Order Paper gives a particular name. I have no objection to an hon. Minister entrusting it to another.

The Minister of Finance (Shri C. D. Deshmukh): I beg to present a statement showing Supplementary Demands for Grants for expenditure of the Central Government (excluding Railways) for the year 1953-54.

ESTATE DUTY BILL.—*contd.*

Clause 61.—(*Appeal against determination etc.*)

Mr. Deputy-Speaker: The House will now proceed with the further consideration of the Estate Duty Bill.

Several Hon. Members *rose*—

Mr. Deputy-Speaker: Hon. Members ought not to be standing while I am standing.

Clause 61 is under consideration. I was not here yesterday. I find some of these amendments are barred by the decision that was taken so far as the appellate tribunal is concerned. Was any hon. Member in possession of the House?

Shri U. M. Trivedi (Chittor): Yes.

Clause 61 makes a provision for an appeal against the determination by the Controller. Yesterday, in the course of opening the debate on this Clause....

Mr. Deputy-Speaker: I only want to say one thing as to what ought to be the scope of this appeal in relation to this particular Clause and the amendments. The question of the appellate tribunal was discussed when we were on the Clause relating to authorities, *viz.*, Clause 4. That was put to the vote of the House and then it was voted out. Therefore, so far as the appellate tribunal is concerned—call it by any name, whether it is an independent tribunal or a judicial appellate tribunal—it will not form the subject matter of the discussion now. Hon. Members may address themselves to other points.

Shri U. M. Trivedi: Yesterday when this debate started, this very point was mooted, that we should have no discussion on the question of the provision of an appellate Tribunal, and I will keep within limits in speaking about it. The only suggestion that I make is this. There is no need for providing either a separate appellate tribunal under this law, nor is there any necessity for following the pattern which is provided for under the Income-tax Act. Things have been changing. We had a provision under the Government of India Act of 1935 under Section 226. That provision was like this:

> "Until otherwise provided by Act of the appropriate legislature, no High Court shall have any original jurisdiction in any matter concerning the revenue, or concerning any act ordered or done in the collection thereof according to the usage and practice of the country or the law for the time being in force".

This provision which was there precluded the High Court from interfering in its original jurisdiction with any orders made in revenue matters, unless a particular provision by law was made. Now, this original jurisdiction under the High Court meant that this jurisdiction would be exercised by high prerogative writs, *i.e.* writs in the nature of *certiorari*, prohibition, or *mandamus* or *quo warranto* or orders of that nature. This provision under section 226 has been set at nought by the provision in the Constitution of India under article 225. Article 225 says in its proviso:

> "Provided that any restriction to which the exercise of original jurisdiction by any of the High Courts with respect to any matter concerning the revenue, or concerning any act ordered or done in the collection thereof, was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction".

[Shri U. M. Trivedi]

Now, this having been provided for by our Constitution, I am asking why are we not taking advantage of it? Where is the necessity of providing a separate Board of Revenue to hear such appeals or hear appeals from particular types of orders when these could be easily provided for under the law without going to the extent of spending more money? Is it that this Government believes that our High Court Judges are non-nationals or is it that this Government is also afraid of the highly intelligent and integrated judiciary of India as the British Government was afraid of? Are they afraid of judicial determinations by highly qualified persons to the same extent as the British Government was? Why are they not taking advantage of this provision under article 225 and article 226? The provisions of article 226 are wider than the provisions of article 32 relating to the Supreme Court. Article 226 gives us a very wide provision so far as the High Courts are concerned:

> "Notwithstanding anything in article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases any Government, within those territories directions, orders or writs, including writs in the nature of *habeas corpus, mandamus,* prohibition, *quo warranto* and *certiorari* ....."

In most of the cases the orders that are made can be easily remedied by a procedure of *mandamus* or prohibition or by a writ of *certiorari.*

Mr. Deputy-Speaker: Is that taken away now?

Shri U. M. Trivedi: I am coming in a minute to that particular proposition, Sir.

What happens is this. The High Courts have always held—each one of them—that whenever there is a specific remedy provided for under a particular law, they are chary of exercising the jurisdiction which is vested in them under article 226, and we cannot approach the High Courts direct on account of this particular trend of decisions that have been accepted by all the High Courts.

Mr. Deputy-Speaker: I did not follow it.

Shri U. M. Trivedi: I am sorry. Every High Court has held, Sir, that whenever there is any specific remedy provided under any special law, unless and until that remedy is exhausted, it is not going to listen to you. That is why I say that if you take out this remedy which is put in this Act, if this is taken out, then only you could pursue the remedy which is provided for under 226. My further contention is this: that we have up to date failed to make use of article 139 which gives vast powers to our Supreme Court. At present, as the law stands, article 32 limits the rights of our Supreme Court to issue proper writs only in cases which fall within the purview of Part III which governs the fundamental rights. Just beyond the fundamental rights you cannot approach the Supreme Court. But article 139 gives power to the Parliament:

> "Parliament may by law confer on the Supreme Court power to issue directions, orders or writs, including writs in the nature of *habeas corpus, mandamus,* prohibition, *quo warranto* and *certiorari* or any of them, for any purposes other than those mentioned in clause (2) of article 32".

My suggestion, therefore, is this, that instead of providing this Central Board of Revenue as a final arbiter, we may make use of this provision. I have not much experience of the Central Board of Revenue of the Union Government, but I know the various Boards of Revenue of the various States. I know what goes

on there. I also know that sometimes we—advocates of high standing—have to make certain very pertinent and impertinent remarks about the members of the Boards of Revenue so much so that it looks as if we are reciting *Bhagwat* before a buffalo, and the thing can never come to an end. They never understand things and it is useless for any advocate of any standing to appear before them. Under these circumstances, I do not know whether the Finance Minister would take the hint and would like to act upon it, but I would certainly request him that not only in this legislation but in all legislation of a similar nature for any future purposes also we must take some hint from the U.K. Acts where under the various Administration of Justice Acts of 1933, 1934 and 1935, similar provisions are made whereby instead of going to the Board of Revenue you can go direct to the High Court and have your points adjudicated upon

Mr. Deputy-Speaker: In respect of estate duty?

Shri U. M. Trivedi: Yes, on estate duty also. The Administration of Justice Act applies there and a writ is not prohibited. Under the Administration of Justice Act, 1935, you can now obtain an order of prohibition or *mandamus* or *certiorari* or orders of that nature quashing the proceeding. This is obtaining there. Why should we not follow a similar procedure here so far as our Supreme Court or our High Courts are concerned? With these remarks, I resume my seat.

Shri Pataskar (Jalgaon): I want to make a suggestion. I do not want to make a long speech, nor am I going to touch the question of tribunals. But what strikes me, Sir, is that there were two Bills which preceded the present Bill, and with respect to the second, the report of the Select Committee was submitted on the 31st March, 1949.

