगा तो उस का अर्थ यह निकलेगा कि जो आवजैक्ट्स एंड रीजन्स (Objects and Reasons) में दिया है : 123 P.S.D. "The Bill may help to achieve a certain measure of uniformity in the taxes, and also prevent essential goods being unduly taxed."

में यह समझता था कि तीसरी धारा के सम्बन्ध में जरूर कुछ बातें इस में ऐसी रखी जावेंगी कि जब हमारे सदन के जितने सदस्य थे उन्होंने जो इस बात पर जोर दिया था कि एक तो बात यह रखी जाये कि एसेंशियल गृड्स(Essential goods)पर जो टैक्स लगाया जाय वह सारे भारतवर्ष भर में युनीफ़ार्म (Uniform) हो, एकसा हो, और दूसरी बात यह हो कि जो आवश्यक वस्तूएं हैं उन पर बेजा भार न पड़े, तो इस-लिये में यह समझता था कि डिक्लेरेशन के साथ तो शिडयुल बनाया जायगा और रैग्यलेशन के साथ कोई ऐसी शर्ते तीसरी धारा में कूछ दो चार शब्द इस प्रकार के रखे जायेंगे कि जिस से जो प्रादेशिक विधान सभाएं हैं उन को यहां से एक प्रकार का कूछ थोड़ा सा डाइरेक्शन (direction)हो, सुझाव इस बात का मिल जाये कि उन को यह चाहिये कि भारतवर्ष में जो सारे प्रदेश हैं जिस तरह का टैक्स लग रहा है उस से ऊपर या अधिक न लगाया जाय, और दूसरे जहां तक हो सके वहां तक इस बात की कोशिश हो कि वह टैक्सेज एक से हों। अब आप इस बात को देखें कि जिस समय कि कोई नया टैक्स कहीं पर लगाया जायगा तो यह कहा गया है कि प्रैसीडेंट के लिये वह रिजर्व (Reserve) किया जायगा । मैं कहता हं कि यह ठीक है कि प्रैसीडेंट के पास वह भेजा जायगा। तो क्या कहने का मतलब यह है कि हमारा सदन तो ऐक्ट पास करे और प्रैसीडेंट के ऊपर इस बात की जिम्मेवारी रखे कि वह इस बात को जांचे कि सारी प्रादेशिक विषान सभाओं ने कैसे टैक्सेज लगाये हैं और यदि लगाये हैं तो वह एक से हैं या नहीं हैं. और यदि एक से हैं तो भारी हैं या

# [श्री धुलेकर]

गहीं हैं। इस का मतलब यह हुआ कि हम ने तो अपने ऊपर से भार उतार दिया और प्रैसीडेंट के माथे यह भार मंढ दिया कि यदि किसी जगह पर मध्य भारत में या राजस्थान में, कोई नया सेल्स टैक्स बिल आये तो वह प्रैसीडेंट के पास जाये और वह इस बात की जिम्मेवारी लें कि चूंकि उत्तर प्रदेश में किसी वस्तू के ऊपर दो पैसे रुपया है तो उन्होंने उस पर नौ पाई कैसे लगा दिया।मैं समझता हं कि यह प्रैसीडेंट के ऊपर भार डालना बिल्कूल अनुचित है और इसलिये मेरा निवेदन यह है कि जब हमारे सदन में जो इस तरफ के बैठने वाले, मैजारिटी पार्टी (majority party) के हैं, वे और जो अपोजीशन की पार्टी (Opposition party)के हैं, वे सब लोग इस बात पर एक मत हैं कि भारतवर्ष भर में युनीफ़ामं रेट्स (Uniform rates) डोने चाहियें तो मेरा यह सवाल है कि उन सिलैक्ट कमेटी के मेम्बरों ने जो कि उस में बैठे उन्होंने इस बात पर वयों नहीं विचार किया और उन्होंने तीसरी धारा को क्यों बदलने का प्रयत्न नहीं किया । मैं तो यही समझता हं कि जिस समय व हां पर वह लोग गये तो उन्होंने जो कुछ कि यहां पर सदन में दोनों तरफ के जो व्याख्यान हुए उन पर गौर नहीं किया। में समझता हं कि सिलैक्ट कमेटी ने जो इस प्रकार का कार्य किया, उस के लिये मैं अपमान शब्द तो मैं नहीं कहूंगा, लेकिन मैं यह जरूर कहंगा कि सदन की इच्छा की अवहेलना तो अवश्य ही सिलैक्ट कमेटी के सदस्यों ने की । वरना यह जो तीसरी धारा है इस में दो चार इाब्द यदि इस प्रकार के रख दिये जाते कि प्रत्येक ऐक्ट या बिल जो आगे सेल्स टैक्स के सम्बन्ध में बनेगा उस म इस बात का ख्याल प्रादेशिक विघान सभायें रखेंगी कि वह टैक्सेज युनीफार्म हों और

अनड्यूली हैवी ( Unduly heavy) न हों, तो ठीक होता । यदि यह चार छः शब्द इस प्रकार के वहां पर रख दिये जाते तो मैं समझता हूं कि सदन का जो इतना समय लगा इतनी जो बातें दूसरी तरफ से हुईं, कदु आलोचनाएं हुईं, वह न होतीं ।

हमारे फायनेन्स मिनिस्टर साहब ने खड़े हो कर यह बड़े नम्त्र शब्दों में कहा कि, खैर जो बात आप कहते हैं वह तो सही है। अब हम तमाम फायनेन्स मिनिस्टर्स की एक सभा बुला कर के उनके सामने युनीफ़ामिटी का प्रश्न और अनड्यूली हैवीनैस का प्रश्न रखेंगे। मैं आप से इस सम्बन्ध में कहता हूं कि जब यह बिल पास हो जाता है, ऐक्ट बन जाता है, तो उस वक्त प्रत्येक फ़ायनेन्स मिनिस्टर को यह अधिकार है कि वह आप से कह दे कि सारे हाउस ने युनीफ़ार्मिटी की बात कही थी, सारे हाउस ने अनड्युली हैवीनैस की बात कही थी, फिर भी जब वहां से वह चीज पास नहीं हुई, आप का बिल बिल्कुल अमेंड नहीं हआ तो फिर आप हम को युनिफामि-टी के लिये क्यों बोलते हैं। हम तो यह समझते हैं कि हम को तो २० करोड़ रुपया, २५ करोड़ रुपया अमुक वस्तु के लिये चाहिये । हम तो इस टैक्स को लगावेंगे कोई क़ानून ऐसा नहीं है कि जिस की वजह से हम आप से दबें और हम इस टैक्स को एक साकर लें। एक बात तो मैं आप के सामने यह रखता हूं।

