

of Urgent Public
Importance

[Shri Morarji Debi]

advances have been granted to the directors or their relations. It has also been observed that credit limits for parties have generally not been fixed. Several advances are sticky and no action in regard to them has been taken for long periods. As a result of these and other unsatisfactory features, all the offices of the bank except two have been working at a loss and the bank has not been in a position for some years to satisfy the requirements of Section 22(3) of the Banking Companies Act, which imposes an obligation on every functioning bank to repay the amounts due to its depositors.

After the inspection of the bank in March, 1953, certain conditions were imposed on it with a view to improving its working. The Board of Directors, it was suggested, should be so reconstituted as to ensure that at least five directors would be residents of Kangra town. The services of certain retired officers of the State Bank of India were made available to the bank for appointment as chief Executive Officer. A condition was imposed that unsecured advances and advances against real estate should be reduced to 25 per cent and 20 per cent respectively of total advances and that advances granted to directors and their relatives should be completely repaid.

These directives have not been implemented by the bank. The services of a retired officer of the State Bank of India were not availed of and the position of the bank has steadily deteriorated. The percentage of its advances having undesirable features has been increasing and was as high as 75.3 in December, 1957.

The position of the bank was accordingly reported to the Central Board of Directors of the Reserve Bank in October, 1957. The bank was given an opportunity to represent its case against the decision to refuse a licence to it and a representation was

received in November, 1957. As this representation was unsatisfactory and as there was no improvement in the bank's working, it was decided in April, 1958, with the concurrence of the Central Board of Directors of the Reserve Bank to refuse a licence to the bank. The bank was informed of this decision by the Reserve Bank by post on the 9th April, 1958, and in reply to a query whether it should cease to transact further business from the 12th April, 1958, or after a Board meeting fixed for the 16th April, 1958, that it should cease forthwith to transact fresh business or to receive new deposits.

Since the bank was thus informed, certain allegations regarding the payments made by it to its depositors have been received. These allegations are now being investigated by a fresh inspection party deputed by the Reserve Bank of India and such further action as may be necessary will be taken as soon as the report from the Reserve Bank of India is received.

FINANCE BILL—contd.

Mr. Speaker: The House will now take up clause by clause consideration and thereafter Third Reading of the Finance Bill, 1958, for which 4 hours have been allotted.

Clause 2 and the Schedule seem to be linked together. There are certain amendments tabled to the Schedule. If it is the desire of the House that clause 2 may stand over until the Schedule is disposed of, I have no objection. Otherwise, I shall put clause 2—there are no amendments to this clause—to the vote of the House. The question is:

"That clause 2 stand part of the Bill".

The motion was adopted.

Clause 3—(AMENDMENT OF SECTION 4)

Mr. Speaker: We now come to clause 3. There are some amendments. I am sorry that certain amendments—Nos. 35, 36 and 16—do require the sanction of the President because they seek to enhance the rates. The other amendments are in order. Does any hon. Member wish to move his amendment?

Shri Narayanankutty Menon (Mukandapuram): I would like to move amendment No. 16.

Mr. Speaker: That requires the sanction of the President. It seeks to omit lines 10 to 15 on page 3 of the Bill. What does it mean?

Shri Narayanankutty Menon: It seeks to remove 'concessional passage to foreigners'.

Mr. Speaker: If a concession is removed, it enhances the duty. Therefore, it requires the sanction of the President.

Shri Bangshi Thakur (Tripura-Reserved—Sch. Tribes): I beg to move:

Pages 3 and 4, lines 40 and 1 respectively,

for "or in the Union territory of Manipur" substitute "or in the Union territories of Manipur and Tripura."

Shri M. R. Masani (Ranchi—East): I beg to move:

Page 3, omit lines 30 to 38.

Mr. Speaker: Amendments Nos. 1 and 2 were moved.

Shri Bangshi Thakur: Mr. Speaker, about Amendment No. 2 which I have moved, I wish to say a few words. The Scheduled Tribes of Tripura are no doubt so backward and they are described as very backward in the

Report of the Commissioner for Scheduled Castes and Scheduled Tribes. As such, the Government of India should make provision for their uplift and for their betterment and for raising their standard. The Government of India are, indeed, willing to give them more privileges. In these circumstances, I request the hon. Finance Minister to accept my amendment which seeks to include the Scheduled Tribes of Tripura State. My amendment says:

"or in the Union territories of Manipur and Tripura".

Shri M. R. Masani: I do not want to take the time of the House over this amendment. My amendment No. 1 is a small one to the clause which limits further the facility of exemption given to foreign technicians serving here up to the extent of Rs. 4,500 in the year. I think it is a very restrictive thing already which hardly needs to be more severe against employees from countries abroad. That is my reason for suggesting that this further severity might be deleted.

Shri Narayanankutty Menon: Though, as you said, my amendment is out of order, I may be allowed to speak on the clause itself.

Mr. Speaker: Yes.