Mr. Deputy-Speaker: The hon. Member means 'Bills'?

Shri Pataskar: Yes. (There were two Bills predecessors to the present Bill and in regard to the last Bill, that is, the one that just preceded this, the report of the Select Committee was submitted on 31st March 1949. It contained a clause—clause 55—which gave powers to the High Court in respect of all these matters of valuation etc.) It was on the same lines as the powers which are given in the U.K. to the High Courts and County Courts there. I would like to know what has happened between 1949 and 1953 to say that we should try to run away from the High Court altogether. Well, one of the reasons which was given—which I could follow—by the hon. the Finance Minister was that of dilatoriness. Well, it does not appear to me that if this clause was allowed to remain as it was, there would have been greater dilatoriness than what prevails actually in the department to which this matter is going to be entrusted. I know the average duration of an appeal either before the Appellate Tribunal or the C.B.R. Is it not a fact that some cases are pending since 1944? And is it suggested that any High Court would spend as much time and be dilatory to the extent of 7 or 8 years in an appeal of this nature?

Sir, after the Constitution came into force we find there are so many constitutional applications which are submitted to the High Courts and they are promptly disposed of. Therefore, Sir, in a matter of taxation of this nature it is much better that we should have kept the original clause 55 and allow these matters to be finally disposed of by the High Courts. Somebody suggested—I do not exactly remember the name—that in the case of land revenue assessment, they say all these are executive matters and therefore the judiciary should not be allowed to interfere. I know, Sir, in those days of Foreign British rule the Revenue Jurisdiction Act was there, and all matters of this nature were taken out of the jurisdiction of the High Courts. I know that every

[Shri Pataskar]

body was uniformly contending that the High Courts or the judicial authorities must be given the power to do justice to the subject, against any taxation. As an old member of the Bombay Legislative Council I remember everybody then said that even in respect of land revenue matters, they must be allowed to be taken to the High Courts. I found the other day some of my hon. friends saying while the revenue matters are not allowed to go up to the High Courts why should this go. Therefore, I want to know what has happened between 1949 and 1953 which warrants this change.

Shri Gadgil (Poona Central): Political changes.

Shri Pataskar: My hon. friend Mr. Gadgil says, political changes. I think that is not correct. Is it desirable that because of political changes we should not allow matters of taxation to be taken up to the High Court? I am not speaking only of this Bill but I am speaking of the general tendency which is not proper. If you say that everything is to be concentrated in the hands of the executive, the trend is unfortunate. Since Mr. Gadgil has interrupted me I would like to refer to law and order at page 214—I do not know whether he would relish it. 'Speed in conception and efficiency in execution', I do not know whether it will be attained by the jurisdiction of the High Court. It was efficiency in executive power which was in their view more important than the quality of government. That is the only thing that I can say. The High Courts are there, the judicial tribunals are there and if Government is going to do anything wrong which has escaped the attention of anybody they should be set right. Therefore in matters of taxation of this nature the tendency to give every power to the executive is not good. I will not dilate upon this here and I will do so when I come to section 81.

So far as this clause is concerned, I would like to hear from the hon. Finance Minister what has happened between 1949 and 1953 that we have changed that clause 55 which was there in the first Bill and also in the Second Bill and, as I stated up to the 31st March, 1951, when the Select Committee on the second Bill made its report; it was there untouched. It was taken from the United Kingdom provisions as every other provision has been taken. I would therefore like to know whether it is a distrust of the highest courts. So far as dilatoriness is concerned, I would like to know whether in the Appellate Tribunals and the Central Board of Revenue matters are not pending in appeal for a very long time. Therefore, is it suggested that only on that ground the High Courts are not being trusted or is it for something else? My hon. friend Mr. Gadgil says that political changes have taken place. Political changes may have taken place. Sir, we have framed a Constitution that was passed in 1950. Does it not try to establish democratic institutions, parliamentary democracy in this country and is not the basis of parliamentary democracy that there should be the right to approach the highest courts in the land? Or does parliamentary democracy only mean that every possible power should be concentrated in the hands of the executive government?

Shri N. C. Chatterjee (Hooghly): May I make a suggestion, Sir, which would shorten this debate?

Mr. Deputy-Speaker: Why not allow Mr. Dube to start?

Shri N. C. Chatterjee: I am going to make a suggestion for an amendment, Sir. You were not here when I pointed out that the scope of appeal is very limited as it stands in clause 61. We pointed out, Sir, that it is really limited to questions of valuation or to the amount of estate duty determined by the Controller or denial of liability to account etc., or objection to penalty. But, there

are several other matters which are very serious. Take for instance an adjudication that a gift is not *bona fide* or that the donor was not entirely excluded and so on. The hon. Finance Minister was good enough to suggest that he was prepared to consider any amendment. There was no difference between our point of view and that of the Government if proper wording could be suggested. I have just handed over a copy to the hon. Finance Minister. He asked to find out any alternative. Mr. Tulsidas's amendment is very wide in terms. You will find it, Sir, under clause 60, No. 178. It is wrongly printed; it should be under clause 61. You will find, Sir, that he has put in, "or objections to any order, determination, decision or levy of penalty by the Controller under any section of this Act". The Finance Minister has rightly pointed out that this is very wide. Even interlocutory orders refusing adjournment may come up on appeal. It is not our object, Sir, I am suggesting that:

In page 28, line 48, *after* "section 54", *insert*:

> "or any final order or adjudication under the provisions of this Act by the Controller which will have the effect of imposing liability or obligation for payment of estate duty or any order by the Controller refusing to grant a discharge or exemption certificate".

I hope, Sir, that the hon. Finance Minister will kindly see that. You know, Sir, the Privy Council has settled that we cannot go up against interlocutory orders. All that I am suggesting is that it should be clarified that appeal will lie against any final order of adjudication under the provisions of this Act which will have the effect of imposing a liability or obligation. Supposing, Sir, certain gifts are ruled out or it is held that they are not *bona fide* transfers or that there was no entire exclusion of the donor or there was no *bona fide* assumption of possession. Other things would be more or less a matter of calculation. The hon. Finance Minister has suggested that there was no objection to that. Possibly the language was not clear enough for that purpose. Therefore I am suggesting, Sir, that this should be accepted. I am adding this: 'or any order by the Controller refusing to grant a discharge or exemption certificate'. That is also very important. Otherwise, it may take years to complete a valuation and in the meantime a particular piece of the family property may have a good buyer and it could not be sold. The Controller says, 'I won't accept it and you cannot go up to the Board and appeal'. I hope the hon. Finance Minister will accept the amendment.

Mr. Deputy-Speaker: I will treat the amendment as moved.