दूसरी बात में आप से यह कहता हूं कि यदि एक सिंगिल ऐक्ट (Single Act)प्रेसीडेंट के सामने गया तो प्रेसीडेंट जब एक सिंगिल ऐक्ट को आठ या दस ऐक्टों की बराबरी में रखेगा तो क्या आप इस बात की आशा करते हैं, या क्या आप समझते हैं कि प्रेसीडेंट के लिये यह उचित होगा कि सात आठ Essential Goods

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ऐक्टों को वह बदलने के लिये तैयार हो जाये सिर्फ़ एक ऐक्ट का निर्माण करने के लिये या उस पर अपनी अनमति देने के लिये ? यदि एक ऐक्ट को बदलने के लिये प्रेसीडेंट महोदय कहते हैं कि हम इस को नहीं मानते तो उन के ऊपर यह जिम्मेदारी पड जाती है कि सात आठ स्टेटों को वह दबायें और फिर उस के बाद उस स्टेट को दबायें। क्योंकि जब उन के सामने अनड्युली हैवी टैक्सेशन का प्रश्न आयेगा तो वह छोटी स्टेट कहेगी कि श्रीमानजी हम तो गरीब हें । उत्तर प्रदेश और मद्रास जो कि इतनी बड़ी बड़ी स्टेट्स हैं वह एक चीज पर दो आने लगाती हैं, यदि हम ने अपने यहां उसी चीज पर तीन आना लगा दिया तो क्या. क्योंकि हमको तो रूपया चाहिये । अब आप हम को क्यों मारना चाहते हैं। तो आप ऐसा कीजिये कि जब तक आप औरों का काम न करें तब तक हमारा भी काम न करें। लेकिन जैसा कि हमारे सिंहासन सिंह जी ने कहा आप उन का कम नहीं कर सकते । तो वह छोटी स्टेट्स कहेंगी कि श्वीमान जी हम को तो इजाजत दीजिये ताकि हम अपना टैक्स लगा लें और अपने फाइनेन्सेज को ठीक कर लें । हमारे फ़ाइनेन्स मिनिस्टर साहब तो एक व्यावहारिक आदमी हैं पर में तो यह समझता हूं कि यह बहस एक ऐसी बहस है जैसे कि मान लीजिये कि मेरे एक लड़का है और उस की शादी हो रही हो और मैं दूसरे से कहता हं कि मेरे पास तो चार पांच सौ रुपया है और बिरादरी को देने के लिये दो तीन हजार रुपया नहीं है, और साथ ही चार आदमी और खड़े हो जाते हैं और कहते हैं कि यह लड़का तो गोरा है, खुबसुरत है, मालदार है या नौकर होने वाला है, इस से शादी कर दो । तो मेरे दिल की तो यह बात है कि किसी तरह से मेरे

लड्के की शादी हो । अगर चार आदमी

मेरे लड़के में बहुत से गुण देखते हैं तो मैं भी कहता हूं कि मेरे लड़के में यह गुण हैं क्योंकि मैं तो यह चाहता हूं कि मेरे लड़के की शादी हो जाय । इसी तरह से हमारे मिनिस्टर साहब ने चारों तरफ से लोगों को यह कहते सुना कि यह बिल बहुत अच्छा है, इस का स्वागत किया जाय, इस से यनी-फ़ामिटी हो जायगी इस से टैक्सेशन हैवी नहीं होगा । तो यह सब गुण लोगों ने बखान किये। तो मिनिस्टर साहब ने भी कहा कि हमारा बिल सर्वगुण सम्पन्न है इस को पास कर दिया जाय। मैं समझता हं कि इसी तरह की बहस उन्होंने सिलेक्ट कमेटी में रखी होगी और धारा तीन पास करवा ली । उस के बाद कौन पूछता है आबजैक्ट्स एंड रीजन्स को । हमारे फ़ाइनेन्स मिनिस्टर साहब ने वायदा किया है कि वह एक कानफ़ेंस बुलायेंगे ।

PANDIT THAKUR DAS BHARGAVA in the Chair.1

इसमें यह शब्द लिखे हैं कि हम एक लिस्ट (List) बनायेंगे लेकिन यह नहीं लिखा है कि इन पर टैक्स हैवी न हो । इस में लिखा है :

"No law made after the com-mencement of this Act by the legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any goods....." Mind you, "imposing, or authorising the imposition of इस में कहीं नहीं लिखा है ''of a uniform tax and a tax which is not heavy '' । यह बिल पास होने पर कोई किसी जगह पर एतराज नहीं कर सकता । चाहे वह सुप्रीम कोर्ट में जाये पर जो शब्द हैं वही देखे जायेंगे। मैं कहता हूं कि आप इस चीज को साफ कर दें। फाइनेन्स मिनिस्टर्स उस में सब अपनी कानफ्रेन्स होगी आप का फाइव अपनी बातें सामने रखेंगे। इअरर्स प्लान (Five Years Plan)सामने आ रहा है। कौन सी ऐसी स्टेट होगी

[श्री घुलेकर]

जो कि फाइव इअर्स प्लान के ट्कड़े ट्कड़े कर दे और इसेंशियल गड़स (Essential goods ) के मामले में एक पैसा भी कम कर दे। तो यह सब कठिनाइयां आप के सामने आयेंगी । इसलिये मैं यह अर्ज करना चाहता हूं कि अगर आप इस चीज को मानते हैं तो जैसा मेरे मित्र सिंहासन सिंह जी ने कहा कि आप इस में कोई ऐसे प्रोवाइजो (proviso) रख दीजिये। क्या जरूरत हे आप को फाइनेन्स मिनिस्टर्स की कानफ़ेंस बुलाने की । दो चार शब्द जो कि ठीक हों आप इस में रख ਣੇਂ जैसे कि :