Shri Narayanankutty Menon: As far as clause 3, which gives exemption on to travel concessions to foreigners, is concerned, I wish to point out that there are already without the sanction of the law many officers of the foreign companies who enjoy certain privileges which are not subject to the scrutiny of the Government itself. Last year, during the last session, when certain questions were answered on the floor of the House, as to the total money that has been taken away from this country by the foreign oil companies, and the amount got by the oil companies precisely, it was admitted that a large amount of money has been carried away from this country without a proper account being kept. You will also find that certain officers

[Shri Narayanankutty Menon]

who are actually unmarried are given separation allowances when they came to this country, on the ground that they have been separated from their wives and children. Their original salary *check* is a very large amount, and over and above this original salary, concession is given for their free passage and certain other allowances are also given. Actually, money is being taken away in the form either of profit or these concessions. I submit that this practice extended to the companies will have to be prevented. The concessions which are extended to the foreign nationals who are serving in the company should be prevented especially because then only, consistent with our policy, more and more Indians could be employed by these companies.

Yesterday, when the discussion on the Finance Bill was going on, both the hon. Finance Minister and also the Deputy Minister of Economic Affairs said that we should create an atmosphere of welcoming foreign capital and that all parties should agree that this atmosphere should be maintained for foreign capital to come in. I submit that we are not certainly against foreign capital coming into this country, but our serious objection was that foreign capital was being invited to this country on their own terms. What the hon. Deputy Minister of Economic Affairs submitted yesterday was, whenever we are getting foreign capital into this country it is on our own terms, and it is not to make more profit but under our scrutiny and for our own use.

The House has heard during the last one year how three big oil companies are behaving in this country. Are the people employed in the three oil companies here behaving properly in accordance with our own policies? The hon. Minister of Mines and Oil had to admit last time in this House a sense of frustration that he is having because the oil companies are refusing the review the prices. In

respect of the prices alone, Rs. 250 crores have been taken away during the last two or three years by the oil companies. Are the companies behaving according to the plan that the Government have in view? Are these companies in a position to respond to your own request that the price of oil should be brought down. It is precisely on this point that we make our serious objection that foreign capital should not be allowed to come in on their own terms and to run roughshod over our own economy. Foreign capital should be kept under control.

When we mentioned that foreign capital should be within the framework of our own Plan and be within the framework of our own policy, the hon. Minister said that we are against foreign capital. We wish to make it quite clear that we are not against foreign capital, but foreign capital should be allowed to do its business here within the framework of our own Plan and within the framework of our own policies. We should not act according to the dictates of the foreign capital that is coming over here. Therefore, I appeal to the Finance Minister to realise this. Enough of concessions have been given by means of the agreement with these companies and by means of the convention that we have established, and also by means of the assurances that we have given to all these companies. They are too much nowadays, and these concessions are being misused. Too much of profit is being made, to the detriment of our own economy. Therefore, I once again appeal to the Finance Minister that no more concessions should be given and the concessions already granted are checked wherever they exist. There should be more check-up of the companies in respect of these concessions, to see whether they are being utilised according to our own Plan and are giving a reasonable return to us. We should keep the foreign capital under check. We will welcome the capital

but, at the same time, there should be very good control over that capital, so that the business is a fair business that is carried on in any other part of the world.

Shri Morarji Desai: I accept amendment No. 2, regarding the inclusion of Tripura. As regards amendment No. 1, moved by my hon. Friend Shri M. R. Masani, I am sorry I cannot accept it and I have got to oppose it, because, we are not in anyway going against the real technicians. The real technicians will continue to get the exemptions which have been provided.

Shri M. R. Masani: The hon. Minister is opposing a wrong amendment. It is not about the technicians.

Shri Morarji Desai: The amendment is to clause 3, regarding technicians.

Shri M. R. Masani: It is about the Government employees abroad, as far as I know.

Shri Morarji Desai: The amendment of the hon. Member—amendment No. 1 to clause 3—is about the foreign technicians. He wants to take away the definition which is provided there.

Shri M. R. Masani: It is a wrong amendment.

Mr. Speaker: His amendment is No. 1, asking for the omission of lines 30 to 38 at page 3,—the lines which give the definition of a technician.

Shri Morarji Desai: That is what I am saying. I do not know what Shri M. R. Masani means.

Shri M. R. Masani: Oh, I am sorry. I was a little confused.

Mr. Speaker: Therefore, he does not press the amendment. Can I take it like that?

Shri Morarji Desai: I am glad that I am not wrong.

Shri M. R. Masani: I am sorry.

Mr. Speaker: What does that "sorry" mean? Does he press or not press?

Shri M. R. Masani: I am not pressing it, but, if the hon. Minister opposes it, let him explain the reasons why he opposes it.

Shri Morarji Desai: We cannot consider people who are engaged in work in the hotels or in the restaurants as technicians. I cannot call them technicians. Such people should not get this benefit. Therefore, we have now prescribed a definition which includes all real technicians. I do not think any real technician is going to be debarred from these provisions.

As regards the opposition of my hon. friend Shri Narayanankutty Menon, there is no question of foreign capital in this. The question is of foreign technicians. If foreign technicians are required for work which cannot be done by technicians here, we have got to give them some facilities and these are the minimum facilities that are given.