The Minister of Finance (Shri C. D. Deshmukh): Mr. Deputy-Speaker, Sir, I will accept this amendment of the amendment which Mr. Chatterjee has just suggested.

Mr. Deputy-Speaker: I will put it to the House later and just now see whether other amendments are barred.

Shri U. S. Dube (Basti Distt.—North): In regard to the amendment for the appointment of an Appellate Tribunal, under Section 61, my submission is that....

Mr. Deputy-Speaker: Hon. Member's amendment is that "District Judge may be substituted for the Board". I do not say that that is barred.

Shri U. S. Dube: That is all right.

Mr. Deputy-Speaker: A District Judge is not a Tribunal which is to be created in one of the usual links in the Judicial courts.

Shri U. S. Dube: Speaking generally, Sir, I am of the opinion that the levy and collection of duties is the function of the state. It is not a matter which could or should be taken to the law courts because if you started doing that there will be

[Shri U. S. Dube]

millions of cases pending before the courts and the whole law, as it stands, may have to be changed. So many other questions would arise but in this particular matter I think an appeal should be allowed to the District Judge or any other judicial authority.

The Bill that is before the House is of a very complicated nature and the provisions of the English Act have already been incorporated in the language which is very involved and difficult to understand. I take it that it would be very difficult for the Board to understand the language of the various clauses that have been introduced in this Bill. It is for that reason that, I think, in the matter that exists here exception should be made and the appeals should be allowed to the judicial authority. It may be to the High Court or to the District Judge but it should not be to any person who has a qualification inferior to that of a District Judge. That is all that I have to submit in this connection.

Shri N. C. Chatterjee: It has been pointed out to me having regard to my amendment that some consequential amendment is necessary in line 48. "The person aggrieved may within ninety days of the receipt of the notice of demand". Now you should see whether it should be "90 days of the receipt of the notice of demand" under clause 56 or from the date of the order of adjudication.

Mr. Deputy-Speaker: Final order?

Shri N. C. Chatterjee: Yes, Sir.

Shri Gadgil (Poona Central): Within ninety days of the order appealed against or the adjudication appealed against.

Shri C. D. Deshmukh: Order or adjudication appealed against because there are two kinds of orders?

Shri N. C. Chatterjee: After clause 56 insert those words.

Shri C. D. Deshmukh: "Appealed against the order for adjudication of the Controller" then the words may run.

Mr. Deputy-Speaker: The final order or adjudication by the Controller. There is one final order. I will call it order.

Pandit Thakur Das Bhargava (Gurgaon): May I suggest one thing? Supposing there is an order passed and that order is an order appealed against and subsequently when the final order is passed the person makes an appeal and wants to dispute the previous order not appealed against. Now according to the provisions of this clause the C.B.R. is entitled to pass any order they think fit. Whereas in the other case there is an order which is not appealed against. My fear is that that order not appealed against may become final and that order will not be allowed to be impugned in the final appeal.

Mr. Deputy-Speaker: Hon. Members are aware that when a preliminary decree is passed it can be raised in a final order. But that is different from the interim orders passed in the course of the proceedings.

Pandit Thakur Das Bhargava: Today there is an order and the final appeal is filed. Then according to the provisions of this section the authority is fully entitled to go into the matter. My own fear is that in a case of this nature it will be argued subsequently that that order cannot be impugned. Similarly in regard to orders affecting merits of the case you have made certain orders appealable but there may be certain other orders which are not appealable. In regard to those orders also exception can be taken at the time of the final appeal for they are not appealable as such. Even under the Civil Procedure Code there are certain orders which are not appealable but at the time of the final appeal, exception is taken in regard to them and they are gone into. I want a safeguard against

that. Subsequently it may not be argued that such orders as were appealable had not become final and they could not be taken exception to.

Mr. Deputy-Speaker: Another interlocutory order is taken to be final or that they could not be re-opened in the final adjudication appeal against the final order. At the time of application for demand of documents the matter can be taken up in appeal against the judgment of the suit. I think the same procedure is followed here. All interlocutory orders can be agitated in the final appeal.

Pandit Thakur Das Bhargava: There is no section applying the principles of the Civil Procedure Code to appeals before the C.B.R. under this Bill. Since appealable order has not been appealed against, it has become final. I want a safeguard against this.

Mr. Deputy-Speaker: Whereas the appealable order—an interlocutory order—has an appeal against it—to that extent it becomes not final. Let him immediately take advantage of that instead of searching for the other one.

Pandit Thakur Das Bhargava: The right of appeal is discretionary. Today I may not take exception but at the time of the final order I can take exception to the order. That right will be taken away if you put "90 days" and it may be argued subsequently that such orders have become final. In my opinion they do not become final unless they are passed by the C.B.R.

Mr. Deputy-Speaker: If these words are not here how does it improve the situation?

Shri N. C. Chatterjee: That cannot possibly be raised. Because when the final determination is made and the valuation is fixed you will get the benefit and the estate duty will be determined by the Controller. Suppose I have made an application and that application is shut out. I can certainly urge before the Court that it has been wrongly rejected and, therefore, my valuation ought to be reduced.

Shri S. S. More (Sholapur): Supposing under Clause 9 in an interlocutory order a decision is given on that order. According to the latest modification an appeal has been provided against that order. The final order on the total assessment of all the property of the deceased, is passed by the Controller. Now will it be permissible for the appellant who has not taken advantage of the permission of appeal against the order under Clause 9, to agitate on all these points by simply filing the last appeal in final order. Therefore, there must be some finality. After an advantage has been provided for, it is up to the appellant or the aggrieved person to take advantage at each stage. He cannot say that "let all my grievances be accumulated and I will see that all of them are covered by the final appeal."

Once you are giving a right there must also be a corresponding duty. If that right is not exploited at a particular juncture then he must be debarred; otherwise there may be no finality. At different stages, different matters will be protected over a period of time.

Mr. Deputy-Speaker: Is there any clause in the Civil Procedure Code where, when an appeal is provided against a particular order in a particular case and there is an appeal against the final order and the appeal is not preferred against the other order at an earlier stage and it becomes conclusive for all practical purposes, it can be re-opened once again in the final order? Will there be a difference in this case only?

Shri S. S. More: The Civil Procedure Code is there for the purposes of guiding the procedure. As far as the proceedings before the court is concerned....

Mr. Deputy-Speaker: On the principle of natural justice, when an appeal is provided but a prior order is not taken advantage of, there is no

[Mr. Deputy-Speaker]

meaning in lengthening the time in the final order.

Pandit Thakur Das Bhargava: The present position is quite clear. In the Civil Procedure Code, if there is a right given, it is left to the option of the person, whether he appeals or not. At the ultimate hearing, everything can be urged against the decree.