"Provided that no taxation which is not uniform or is heavy will be imposed by the State Government." इस तरह से दो चार शब्द जो आप मंजूर करें इस में जोड़ दीजिये जिस से एक सिटीजन (citizen)को ठीक पोजीशन (position) तो मालूम हो और वह मांग कि यह जो टैक्स लगाया जा रहा है यह हैवी है या यूनीफ़ार्म नहीं है। वह कह सकता है कि आप हर कोई नया टैक्स नहीं लगा सकते। तो एक बात तो यह ह।

दूसरी बात यह है कि आप स्वयं देखें कि स में कितना डिस्किमिनेशन (discrimination) हो सकता है। जब युनी-फार्मिटी का सवाल आयगा तो उस के अर्थ करने में मुश्किल होगी। / वही टैक्स एक जगह हैवी नहीं होगा और दूसरी जगह वह हैवी माना जायेगा। जैसे दिल्ली शहर में अगर एक जोड़े जूते पर सेल्स टैक्स लगाया जाता है तीन आने रुपया के हिसाब से तो वह हैवी नहीं है क्योंकि जो आदमी २६ रुपये १४ आने का जूता पहन सकता है वह उसके लिये ३७ रुपये दो आने भी द सकता है। ऐसा करना उस के लिये कोई

बात नहीं होगी । अब आप यही तीन आना रुपया लगा दीजिये बंदेलखंड में । इस में आपने दो चीचें रखी है हाइड्स एंड स्किन्स (Hides and skins) यानी कच्चा चमड़ा। अब हमारे बंदेलखंड झांसी में जिस वक्त⊾ँइस कच्चे चमडे का सामान तैयार किया जायगातो ज्यादा से ज्यादा वह तीन सौ सवा तीन सौ रुपये में बिकेगा। लेकिन जिस वक्त वही कच्च। चमड़ा दिल्ली में आता है और उस के सूटकेसेज (suit cases) और दूसरी चीजें बनती हैं और युक्स के केसेज बनते हैं तो वही रुपये का कच्चा पचास चमडा यहां **दो हजार का हो जाता है। तो अगर यहां** दिल्ली की मारकेट (market) में आप उस चमडे पर आठ आने रुपया के हिसाब से भी सेल्स टैक्स लगा दें तो कोई बात नहीं लेकिन अगर बुन्देलखंड में दो आना रुपया भी लगाया जाय तो वहां के देहात के चमार मर जायेंगे ।

Shri P. N. Rajabhoj: (Sholapur-Reserved-Sch. Castes): On a point of order. आप दो हजार कैंसे बताते हैं। आप को यह कैंसे मालूम हुआ। चमड़े की कीमत में इतना फ़र्क नहीं होता है।

**Mr. Chairman:** Order, order. Let the hon. Member proceed. He has only given an example.

भी घुलेकर : यह चश्मे का घर एक रुपय में मिलता है । यह कितनी छोटी चीख है और इसका दाम एक रुपया होता है । मैं हाइड्स और स्किन्स की बात कह रहा हूं मैं पक्के चमड़े की बात नहीं कह रहा । मैं चाहता हूं अध्यक्ष महोदय कि आप इस बात पर गौर करें कि जो कच्चा चमड़ा दिल्ली के मारकेट में बिकता है बह सेल टैक्स (sale tax) का वजन काफी **Essential** Goods

झेल सकता है लेकिन जो छोटी जगहें हैं

देहात में बिके तो कोई भी मनुष्य उसके

लिये को चार पांच रुपया सेल्स टैक्स दे कर

५५ रुपये में खरीद लेगा क्योंकि वह समझता

है कि उस को पक्का करके पांच सौ में बेच

और देहात में रुपये में तीन आने भी टैक्स

होता है तो खरीदने वाले को दो रुपया चार

आना दे कर खरीदने में बहुत नुकसान होगा।

उस का वह चमडा इतना मंहगा बिकेगा

वह न बिके । तो इसलिये में अप को

बतलाना चाहता हूं कि जो बात आप ने

प्रेसीडेंट महोदय के लिये रखी है उस में

यह होगा कि जब प्रेसीडेंट के सप्मने कोई

भी ऐसा बिल आयेगा जिस में प्रादेशिक

सरकारें टैक्स लगायेंगी तो उस वक्त वह

इस बात की कोशिश करेंगी कि जिस कदर

आरग्यमेंट (argument) उस के पक्ष में

रखे जा सकते हैं रखेंगी और प्रेसीडेंट को यह

तै करना बहत मुझ्किल हो जायेगा कि जो

बातें कही गई हैं वह सही हैं या गलत है

और इसलिये युनीफार्मिटी का इस प्रकार

से होना बहुत मुश्किल है । इसलिये मैं आप से

कहना चाहता था कि जिन चीजों का शेडयल

में इंदराज कर दिया गया था. सिलेक्ट

कमेटी ने इस बात पर बिल्कूल गौर नहीं

किया कि आया इन को यनीफामिटी के लये

उस में रखना चाहिये या नहीं रखना चाहिये ।

में ने जैसा आप को बतलाया हाइड ऐन्ड

स्किन्स और ऐन्टीव।योटिक्स और सल्फा

इग्स (Sulfa Drugs) यह दो शब्द इस

में डाल दिये गये हैं ....

हो सकता है कि आठ रोज तक भी

वहां पर वही कच्चा चमडा

नहीं झेल सकता ।

बात है ।

सकता है।

नहीं ।

उतना बोझ

यह बिल्कूल स्पष्ट

अगर कच्चा चमड़ा दिल्ली के

लेकिन अगर कहीं किसी

25 JULY 1952 (Declaration and Regulation 4644 of Tax on Sale or Purchase) Bill

> ing on matters which have been included in the Schedule?

श्री धुलेकर : मैं यनीफामिटी पर अर्ज कर रहा हं। पहली बात तो यह है कि एन्टी-बायोटिक्स और सल्फा ड्रग्स को फारेन मैनू-फैक्बरर्स (foreign manufacturers) ही क्यों बनाते हैं, यहां पर भी तो बडे बडे लोग उस को बनाते हैं, सिलेक्ट कमेटी ने इस बात पर गौर नहीं किया कि ढ़ग्स को अगर इसे-न्शियल गुन्स (essential goods) की लिस्ट में रखते, तब तो मेरे दिमाग में यह बात आती कि ३५ करोड़ आदमियों के लिये यह सोच कर कि ड्रग्स और मेडीसनस् एक आवश्यक वस्तू है, इसलिये उस को इसेन्शि-यल गुड्स में रख दिया और उस के ऊपर टैक्स भी नहीं लगना चाहिये । लेकिन यह जो ऐन्टीबायोटिक्स और सल्फा डूग्स जैसी चीजें रक्सी गयी हैं उस का क्या नतीजा हुआ है, मैं तो पालियामेंट के फ्लोर (floor) पर साफ यह कहना चाहता हूं कि मालूम पड़ता है कि यह शब्द वहां पर सिर्फ इस लिये डाल दिये गये हैं क्योंकि सरकार पर कैपी टलिस्टस् (Capitalists) फमस और उन के ऐजेन्टस की कनवैसिंग (canvassing)का असर पड़ा है, वरना मैं कोई वजह नहीं समझता कि यह दो शब्द यहां पर क्यों डाले गये हैं ? मैं तो यह कहता हूं कि उसके मुकाबिले में लबण भास्कर, हरं और चूर्ण इन पर सेल्स टैक्स लगे और वह इसेन्शियल गुड्स में न रखे जायें, तो इस से और वया नतीजा हम निकाल सकते हैं, सिवाय इस के कि सरकार बड़ी बड़ी कैपीटलिस्ट फ़र्म्स के प्रोपेगन्डा में आ गयी है कि सल्फ़ा ड्रग्स वग़ैरह तो इसेन्शियल गुड्स में आ गयी हैं और इन को उस में शामिल नहीं किया गया ।

Mr. Chairman: May I just remind the hon. Member that the Schedule is yet to be gone into and he is dilat-

Dr. M. M. Das (Burdwan-Reserved-Sch. Castes): May I say for his infor-mation that Antibiotics comprises Auriomicyn and Streptomicin.

भी खुलेकर : में और क्या कह रहा हं, मैं भी तो यही कह रहा हूं। जब मेरे घर में बीमारी हुई तो डाक्टर चार दिन की दवा के लिये ११५ रुपये का नुस्खा लिस गया और अगर सेल्स ढैक्स लगा कर बह ११७ रुपये का भी नुस्ला लिख जाता तो में क्या कर सकता था, लाचारी थी, रुपये पैसे से चाहे बर्बाद हो जाता लेकिन मरते को बचाना तो लाजिमी था । मैं आप से यह कहना चाहता हूं कि इसेन्शियल गुड्स की व्याख्या और रेगुलेशन आफ़ टैक्स यह दो चीजों एक साथ मिला दी गयी हैं। में पूछना चाहता हूं कि क्या युनिफ़ामिटी आफ़ टैक्स (uniformity of tax) है ? हमारे घर में कोई बीमार हवा तो डाक्टर ११५ रुपये का नुस्खा लिख यह पता नहीं कि ऐरिओमिसिन देता है । (Auriomicyn) ८५ रुपये की या ९५ रुपये की है, ११५ या ११७ रुपये कुछ ही उस की क़ीमत कह दे, वह में दे देता, क्योंकि मेरे घर में तो आदमी दम तोड़ रहा है, तो कौन ११५ और ११७ के वास्ते मंह देखें। अब आप ही बतलाइये कि यह हमारे देश के लिये दवाइयां जो इतनी क्रीमती होती हैं, कहां तक लाभ कर और हितकर साबित हो सकती हैं, और हमारी ग़रीब जनता कहां तक इन दवाइयों का उपयोग कर सकती है। मुझे कहने पर बाध्य होना पड़ता है कि हमारी सरकार अभाग्यवश अलोपेथी डाक्टरों और अंग्रेजी दवाइयों की बड़ी बड़ी फ़र्म्स की कनवैसिंग में आ गयी है ।

Mr. Chairman: Order, order, I am very sorry to interrupt the hon. Member, but he must know that he is speaking on clause 3. So far as the guestion of uniformity or the question of the article being an essential one do not arise. If the hon. Member is speaking on the whole Bill, his speech may be quite relevant. So far as clause 3 is concerned, these need not be emphasized at this stage.

भी भुलेकर : में इस के लिये माफ़ी चाहता हूं, में इस चीज को यहीं पर खत्म कर दूंगा और यूनीफ़ार्मिटी के ही बारे में अर्ज करूंगा । युनीफ़ार्मिटी का सवाल जो इस घारा तीन में आया तो मैं यह पूछना चाहता हूं कि यह दो शब्द रखने से आप का क्या अभिप्राय है ।

**Mr. Chairman:** I am very sorry to interrupt the hon. Member again. The question of uniformity does not arise in relation to clause 3. That is exactly what I am pointing cut.

**Babu Ramnarayan Singh:** What is the purpose of this section?

**Mr. Chairman:** The hon. Member has not realized the objection which I have raised. The entire Bill deals in a subsidiary manner with the question of uniformity. The Bill is aimed at securing that uniformity. The Bill does not say that there should be uniformity or no uniformity at all. Clause 3 only deals with certain aspects of the question. It does not deal with the necessary articles or even with uniformity etc.