Mr. Deputy-Speaker: What is that everything? Nothing can be urged. Wherever it is conclusive, it becomes conclusive. As a matter of fact, there is an *ex parte* decree. There is a provision for setting it aside under order 9, rule 13, if it is merely an appeal against the decree.

Pandit Thakur Das Bhargava: We are appealing against the order, not against the decree.

Mr. Deputy-Speaker: There is the specific amendment by Mr. Chatterjee. What is the other amendment?

Pandit Thakur Das Bhargava: We want that at the time of the final appeal, if a person does not appeal from an interlocutory order, his rights may be safeguarded. At the time of the final appeal, he may be able, to object to everything.

Mr. Deputy-Speaker: That does not arise out of the amendment of Mr. Chatterjee. It is independent of Mr. Chatterjee's amendment which tries to make a provision for a situation for which there has been no provision so far; it does not militate against Mr. Chatterjee's amendment. Notwithstanding the objection raised by Mr. Bhargava, this is independent. If Mr. Bhargava wants to put in anything, he must have given notice, or even now, he can suggest what exactly is to be done. The Finance Minister.

Shri C. D. Deshmukh: You have forestalled me. The genesis of this amendment is that we are not quite certain that every matter which we wanted to make appealable has been provided for. Therefore we resort to certain sections for the issue of certificates. It may be argued that that is not a question of valuation or accountability or determination of duty but something else. If a certificate is not given, then there will be no demand notice, because the only period of limitation is from the receipt of a demand notice. Therefore, we provided another period—ninety days—from the passing of the order, refusing to grant a certificate in this case. Now, that does not enable the party to agitate for the valuation, determination and so on, because there is, no period to start from. Similarly, there may be, other adjudications which will be outside the scope of this clause. Therefore, any one who has to entertain an appeal will have to determine first which of the periods of limitation applies to this—is it a matter which can be governed by the first period of limitation, namely, ninety days from the receipt of the demand notice, or, is it a kind of order which is not covered by this, and, therefore it is a final order or adjudication or order granting or refusing a certificate, in which case the other period of limitation will come into effect.

10 A.M.

Mr. Deputy-Speaker: He is thinking of a different category of interim orders for which appeals are not provided.

Shri C. D. Deshmukh: We have not provided for appeals against interim orders.

Mr. Deputy-Speaker: Then there is no difficulty. I shall put this amendment to the vote of the House. I would like to know the exact language to be put down.

Shri C. D. Deshmukh: In page 28, line 48, *after* "section 54", *insert*:

> "or any final order or adjudication under the provisions of this Act by the Controller....."

etc.

I have got a copy.

Shri N. C. Chatterjee: After the words "section 54", and between the words "within ninety days of the receipt of the notice of demand under section 56." on page 28, line 48—That is where it should be added.

Mr. Deputy-Speaker: Yes; so add "or any final order or adjudication.." etc.

Shri S. S. More: These words must precede, because the notice of demand will be the final act, and all these acts will be previous to the final demand notice. So, these words may be introduced from the point of view of sequence, because the demand notice will be a later process.

Mr. Deputy-Speaker: The provision is for a contingency where no notice is given. Therefore, it does not matter. Now, I will put this to the vote of the House.

Shri Sinhasan Singh (Gorakhpur Distt.—South): In clause 56, the word 'order' refers to the adjudicatory order. We have not provided for any appeal.

Shri N. C. Chatterjee: I mean the order refusing exemption certificate, or any final order.

Mr. Deputy-Speaker: It refers to any of the foregoing orders.

Shri Sinhasan Singh: Different kinds of orders will not be available. If one man does not appeal against a particular order, and if he appeals after the final demand notice, it must be looked into. When we provide for an appeal against a particular order, one man may not choose to appeal against that order, but may appeal against the last order. Unless he is barred from appealing against the original order, he may raise the point again. This point may be made clear.

Mr. Deputy-Speaker: "Any person objecting to the valuation made or the estate duty determined by the Controller."—I am trying to fit in the amendment along with the original portion,—what exactly it means. "Any person objecting to the valuation made or the estate duty determined by the Controller or denying his liability to account for the duty payable in respect of any property or objecting to any penalty levied by the Controller under section 54,....

Shri C. D. Deshmukh: "Or to any final order," etc.

Mr. Deputy-Speaker: As it stands; "within ninety days of the receipt of the notice of demand under section 56, appeal to the Board in the prescribed.....manner." So, the order is passed there. He need not immediately rush; he can wait until the demand is settled. That is the intention.

Shri C. D. Deshmukh: "Or objecting to any final order." "Objecting to any penalty levied by the Controller under section 54." That is to say, "objecting." I think it would be better if we took some time over drafting.

Mr. Deputy-Speaker: There is the point raised by Pandit Thakur Das Bhargava also.

Shri C. D. Deshmukh: I am not so much worried about his objection, as this. We have put two periods of limitation. The question would arise which of the periods of limitation applies to the penalty and which of the periods of limitation would apply to the final order. We have not said respectively. A person may argue that option is allowed within nine days of the issue of the order and not of demand.

Mr. Deputy-Speaker: I think this portion may stand over.

Liability to pay assumes the form of an order at an earlier stage, as the issues are decided one after another before a final adjudication is made. So far as that is concerned it is a final order, but under the existing clause now as framed there is no period of limitation from the date of the order, but from the date of the demand notice. Possibly, by this

[Mr. Deputy-Speaker]

amendment that period will be restricted, unless some care is taken.

Shri C. D. Deshmukh: The drafting may be on these lines: "A person denying his liability to account for the duty payable in respect of any property, or objecting to (a) valuation made of the duty determined by the Controller, (b) objecting to any penalty (c) objecting to any final order, may appeal in the case of so, and so within ninety days of the demand: in other cases within ninety days of the order."

Mr. Deputy-Speaker: Hon. Members will sit together and evolve a suitable amendment.

Shri Pataskar: Looking to the scheme of the Act, the second amendment is unnecessary. So far as clause 61 of the Bill is concerned they want to give the right of appeal only after the demand is made. Therefore, I think that is the better arrangement. Why is it necessary to prescribe different periods of limitation.

Mr. Deputy-Speaker: That will also be taken into consideration by the Finance Minister.

Ch. Hyder Husein: (Gonda Distt.—North): Sir, I want to suggest that clause 61 may be recast in this way:

> "A person shall have a right of appeal in respect of the following within ninety days."

Mr. Deputy-Speaker: Ninety days is the same in either case. The point is what is the starting point of limitation.

Ch. Hyder Husein: That should be given in respect of each sub-clause:

> "An appeal shall be preferred within ninety days: (i) In the case of so and so, etc."

The *terminus a quo* may be mentioned in each sub-clause.