श्वी घुलेकर : अध्यक्ष महोदय, में अर्ज कर रहा था कि इस बिल के दो हिस्से हैं, पहला हिस्सा तो डिक्लेरेशन आफ़ इसेन्शियल गुड्स (Declaration of Essential Goods)का है और दूसरा रेगुलेशन फ़ौर दी इम्पोजीशन आफ़ टैक्स (Regulation for the imposition of tax) है और वह धारा तीन है। उस घारा तीन के सम्बन्ध में मुझे यह कहना है कि इस धारा तीन में युनीफ़ार्मिटी और अनड़यू हैवीनेस आफ़ दी टैक्स का जिक्र उस धारा के अन्दर आना चाहिये था। इसलिये मेरी अर्ज्व यह है कि मौजूदा शकल में जैसी धारा तीन है, वह डिफेक्टिव (defective) Essential Goods

है और इस बिल के बनाने से हमारा जो मक़सद है, वह अगर यह घारा जैसी है वैसी की वैसी ही रहने दी जाती है, तो उस का मतलब ही सतम कर देती है अगर उस घारा के अन्दर युनीफार्मिटी एन्ड अनडय हेवीनेस आफ़ दी टैक्स का जिक नहीं आता है । इसलिये में घारा तीन को इस प्रकार से कहना चाहता हूं ताकि शेडयूल में जो चीजें आप ने रखी हैं और जो युनीफ़ार्मिटी को पैदा नहीं करती हैं और टैक्सेज के रेवन्युज (revenues) को भी कम नहीं करती हैं बल्कि वह उन ची जों को भी खराब कर देती हैं जिस की वजह से प्रादेशिक सरकारों के हाथ में एक ऐसी ताक़त पहुंच जाती है कि जिस की वजह से वह न तो टैक्सेज को यनीफ़ार्म करे और न कम करे वह चीज ठीक होनी चाहिये और इसलिये में ने आप की सेवा में दो तरह के उदाहरण पेश किये और जैसे कि मैं ने कच्चे चमडे के बारे में आप को बताया कि प्रादेशिक सरकारें अपने भिन्न मत रख कर प्रेसीडेंट महोदय के सामने यह बात रख-सकती हैं कि कच्चे चमड़े पर हमारे प्रदेश में इतना टैक्स होगा, चाहे दूसरे प्रदेश में उस पर कोई दूसरा टैक्स लगा हो, लेकिन हम अपने प्रदेश में उस पर यह टैक्स रखना चाहते हैं। दूसरी बात जो मैं ने अर्ज की थी वह यह थी कि, अगर क़ीमती चीजों आप उस में रखते हैं तो क्या उन के नाम पेटेन्ट (patent) हैं यदि आप ऐसा नहीं करते तो मेरी अर्ज यह है कि यह बहुत बड़ा डिस्क्रिमिनेशन (discrimination) है और इस ऐक्ट में जो इशेन्शियल गुड्स की धारा है उस में इस को नहीं लाया जा सकता । और अगर ऐन्टी बायोटिक्स और दूसरी सल्फ़ा ड्रग्स को इस में रखते हैं तो इशेन्शियल गुड्स का रेगुलेशन इस पर लागू होता है, और अगर आप ऐसी चीजों को जो पूरा मेडिसिनल सब्जेक्ट (Medicinal subject)है उस में

रखते हैं तो यह एसेन्शल गुड्स के रेगुलेशन में नहीं आ सकतीं।

एक माननीय सदस्य : वह सब अमरीकन हैं।

थी धुलेकर : अमरीकन हों य। कूछ हों। सल्फ़ा ड्रग्स के माने यह हैं कि वह ड्रग्स जिन में सल्फ़र(sulphur)होता है. उन को छोड देंगे और दूसरों का रेगुलेशन करेंगे तो, श्रीमान, मैं अर्ज करूंगा कि बडा भारी डिस्किमिनेशन है । अगर सल्फ़ा ड्रग्स का मतलब आप इस से लेते हैं कि जिन दवाओं में सल्फ़र हो, तो मैं कहंगा कि आयुर्वेद में हिरण्यगर्भः और हेमगर्भः तथा जितने रस और भस्म बनते हैं उन सब में सल्फर होता है। मैं जानना चाहूंगा कि यह डिस्क्रिमिनेशन सल्फर ड्रम्स के ही लिये क्यों किया जा रहा है ? अगर सल्फ़ा ड्रग्स के यही माने लेते हैं तो इस के मातहत तो आयुर्वेद की सारी औषधियां आ जाती हैं । ऐन्टीवायोटिक्स का मतलब

यह है कि .....

Mr. Chairman: I would again remind the hon. Member that he is speaking practically on the Schedule, on the question of the inclusion of antibiotics and sulpha drugs in the list of neces-sary articles. He is practically **speak** ing on that subject and he has almost exhausted himself on this matter. I would request him to proceed further with his arguments.

भी धुरूकर : इसलिये में यह अर्ज करना चाहता था कि यह जो बिल इस प्रकार से यहां पर आया है यह दोनों बातें पूरी नहीं करता है और इसलिये मैं यह समझूंगा कि जो कुछ हमारे फ़ाइनेन्स मिनिस्टर साहब यूनीफ़ार्मिटी के बारे में कहते हैं उस की कोई डेट (date) नहीं होती है। मेरे मित्र सिंहासन सिंह जी ने कहा कि यह बात अगर हम मानते हैं तो कोई वजह नहीं है कि हम इस में दो चार शब्द और न

out

[धी धुलेकर]

जोड दें। यह कोई बात नहीं है कि हाउस बैठे इस पर बहस हो जाय, सब के दिल में यह हो कि अगर युनीफ़ार्मिटी हो जाती तो अच्छा होता, मगर आसिर में यह धारा टाक वाउट (talk out ) हो कर ऐसी ही छोड़ दी जाये जिस में आगे पीछे हाउस भी कूछ न कह सकेगा और न प्रान्तीय सरकारें ही कुछ करेंगी । आखिर प्रान्तीय सरकारें कुछ कहने के लिये क्यों आवेंगी, क्योंकि इस तरह तो उन के लिये एक इन्स्ट्र मेन्ट (Instrument) मिल जायेगा कि वह जैसा टैक्स चाहें अपने यहां लगावें और अपनी जरूरतों को देख कर के जो मुनासिब समझें करें।

Shri U. S. Malliah (South Kanara-North): I beg to move:

"That the question be now put". Mr. Chairman: The question is:

"That the question be now put".

The motion was adopted.

Mr. Chairman: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

#### The Schedule

Dr. M. M. Das: I beg to move:

(i) In page 2, line 18, for "Antibiotics and sulpha drugs" substitute "Drugs and medicines".

(ii) In page 2, line 18, after "drugs" add "anti-malarial drugs, such as quinine and paludrine".

The Select Committee to which the Bill was referred has made some im-portant changes and some additions and alterations in the Schedule to the Bill. While these changes made by the Select Committee have improved the Bill to one ortent and have made the Bill to some extent and have made it more acceptable to the House. I must painfully submit that neither our Gov-ernment who are the sponsors of the Bill, nor the Select Committee to which this Bill was referred, have done

# medicines prepared from vegetables and plants have been deliberately left

justice to the millions of people of our country who suffer from crippling and devastating diseases. It is simply amazing that when an item like flower

seeds has been included, has been con-

steeds has been included, has been con-sidered as an essential article necessary for the life of the community, drugs and medicines have not found a place in the list or in the Schedule. In item No. 2 of the Schedule, I find flower seeds have been included; but

### भी भूलेकर : में भी बही कह रहा था।

Dr. M. M. Das: With all humility, I beg to ask this House whether it is the considered opinion of this House that considered opinion of this nouse that flower seeds are more important or more essential to the life of the com-munity than medicines. Our neigh-bouring country Pakistan has given exemption from sales tax to all drugs and medicines including—it will please my hon. friend, Mr. Dhulekar—Ayur-redic and Ungai medicines. I am my hon. Iriend, Mr. Dhulekar—Ayur-vedic and Unani medicines. I am sorry to find, Sir, that neither the Government nor the Select Committee has thought it proper to give any exemption from sales tax to medicines and drugs, either Allopathic, or Unani or Ayurvedic. It is difficult to under-stand how a welfare State like India stand how a welfare State like India that spends a substantial part of our annual revenue for fighting death and disease, for improving the health of the country, can be so callous as to permit the imposition of sales-tax upon drugs and medicines.

In item 16 of the Schedule, two classes of dugs, antibiotics and sulpha drugs have been included. There is no drugs have been included. There is no doubt that in modern medicine, today, these two classes of drugs, antibiotics and sulpha drugs occupy the highest and most important position. But, in a poor country like India, I find no reason, no justification at all why other drugs and medicines should not be drugs and medicines should not be included, and should not be considered as essential to the life of the com-munity. This brings me to what my hon. friend Mr. Dhulekar said. I understand he likes Ayurvedic medi-cines and he wants that concessions should be given to this system of Ayurveda. But, I do not understand why he makes unnecessary attacks upon the modern system of medicine. I mean the modern system of medicine, I mean the Allopathic system.

Shri Dhulekar: No, I do not. I advocate my case; I do not attack others.

, Dr. M. M. Das: Anyhow, my greatest grievance about which I feel rather strongly, is about anti-malarial drugs, like quinine, paludrine, mepacrine and others. Everybody in this House is well aware of the havoe caused every year among the rural population of our country by this crippling dis-ease, malaria. I appeal in the name of humanity to the hon. Mover of this Bill

Shri Velayudhan: In the name of God also.

Dr. M. M. Das: .......and to my colleagues in this House to include drugs and medicines in this Schedule. But, if for any reason, technical or other-wise, because drugs and medicines wise, because drugs and medicines contain alcohol and other things, it is not possible to include drugs and medicines, as the terms are in the Schedule, I beg to add at least anti-malarial drugs, quinine, paludrine, in item 16. after the words "Antibiotics and sulpha drugs". I appeal to this House, and to the hon. Minister in charge of the Bill point to nomini the im charge of the Bill not to permit the imposition of sales tax upon drugs like quinine and paludrine which are well known in every part of the country, even to the illiterate rural population. and are used by them in large quanti-ties even without the advice of medical men.

I am fully aware of the scope of is Bill. Although theoretically of this speaking, this Bill is a very important one, as it seeks to implement one of the provisions of our Constitution, yet. in actual practice, this Bill has become nothing more than a pious wish, or a pious sentiment, somewhat like the Directive Principles of our Constituthe tion.

Mr. Chairman: May I just request the hon. Member to confine his remarks to the actual amendment before the House. A discussion of the principles of the Bill again at this stage will lead us nowhere. We are only concerned with the Schedule. has moved his amendment, and would request him to confine remarks to the actual amendment. He Ι his

Dr. M. M. Das: I am speaking on the schedule. Am I allowed to speak about the other items of the Schedule moon which I have got no amendment?

Mr. Chairman: Those amendments have not yet been moved. It may be assumed that some of them are going to be moved. He may have his say on those amendments also.

Dr. M. M. Das: Coming to the items in the list, I beg to draw the attention of the hon, Minister in charge of the Bill to item No. 10. It is rather funny to note how hides and skins become essential articles, essential to the life

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community. of the 1 could have understood if he included leather and leather goods in place of hides and skins. As for hides and skins, they are used only in the manufacture of musical instruments—some of them. If the hon. Minister has in mind that hides and skins should include leather and leather goods,-I mean tanned leather and goods manufactured from leather—then, it should be explicitly expressed in this item. I beg to submit that so far as hides and skins are concerned, they cannot be regarded as essential to the life of the community.

Then there is another point on which I want to ask for the hon. Minister's clarification. It is item 13 "coal, in-cluding coke and other derivatives". Now, the derivatives of coal consist of so many things—coal gas, coal tar, aniline dyes, coal tar products, some medicines such as carbolic acid etc. They are all included in the term derivatives of coal. I want to ask the Minister in charge of the Bill whether by coal derivatives, he wants to include all these articles which I have just mentioned.

Then, petroleum and petroleum pro-ducts. Petroleum products also con-sist of petroleum jelly, *i.e.*, vaseline, ordinary vaseline. I want to know whether this is included in the list of the Bill.