Shri C. D. Deshmukh: Sir, I do not propose to make a long speech, because I find I have made a very long one in connection with sub-clause (4). The only point I have to answer is what is it that made us change our mind since 1946. The 1946 arrangement was that the Board was the assessing authority: then the Board could move the High Court for an enquiry, then on the report of the enquiry officers the court would give their finding. The scheme that we have adopted is that the Board is an intermediate appellate authority for the reasons I have pointed out the other day. Cases will still go to the High Court, but they are confined to questions of law and questions of law would be very many in this.

The only new thing we have evolved is the scheme of valuation by valuers. We have devoted a great deal of thought to this and we have accepted certain suggestions, that is to say there should be three valuers, their decisions shall be final and it shall be communicated and so on. All that I am arguing is that in view of the fact that generally I have given some justification for this kind of administrative justice, as it was characterised by hon. Members in the case of this new legislation, let us have some experience. If we find that this arrangement does not work, then as I said I am free to take notice of all that has been said now and come forward with an amendment. If, on the other hand, we start from now with appeals on facts also to High Court and we find in the circumstances of this country, it does not work or it leads to interminable delays, because we have not yet conquered delays in judicial proceedings in High Courts, then it would be very difficult to come back to any kind of administrative arrangements.

Therefore I would ask the House to give a fair chance to this and accept my assurance that if we find that this system is not working, I shall be the first to promote an amendment with a view to establishing some kind of an appellate authority for consideration of facts

also. The only other thing I have to point out is that in any case, once questions of law have been determined, they would have to rely on valuers, experts in various kinds of valuation. Valuation is the life-blood of this measure. That is all I wish to say. At this moment, I am not able to accept any amendment.

Shrimati Sushama Sen (Bhagalpur South): I withdraw my amendment Nos. 296 and 297 after hearing the Finance Minister.

Mr. Deputy-Speaker: I am going to rule them out of order. Amendments Nos. 181, 182, 183, 296 and 297 which relate to the appointment of an appellate tribunal, which has been disposed of, are barred by the decision taken on clause 4. The other amendments I will put to the vote of the House. So far as drafting the clause is concerned, it will be taken up later on.

I think amendment No. 178 of Shri Tulsidas is barred by the amendment moved by Mr. Chatterjee and accepted by the House.

Shri Tulsidas (Mehsana West): I beg to withdraw it, Sir.

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker: Amendments Nos. 295 and 329 are also barred.

Shri Mulchand Dube (Farrukhabad Distt.—North): I beg to withdraw my amendment No. 565.

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker: Now, we have got only amendments Nos. 396 and 332.

The question is:

In page 29, line 17, *for* "borne by" *substitute* "paid to".

The motion was negatived.

Mr. Deputy-Speaker: Now, as regards amendment No. 332 moved by Shri N. C. Chatterjee.....

Shri N. C. Chatterjee: My suggestion is that if you strike out the words "Board of" from the expression "Board of Valuers", any reference to the Board will be removed and it should be acceptable to the hon. Finance Minister.

Shri C. D. Deshmukh: Then I have no objection to this, but it will have to be properly drafted and then brought before the House.

Mr. Deputy-Speaker: Amendment No. 332 will stand over for further drafting. The whole clause 61 will, if necessary, be re-drafted and after all other amendments have been disposed of then it will be put to the vote of the House.

Clause 62.—

Shri Tulsidas: I beg to move:

(i) In page 29, lines 26 and 27, *after* "sub-section (3) of section 61" *insert* "or sub-section (5) of section 61".

(ii) In page 29, line 27, *after* "the person accountable" *insert* "or the Controller".

(iii) In page 29, lines 28 and 29, *for* "five hundred rupees" *substitute* "one hundred rupees".

(iv) In page 29, line 40, *for* "three months" *substitute* "six months".

(v) In page 30, *after* line 28, *insert*:

> "Provided that in case the case is referred to the Supreme Court under sub-section (4) of this section the party shall pay, if required to do so, the cost only as if reference has been made to a High Court and not the Supreme Court".

Shri N. C. Chatterjee: I beg to move:

In page 30, *after* line 28, *insert*:

"Provided that where a case is referred to the Supreme Court under sub-section (4) of this section the party shall pay the cost, if so required, as if the reference has been to a High Court and not to the Supreme Court".

Mr. Deputy-Speaker: All these amendments to clause 62 are now before the House for discussion.

Shri U. M. Trivedi: I have also given notice of an amendment today.

Shri C. D. Deshmukh: I am sorry I have not received it yet, and so it cannot be taken now.

Shri Tulsidas: Provision has been made in this clause for a reference to the High Court against the orders of the Board on any question of law arising out of such order. (*Interruption.*)

Mr. Deputy-Speaker: Order, order. If an hon. Member is not able to control his coughing, he has just to draw it out or spit and so he will kindly go out and do it. I am extremely sorry that although I have been noticing this thing for some time I have not mustered up my courage to say this so far. But, now, whoever has got to spit, he should go out in the Lobby and it is not right to spit in the House. If still he is not able to control his cough, it is better that he keeps out in the Lobby. Let me remind the hon. Members that this House is a supreme body and in the case of any kind of such unfortunate things which cannot be controlled by nature, it is better that they are not perpetrated here on the floor of the House. I do not like to make any exception.

Shri Tulsidas: As I just now mentioned, this clause has a provision for reference to the High Court against the orders of the Board on any question of law arising out of such order and also for a reference by the Board direct to the Supreme Court under certain circumstances. It is necessary, in my opinion, that appeal should be provided here to the High Court against the decisions of the valuers under sub-clause (4) of 61. That is one of the amendments. Questions of law are likely to arise even in the determination of the value of an estate. I feel there will be several such occasions in the case of valuations. For example, as regards controlled companies, there will be a number of questions of law and therefore any valuation of the shares of the controlled companies is only to be referred to the Board of Valuers. Various rules and regulations framed for the purpose of inspection under clause 17(5) would have to be interpreted. It is therefore necessary that at least in such cases where questions of law are involved, appeal should be provided for to the High Courts.

Shri C. D. Deshmukh: Do you refer to sub-section (5) or do you mean sub-section (4)? I don't find any reference to valuation in (5), and, his arguments do not seem to apply to that.

Shri Tulsidas: I am sorry, Sir. It should really be sub-section (4).

Mr. Deputy-Speaker: In amendment No. 190, *for* "sub-section (5)", *read* "sub-section (4)".

Shri Tulsidas: Under clause 62 for an appeal we have to deposit Rs. 500. If there is an application to the Board in the prescribed form, I suggest that instead of Rs. 500 there may be a fee of Rs. 100. I do not know why such a large amount has been fixed as fee in respect of the application to the Board. I feel, particularly when this is a new legislation that is being enacted, that we should have a smaller fee in order to get more decisions on the part of the Board as well as the courts.