If the hon. Minister wants to include all these things, hides and skins, flower seeds, vaseline, carbolic acid, coal tar etc., then, I do not know what objection he can have to include drugs and medicines in this list. I hope, the hon. Minister and my hon. friends in this House will give kind consideration to the proposals I have made with regard to medicines and drugs, and especially with regard to anti-malarial drugs, quinine and paludrine.

Mr. Chairman: I take it that the hon. Member has only moved his second amendment.

Dr. M. M. Das: Both the amendments. Sir.

Mr. Chairman: Amendments moved:

(i) In page 2, line 18, for "Anti-biotics and sulpha drugs" substitude "drugs and medicines".

(ii) In page 2, line 18, after "drugs" add "anti-mal, ial drugs such as quinine and paludrine".

बी सिंहासन सिंह : इस के सम्बन्ध में और भी अमेंडमेंटस हैं। अगर सब पर एक साथ ही विचार कर लिया बाता तो.

123 P.S.D.

Essential Goods

### [श्री सिंहांसनसिंह]

4653

अच्छा होता। और भी बमेंडमेंट्स हैं और उन सब को ले लिया जाय।

Mr. Chairman: I am now only concerned with amendments which are on the same subject, for instance Nos. 14 and 16. I therefore request Mr. Sinhasan Singh to move his amendment No. 14.

भी सिंहासन सिंह : सभापति महोदव, जो अमेंडमेंट मेरे नाम से है, चुंकि इस अमेंडमेंट का मतलब बिल्कुल हल हो जाता है बबर जो अमेंडमेंट १२ नम्बर पर है, "ड्रम्स एंड में डिसन्स", उस को सरकार क़बूल कर ले, तो मेरे अमेंडमेंट की जरूरत नहीं है । ड्रम्स और मैडिसन्स इतने वाइड टर्म्स (wide terms) हैं कि यह सब को कवर (cover) करते हैं । हमारा अमेंडमेंट जो बाद में आया है उन में सब दवाइयों का अलग अलग नाम दिया गया है । १७ नम्बर के अमेंडमेंट में,

"All medicines, Allopathic, Homoepathic, Unani and Ayurvedic."

यह ज़ब्द आये हैं। इसलिये मेरी राय में डुन और मैडिसिन, यह सब प्रकार की औषधियों को और विभिन्न प्रकार की दवाइयां जो हैं उन सब को शामिल करता है । इस को क़बुल कर लिया जाय । इस सम्बन्ध में मेरा यह निवेदन है कि जो मौजूदा विधान के अन्दर है "ऐंटीबायोटिक्स एंड सल्फा इग्स" यह. जैसा श्री घलेकरजी ने कहा, ज्यादा तर ऐसी दवाइयों से सम्बन्धित हैं कि जो बडी बड़ी दवाइयां हैं। लेकिन देहातों में और दूर दूर के स्थानों में जहां कि यूनानी प्रया है, होम्यिोपैथिक प्रथा है, आयुर्वेदिक प्रचा है, वहां इन का समावेश नहीं होता। यदि यह शब्द यहां बदल कर ''इग्स इंड मैडिसिन" रख दिये जायें तो युनानी बावर्वेंदिक और होस्यिंपेंचिक सब दवाइवां यह शब्द लाने ते बह इस में वा जायें।

काम बन जायेगा और इस में सब की भावना एक साथ होगी कि सब प्रकार की दवाइयों का सरकार को ध्यान है, सब को वह एक नजर से, एक विचार से देखती है और सब को एक सन्तुलन की दृष्टि से देखती है। इसलिये मेरी राय में जो डाक्टर मनमोहन दास के नाम से अमेंडमेंट है वह ले लिया जाय और उस के रहते हुए मैं अपना अमेंडमेंट मब नहीं करना चाहता। मैं डाक्टर मनमोहन दास के अमेंडमेंट को सपोर्ट करता हूं। Shri V. Missir (Gaya North): 1 beg

to move: In page 2, after line 18, add:

"17. All oils excluding vanaspati oil.

18. All medicines, Allopathic, Homoeopathic, Unani and Ayurvedic."

अध्यक्ष महोदय, में अपने १७ नम्बर के संघोधन को सदन के सामने रखते हुए यह कहना चाहत। हूं कि यह संघोधन बहुत जरूरी है, और जरूरी इस लिये है कि उस में दवाइयों का भी जिक है। दवाई आदमी की जिन्दगी के लिये कितनी जरूरी है, इस में शायद किसी आदमी को ऐतराज न होगा इस से ज्यादा इस के बारे में मुझे कुछ नहीं कहना है। में समझता हूं कि जो बिल के मूवर (mover) है वह इसे कबूल कर लेंगे. इसलिये कि यह आदमियों की जिन्दगी के लिये बहुत जरूरी चीज है और यह आशा करते हुए मैं अपना संघोधन पेज करता हूं।

Mr. Chairman: First, let all these amendments be moved. Then we shall come to the general discussion. Amendment moved:

In page 2, after line 18, add:

"17. All oils excluding vanaspati oil.

18. All medicines, Allopathic, Homoeopathic, Unani and Ayurvedic."

Shri Ramachandra Beddi (Nellore): May I suggest one thing, Sir? The various items in the Schedule might be taken up one by one, and then disposed of.

Mr. Chairman: I propose to call upon those who have given notice of amendments to kindly stand up one by one, and I shall allow them to move their amendments.

Shri Ramachandra Reddi: My sug-gestion is a different thing. In the Schedule there are about 16 items, and I suggest that each item might be taken up separately, and the amendments might be discussed separately under each item and then disposed of.

Mr. Chairman: First of all, let all the amendments be moved, and then the entire matter will be open for discussion. The items  $a_S$  well as the amendments moved. I shall be calling upon the various hor. Members who have given notice of amendments one by one.

Shri S. C. Samanta (Tamluk): I beg to move:

(i) In page 1, line 17, after "bran" insert "flattened rice and fried rice".

(ii) In page 1, after line 22, insert "2A. Betel leaves and arecanut."

6, (iii) In page 2, after line 6 insert "8A. Cotton hosiery goods."

(iv) In page 2, line 17,

(a) for "exercise books" sub-stitute "paper"; and

(b) after "periodical journals" add "maps, charts, and teaching materials<sup>1</sup> .

Mr. Chairman: Amendments moved:

(i) In page 1, line 17, after "bran" insert "flattened rice and fried rice"

(ii) In page 1, after line 22, insert "2A. Betel leaves and arecanut."

(iii) In page 2, after line 6, insert "8A. Cotton hosiery goods."

(iv) In page 2, line 17.

(a) for "exercise books" substitute "paper"; and

(b) after "periodical journals" add "maps, charts, and teach-ing materials".

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

> (1) In page 2, (i) lines 8 and 9, omit "jute

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> seeds, raw jute, sun hemp, and mesta"; and

> (ii) after line 9, insert "9A. Jute seeds, raw jute, sun-hemp and mesta".

(2) In page 2. for line 16. substitute:

"14. Nails, bolts and nuts. hinges and other articles manufactured from metals and used for building purposes."

Mr. Chairman: Amendments moved:

(1) In page 2,

(i) lines 8 and 9, omit "jute seeds, raw jute, sun hemp, and mesta"; and

(ii) after line 9, insert "9A. Jute seeds, raw jute. sun hemp and mesta".

(2) In page 2, for line 16, substitute:

"14. Nails, bolts and nuts. hinges and other articles manufactured from metals and used for building purposes."

Shri Punnoose (Alleppey): I beg to move:

In page 1, line 19, after "coconuts" insert "including coconut husks, coir fibre, coir yarn and coir products

With regard this amendment. to With regard to this amendment, some explanation is necessary. 'Coco-nuts' has been included in the Schedule by the Select Committee, but coir products have not been in-cluded. I think that has happened because the importance of the coir industry as an essential industry for the community has not been realised by the Select Committee. The word 'industry' itself is rather misleading with regard to coir It has been cal-'industry' itself is rather misleading with regard to coir. It has been cal-culated that about 13 lakhs of people are affected by the present slump in the industry, while purely industrial workers are not more than a lakh. The coir industry is a cottage indus-try. Even the word 'cottage industry' does not convey the full meaning of the term. It is not a secondary type of work a supplementary occupation of work a supplementary occupation actually lakhs of people live entirely by this. In the whole coastal line, you will find that tens of thousands of homes depend only on this industry. More than 50 per cent. of the products are consumed by the people. For a long time past, there has been persist-ent demand from all interested parties and sections for the removal of the

#### [Shri Punnoose]

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sales tax on these products. For the time being, the sales tax has been suspended by the State Government concerned. It is calculated that about 1,200 kandies of coir are produced everyday which in normal times will get about Rs. 390,000, and it must be specially noted that about Rs. 260,000 are spent on merely wages alone. There are several stages in the coir industry—husking, soaking etc. All these are performed as coltage industry. I do not object to any sales tax being imposed on coir products during normal days, but in the case of coir, it has been deceptive in the past, the fluctuations have been so violent and everytime the price of coir products goes down, lakhs and lakhs of people are thrown into difficulties, and therefore, I very strongly urge that this amendment be accepted.

For the time being, there is no sales tax on these products. It was only a few weeks ago that this was lifted owing to very strong agitation. If my amendment is not accepted, there is every likelihood of its being re-imposed again.

I very strongly urge that the importance of the industry must be realised, and so I suggest that the words 'coconut husks, coir fibre, coir yarn and coir products' be also included in the Schedule.

Mr. Chairman: Amendment moved:

In page 1, line 19, after "coconuts" insert "including coconut husks, coir fibre, coir yarn and coir products".

Shri Viswanatha Reddy (Chittoor). I beg to move:

In page 2, line 17, after "exercise books" insert "slates and slate pencils".

Mr. Chairman: Amendment moved:

In page 2, line 17, after "exercise books" insert "slates and slate pencils".

Shri N. P. Sinha (Hazaribagh East): I beg to move:

In page 2, after line 18, add:

"17. Mica (except finished mica meant for export)".

Sir, with regard to this a little explanation is necessary. So far as the nature of this industry is concerned, I would like to place in as few words as possible before this House how this particular industry is carried out in Bihar, especially in parts of Chota Nagpur. First of all, I would say at the outset that it has today

become a multiple taxable commodity. It is taxed as soon as it passes from one hand to another. For instance, when mica is mined, it is taken out in the shape of crude mica and this mica the snape of crude mica and this mica is sold in the open in the same state to others. At that point it is taxed. Then it is treated to what is called the 'sickle process'. That also is sold and it is taxed at that point. If the same way it is dressed, it is processed, it is graded, it is classified. It is placed in different backets according to different different baskets according to different qualities a: d all these different kinds of qualities and different kinds of grades, when they are sold by one dealer to another are taxed. The main point that I want to place before the House and to which I would like to invite the attention of the hon. Minister in charge is that this mica should be taxed as it used to be taxed internally before the passing of article 286 of the Constitution. When this article 286 was adopted, of course the sales tax which used to be collected by exporters from the foreign buyers ceased. The result was that the tax was distributed dealers. Mica, today, has ceased to be the monopoly business of a few rich. It has now become a business of thousands and thousands of small dealers who invest some money, some small capital and do business; some-times they sell it in the same way as they buy it. So what I mean to sug-gest is that this mica should not be a multiple taxable commodity, Ħ 88 affects a large number of small dealers who have to depend for their livelihood on this very trade in our parts of Chota Nagpur. I, therefore, suggest that this should be included in the hist of essential commodities.

Mr. Chairman: Amendment moved:

In page 2, after line 18, add:

"17. Mica (except finished mica meant for export)".

Now all these amendments and the Schedule are open to discussion.

Before we adjourn, I would request the Secretary to read out the message from the Council of States.

#### MESSAGE FROM THE COUNCIL OF STATES

Secretary: Sir, I have to report the following message received from the Secretary of the Council of States:

"I am directed to inform the House . of the People that the Council of States

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