My other amendment is that for "three months" substitute "six months". The clause says that "if, on an application made under sub-section (1), the Board rejects it on the ground that it is time-barred, the person accountable may, within three months from the date on which he is served with a notice of refusal or rejection, as the case may be, apply to the High Court...etc." I have suggested six months because, as you know, Sir, the number of clauses are so wide and it is very difficult to understand some of them. It will take some time before one knows the implications.

Mr. Deputy-Speaker: They were giving only six months even for an appeal to the Privy Council, before the advent of the aeroplane. When it is inside the country, particularly when it is not even to the Supreme Court but to the High Court the hon. Member wants six months. Anyhow, whether it should be three months or six months I am not here to argue against it.

Shri Tulsidas: These clauses are so worded, Sir, that there will be difficulty in the initial stages.

Mr. Deputy-Speaker: Ordinarily the time for appeal to the High Court is only three months.

Shri S. S. More: Procrastination is the hand-maid of evasion.

Shri Tulsidas: That is all, Sir. I have finished.

Shri N. C. Chatterjee: Under clause 62 the fee ought to be Rs. 100. Under clause (1) of section 66 of the Income-tax Act also that is the fee. Therefore a higher fee should not be levied under this.

Then with regard to sub-clause (b) my friend has suggested a time of six months. I think six months is also to be found in section 66(2) of the Income-tax Act.

The third thing we are suggesting is that in sub-clause (8) at page 30 a special provision should be made that where a case is referred to the Supreme Court under sub-section (4) of this Section, the party shall pay the cost, if so required, as if the reference has been to a High Court and not to the Supreme Court. I have already moved an amendment in this respect (No. 340). If you will please turn to page 30, sub-clause (8) you will find it stated there that "the costs of any reference to the High Court or to the Supreme Court shall be in the discretion of the Court". What we are suggesting is that in a case covered by sub-clause (4) where the case is referred to the Supreme Court under sub-clause (4) of this clause, the party shall pay the cost as if the reference were to the High Court and not to the Supreme Court. If you will please refer to sub-clause (4) you will find that it provides that when the Board is of opinion that on account of the importance of any question of law involved in the case or on account of a conflict in the decisions of different High Courts in respect of any particular question of law arising therefrom, it is expedient that the case should be stated direct to the Supreme Court, the Board may state the case direct to the Supreme Court. I think it is a reasonable suggestion that when the Board, either on account of the importance of any question of law involved in the case or on account of a conflict in the decisions of different High Courts, states the case direct to the Supreme Court the cost should be on the High Court scale, because the Supreme Court is only taking the place of the High Court in this respect. And the higher cost of the Supreme Court should not be levied. I think this suggestion should be accepted.

Pandit Thakur Das Bhargava: Regarding the fee I think Rs. 100 is more than sufficient. At present we have got it so far as the Income-tax Appellate Tribunal is concerned. If it is fixed at Rs. 500 only rich men can appeal and poor men cannot take advantage of it, although it is for the benefit of all.

[Pandit Thakur Das Bhargava]

In respect of the suggestion to fix the period at six months also, when the period for realisation is unlimited and for levy also it is twelve years, there is no harm in having six months. After all this is a new law and people will take time to consult before having resort to section 62.

There is one more question that I want to bring to the notice of the House. In sub-clause (7) we have the provision that after the case has been disposed of by the Supreme Court or High Court the Board shall pass such orders as are necessary to dispose of the case conformably to such judgment. My humble submission is that in some cases it may happen that the person is dissatisfied with the order made by the Board. According to this provision the Board shall pass such orders as are necessary conformably to such judgment. But cases may happen where a party may feel aggrieved about the order made by the Board, and the order may not have been in conformity with such judgment. My submission is that in such a case the final word should rest with the court which passed the judgment, either the Supreme Court or the High Court. I should think therefore that nothing will be lost if we make a provision that, in a case where a party feels aggrieved by the order made by the Board upon such judgment, there may be an appeal to the proper court which passed the Judgment so as to see whether the order made by the Board has been in conformity with the judgment or otherwise. Because, in the final execution or the final shape of the order there might be a difference of opinion. We have not provided for that. The hon. the Finance Minister may kindly look into it, and, if he agrees, he may make some provision whereby real and full effect may be given to the final order passed by the High Court or Supreme Court and it may not be left to the Board alone which may interpret the judgment as they choose.

Shri Gadgil: What the costs should be is equally within the discretion of the Supreme Court. If the Supreme Court knows that the reference has been made to it by the Board without going to the High Court, it will determine the costs accordingly.

Pandit Thakur Das Bhargava: I am afraid my hon. friend has not followed me and is referring to something else. The point is this, that when a case goes to the High Court or the Supreme Court a final order is passed. After it is passed, then in conformity with that final order or judgment the Board shall pass an order —under clause 7—which will be executed by the Board. While interpreting that order there might be a difference of opinion between the Board and the person, either against or in favour of the order that has been passed. In order to see that the real intention of the order is carried out according to the meaning which the appellant in the case likes to put on it, it should be within the discretion of the court which passes the order to get it examined whether the order passed by the Board is in conformity with the order passed by it or not.

Mr. Deputy-Speaker: There is a judgment and a decree If an order is passed, the reasons are set out, and then finally what exactly the operative portion is. Is that what he means?

Pandit Thakur Das Bhargava: Yes.

Mr. Deputy-Speaker: So that the court which passes the judgment may indicate in clear terms what the operative portion, the final conclusion is?

Shri C. D. Deshmukh: As far as I understand, he states that an appeal should be provided against the final order of the Board.

Pandit Thakur Das Bhargava: The court which passed the order knows best what was in the mind of the judge. The appellant may feel a grievance against the final order of of the Board. It may or may not

conform to the decision of the Supreme Court.

Mr. Deputy-Speaker: What is the suggestion?

Pandit Thakur Das Bhargava: Some provision should be made by virtue of which the...

Mr. Deputy-Speaker: Something like a decree.

Pandit Thakur Das Bhargava: Yes; or a final order so that the order of the Board may be in conformity with the judgment.

Shri C. D. Deshmukh: He wants an appeal to be provided for even against the final order of the Board following the decision of the court.

Pandit Thakur Das Bhargava: Yes; to give effect to the decision of the court.

Mr. Deputy-Speaker: Ordinarily in every court, there is a judgment and a decree. In this case, there is the decision of the Board setting out the reasons for coming to the particular conclusion. That is called a judgment though it is called the final order here. On the operative part, a decree again follows so that an appeal may be preferred against that, or something like that.

Shri S. S. More: Why should, there be any decree?

Mr. Deputy-Speaker: Otherwise, you do not clinch the issue.

Shri S. S. More: There are orders passed by the Revenue authorities. Some contentions are raised. They are supposed to apply their mind. They come to a decision. Then an order follows. Either an appeal is accepted or rejected. That very order is enforced. There is no decree. A Decree is an unnecessary duplication.

Pandit Thakur Das Bhargava: That order is not enforced. On the basis of that judgment, another order will be passed by the Board according to sub-clause (7). If the Board, with the best of intentions, again interprets the judgment of the Supreme Court in a way which is not in conformity with the view of the appellant, in that case, some remedy should be provided.

Shri K. K. Basu (Diamond Harbour): If it is different, what will be the remedy?

Mr. Deputy-Speaker: In conformity with the judgment of the Supreme Court, it is the Board that has to interpret and pass the final order. Does this not arise with respect to all references on particular points of law? A reference is made to the High Court and after the decision of the High Court, it comes back to the original court. Then, the rest of the points in dispute are disposed of in the light of that judgment or order or decision of the High Court. Likewise, why should it not be construed here. A matter of law goes to the Supreme Court. The opinion of the Supreme Court is incorporated and on the basis of that, final orders are passed by the Board. What is the difference?

Shri S. S. More: Even supposing that in interpreting the orders of the Supreme Court the Executive authority commits some mistake, under the powers of superintendence, etc., the party can go again back to the Supreme Court.

Pandit Thakur Das Bhargava: There is no power of superintendence. My hon. friend is assuming as if we are governed by the Code of Civil Procedure in regard to these matters. Where is the power to superintendence? It is exactly the power of superintendence that I am asking the Finance Minister to provide.

Shri S. S. More: Under article 227, the Board will have to be considered to be a tribunal for this purpose and the Supreme Court will have that power, and the High Court also in some cases. I cannot exactly quote the article.

Shri R. K. Chaudhury (Gauhati): Article 227.

Shri S. S. More: The power of superintendence is there.

Shri C. D. Deshmukh: This is a difficulty which cannot be surmounted by the provision of any number of appeals. The question is how the order is to be passed by the Board, in conformity with the decision of the court on a reference. The hon. Member says that it is possible that the party may have a grievance that the Board's order is not in conformity with such a decision, in which case, he says, provide for an appeal. In an appeal, the High Court may again change the language and say, this is what we wanted. But the High Court cannot pass the final order. The High Court only gives the decision on a reference. Every time it will come back to the Board. What I feel in this matter is—I have not given thought to it.....

Mr. Deputy-Speaker: Short of that, he wants the Supreme Court to state in specific terms, after the judgment of the Supreme Court. I do not find there is any difference.

Shri C. D. Deshmukh: We cannot impose a duty on the Supreme Court as to how it should draw up the judgment. It is not a judgment. It is a decision on a reference. There must be some inherent power in the Supreme Court. There is always article 226 which is the final refuge of every one of us who feels that injustice is done. Should there be such an occasion where it is felt that there is a discrepancy between the decision given by the Court and the form in which the final order is issued, I think it would still be open to a party to go to the court and have the matter remedied.

Shri K. K. Basu: As in the case of Income-tax references.

Shri Tek Chand (Ambala-Simla): It is a cardinal principle of law, known to all the world since the days of the Magna Carta that justice should neither be denied, nor sold nor delayed.

Mr. Deputy-Speaker: We are going to the first principles.

Shri Tek Chand: Sometimes, it is very desirable. The law in the making, that is the present Bill, is one such law which gives the go by to the first principles. If the price that justice demands for starting its functioning is Rs. 500/-, it amounts in most cases to denial of justice and in some cases to sale of justice.

Shri C. D. Deshmukh: I am already convinced.

Mr. Deputy-Speaker: The hon. Member may avoid all that strength and emphasis. I think the hon. Finance Minister is terribly afraid and has consented to Rs. 100/-.

Shri Tek Chand: About Rs. 500/- I will first address myself. The hon. Finance Minister during his visit to Paris might have visited the Palace of Justice there and might have seen the motto on the forefront.

Shri C. D. Deshmukh: If it is in connection with Rs. 500/-. I have already been repressed by the softer persuasion of the other hon. Members who have already spoken.

Mr. Deputy-Speaker: He is willing to reduce it from Rs. 500 to Rs. 100. Going to Paris will cost Rs. 5000/-.

Shri Tek Chand: I am grateful to him it is a very important point. It is a point which is very often ignored by...

Mr. Deputy-Speaker: He is agreeable to it. The hon. Member may proceed to any other point.

Shri S. S. More: Let us have some knowledge of Paris.

Shri Tek Chand: I am coming to the other point in a sentence. My

submission is that the greatest principle is that justice should be gratis. The moto is:

"Le Justice est gratuit".

He wants Rs. 100/-. It is a small price.

Shri C. D. Deshmukh: He is talking French and is still in Paris.

Pandit Thakur Das Bhargava: He wants to see you sent to Paris.

Shri Tek Chand: You will be pleased to notice, Sir, that the powers of the Appellate tribunal are very restricted. These powers relate to pure matters of law. That is to say, the High Court or the Supreme Court as the case may be, is conferred an advisory power. If the Board has any doubt, it can seek the advice of the Supreme Court on a question of law. The other matter is, if the Board is obdurate and the litigant wants to seek the assistance of the High Court, in some cases, the High Court is given power to call upon the Board to frame a question of law. My submission is that the powers of the High Court should be wider than they actually are, under clause 62. The difficulty will be that although glaring instances of injustice may be there, nevertheless the High Court will be impotent to rectify those mistakes.

Mr. Deputy-Speaker: Has the hon. Member any amendment to that effect?

Shri Tek Chand: No. I am supporting the amendment which is to the effect that in matters of valuation as contained in article 61(5) power should be conferred on the High Court. The powers of the High Court should be widened rather than narrowed to the point to which it has already been narrowed down by article 61.

Mr. Deputy-Speaker: Is it Shri Tulsidas's amendment?

Shri Tek Chand: Yes. My reasons are these. Theoretical questions of law will be few and far between and occasions for elucidation of legal difficulties will be very rare. But, the real occasions will be when there is conflict as to valuation and the matter involved may run into very large figures. It is there that substantial relief is necessary. It should be open to either party to benefit by the superior wisdom of the judicial tribunals of a high order. Therefore, it will not be desirable to narrow down the jurisdiction of the High Courts and Supreme Court to a very small ambit.

Shri C. D. Deshmukh: Sir, I am unable to accept amendment No. 190, because valuation is a question of fact, and I cannot conceive what kind of question of law can arise. It is in the nature of arbitration and the word is actually used in clause 61 (4), and therefore, there can be no kind of appeal except perhaps *mala fides* which can always be urged in a Court of Law. Therefore, I am unable to accept amendment No. 190.

I accept amendment No. 194 which reduces the fees from Rs. 500 to Rs. 100. I am unable to accept the lengthening of the period contemplated in amendment Nos. 196 and 337 in spite of the fact that there is a period prescribed in the Income-tax Act. Our pattern, if there is a complaint, is a different pattern rather than longer period. I accept amendments Nos. 199 and 340 which appear to me to be reasonable.

Pandit Thakur Das Bhargava: With your permission, may I put a question to the Finance Minister? He has just said that the order of the arbitrator under Section 61(4) will not be final in the sense that it is open to the party to go to a Court of Law and establish *mala fides* there. Supposing a fraud is committed, where is the forum on which this question can be agitated? I understand that usually awards can also be questioned on the basis of fraud, but in a case of this nature there is no Court where this question can be agitated, or the final order of the arbitrator questioned. He has just said that a reference may be made to a Court. Where is the provision?

Shri C. D. Deshmukh: I cannot commit myself to this. It seems to me that in the ordinary process of valuation there should be no appeal. I only said that it is possible in the case *mala fides* there may be some remedy available, but I am not lawyer enough to point out what that remedy is.

Pandit Thakur Das Bhargava: On the contrary, I welcome the statement of the Finance Minister, because it is a very salutary statement. I wish that he will kindly apply his mind to the facts of the case. In a case of this nature when there is a question of *mala fide* or partiality or something like that in an ordinary award, it is always open to any person who is aggrieved of that order to go to a Court of Law and set it right, whereas in this case, under Section 60, there is absolutely no provision. I would beg of him to kindly consider the question objectively and find out some method by which the person aggrieved may be given some opportunity to prove the *mala fides* of the arbitrator as it is done in other cases. This is my humble submission.

Some Hon. Members: It is past 10-45.

Mr. Deputy-Speaker: The time for the other business will be extended by whatever extra time is taken now by this Bill. We are at the fag end of clause 62. Let me put it to the House lest we should forget the discussions that have taken place.

The question is:

In page 29, lines 28 and 29, *for* "five hundred rupees" *substitute* "one hundred rupees".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 30, *after* line 28, *insert*:

"Provided that in case the case is referred to the Supreme Court under sub-section (4) of this section the party shall pay,

if required to do so, the cost only as if reference has been made to a High Court and not the Supreme Court."

The motion was adopted.

Mr. Deputy-Speaker: The amendment of Shri N. C. Chatterjee is now barred.

The question is:

In page 29, line 40, *for*, "three months" *substitute* "six months".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 29, lines 26 and 27, *after* "sub-section (3) of section 61" *insert* "or sub-section (4) of section 61".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 29, line 27, *after* "the person accountable" *insert* "or the Controller".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 62, as amended, stand part of the Bill."

The motion was adopted.

Clause 62, as amended, was added to the Bill.

Mr. Deputy-Speaker: The House will now take up private Members' legislative business. The time for this will be extended by five minutes more.

Shri Gadgil: What about sitting in the afternoon?

Mr. Deputy-Speaker: The House will sit in the afternoon today.

Some Hon. Members: No, no.

Shri Nambiar (Mayuram): We are taking up non-official business now?

Mr. Deputy-Speaker: Yes. It is Friday. Hon. Members are forgetting it is Friday.

Shri Nambiar: Yes, Sir. We are waiting for the Dowry Restraint Bill.

Some Hon. Members: No sitting in the afternoon.

Mr. Deputy-Speaker: Order, order. Sometimes we reduce our age and become fidgety.

DOWRY RESTRAINT BILL—*Contd.*

Mr. Deputy-Speaker: The House will now take up Private Members' Legislative Business. Further consideration of the following motion moved by Shrimati Uma Nehru on the 28th August, 1953:

> "That the Bill to restrain the custom of taking or giving of dowry in marriages, be taken into consideration."

Shrimati Uma Nehru may continue her speech.

श्रीमती उमा नेहरू (जिला सीतापुर व जिला खेरी—पश्चिम) : पेश्तर इसके कि मैं दहेज का जिक्र करूं मैं चाहती हूं कि मैं हाउस के हानरेबिल मेम्बर्स को बता दूं कि मैं स्त्रीधन व मेहर के खिलाफ नहीं हूं। आप जितना चाहें अपनी बेटियों को दे सकते हैं। मैं तो केवल उस तकलीफदेह प्रथा के विरुद्ध हूं जो शादी के पहले लड़के वाले अपने बेटों का मोलतोल मारकेट रेट में करते हैं। जितने अमीर और ऊंचे दरजे की मुलाजिमत पर उनके बेटे होते हैं उतनी ही उनकी कीमत समाज में बढ़ जाती है। ऐसे कंट्रेक्टस शादी के पहले होते हैं और यह भी देखा है कि शादी पर इतना धन दो और बाद में इतना दो इसके तकाजे भी रात दिन होते रहते हैं। ये हजारों रुपये जो लड़के वाले लेते हैं वह लड़की को नहीं मिलते ह। गर्जेकि हम खुल्लमखुल्ला लड़की के वर को खरीदते हैं और खरीदने के बाद भी हमें सुख नहीं मिलता। मैं चाहती हूं कि हमारी सरकार इस दुःखदायी प्रथा को दूर करे और जो इस तरह से रुपया ले वह गुनहगार समझा जावे और सख्त सजा का मुजरिम होवे। मुझे पूरा भरोसा है कि सरकार समाज की इस कुरीति को समझती है और इस बिल को बखूशी मंजूर करेगी।

हम से कहा जाता है कि भारतीय समाज में स्त्री की बहुत इज्जत होती है और हमें समाज पूजणीय, माता, देवियों व गृहलक्ष्मी के नाम से पुकारता भी है। तो क्या वजह है कि जब हम पूजनीय हैं हमारी यह दुःखभरी दशा हो ? कहीं मातायें या देवियां या गृह लक्ष्मियां बेची भी जाती हैं ? जब तक समाज में परिवर्तन न होगा और स्त्री और पुरुष दोनों एक समान इन्सान न समझे जावेंगे समाज जिन्दा नहीं रह सकता है। समाज की यह दशा देखकर के हमने बहुत परिश्रम के बाद हिन्दू कोड बिल को इस संसद के सामने रखा था। ताकि स्त्री के दुःख भरे बन्धनों को तोड़ दें और स्त्री को समाज में फिर से आजाद व पूजनीय बनावें। हमारे लिए समाज में जहेज के नाम की प्रथा बहुत दुःखदायी है। इस प्रथा के कारण न मालूम कितनी हमारी प्यारी बेटियों ने खुदकशी की है खासतौर से हमारी बंगाल की बेटियों ने।

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

अफसोस तो यह है कि जब से हम जन्म लेती हैं हम अपने माता पिता के लिए वबाले जान हो जाती हैं। हमारी शादी क्या होती है हमारे माता पिता की बरबादी