Mr. Speaker: He refers to his own amendment and wants to oppose.

Shri Morarji Desai: That is what is done. He wanted to say that technicians do not get any exemptions. It is just the opposite of what Shri M. R. Masani wanted. Both are going into extremes. That is all that I can say. The clause as it is must stand. That is what I have got to say.

Shri L. Achaw Singh (Inner Manipal): I want to have some clarification from the hon. Finance Minister regarding the amendment to section 4, sub-section 3.

Mr. Speaker: Clause 4 has not yet been taken up. We are on clause 3.

Shri L. Achaw Singh: I am referring to section 4(3) of the Income-tax Act.

Mr. Speaker: Is it relevant here for the purposes of these amendments?

Shri L. Achaw Singh: It is with regard to the exemption from income-tax payable by the tribals of Manipur.

Mr. Speaker: What is the sub-clause?

Shri L. Achaw Singh: Clause 3 (ii) on page 8. I want to know whether the exemption would apply to the tribes permanently residing in Manipur. The other day, the hon. Finance Minister said that it would only apply to the migrants, that is, those members of the Scheduled Tribes who were residing in Assam and who have migrated to Manipur. On my reference to the Finance Ministry it has been stated that the exemption would apply to tribals who are permanently residing in Manipur. So, I want a clarification. There is a mis-conception, misunderstanding that this would only apply to the tribals who have migrated from Assam. But such people are in a microscopic minority in Manipur. There are two lakhs of tribal people who are permanently residing here. According to the Scheduled Castes and Scheduled Tribes (Amendment) Order, 1956, there are 29 classes of Scheduled Tribes and their number exceeds two lakhs. I want to know from the hon. Finance Minister unequivocally whether they would apply to the tribes who are permanently residing in Manipur.

Shri Morarji Desai: The tribals who originally belonged to the Assam hill tribes and are now permanently residing in Manipur will also get exemption. But if they do not satisfy the condition of that category of Assam hill tribes originally even, then they will not be exempted. That is the meaning of it.

Mr. Speaker: The question is:

Pages 3 and 4, lines 40 and 1 respectively,—

for "or in the Union territory of Manipur" substitute—

"or in the Union territories Manipur and Tripura".

The motion was adopted.

Mr. Speaker: Amendment No. 1 is not pressed. I shall treat it as having been withdrawn. In the case of those amendments which have been treated as moved by the House, if any hon. Member gets up and says "I am not pressing it". I will treat it as having been withdrawn with the consent of the House. Let us establish a convention. Otherwise, we will be wasting the time of the House.

The amendment was, by leave, withdrawn.

Mr. Speaker: The question is:

"That clause 3, as amended, stand part of the Bill".

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 4 was added to the Bill.

Clause 5. (Amendment of section 7).

Mr. Speaker: Hon. Members who want to move amendments to this clause may now do so. Let me first of all have the numbers.

Shri M. R. Masani: I want to move amendment No. 37.

Shrimati Ra Palchoudhuri (Nabadwip): Amendment Nos. 11 and 12.

Shri Tangamani (Madurai): Amendment No. 38.

Shri Narayanankutty Menon: Amendment No. 17.

Mr. Speaker: That is out of order. The amendments to be moved are Nos. 11, 12 and 37. 38 is the same as No. 12.

Shrimati Ra Palchoudhuri: I beg to move:

Page 4; lines 29 to 33,—

omit "except in any case where the assessee was not in receipt of such entertainment allowance regularly from his

present employer before the year beginning on the first day of April, 1955."

Page 4, line 14,—

after "Act" insert "or under any recognised scheme of any employer".

Shri Tangamani: I would like to speak on amendment No. 38, which is the same as amendment No. 12. I shall be as brief as possible. Now, clause 5 makes certain amendments to section 7 of the parent Act. At present, the entertainment allowance received by an employee in a case where he has been in receipt of such allowance regularly from his employer before the 1st of April 1955 is exempted up to one-fifth of his salary or Rs. 5,000 whichever is less. This sub-clause seeks to remove the restriction in the case of persons in receipt of salaries from the Government. By this amendment I want to suggest that the concession which has been extended to the Government employees should also be extended to the non-Government employees. If lines 29 to 33 are deleted, clause 5, sub-clause (2) will read as follows:

"in the case of any other assessee, a sum equal to one-fifth of the salary (exclusive of any special allowance, benefit or other perquisites) or seven thousand five hundred rupees, whichever is less."

Whatever concession has been extended to Government employees should also be extended to non-Government employees. It is good that this allowance is given to Government employees. Now it may be extended to others also. So, I request that this amendment may be accepted.

Shrimati Ha Palchoudhuri: My amendment No. 12 is the same as the one to which my hon. friend opposite has just now referred. I will only add that actually private employees very often have to entertain people more than in the case of Government employees. There should be no dis-

crimination between Government employees and other employees. Everyone should be treated in the same way. Can I speak on amendment No. 11 also?

Mr. Speaker: Hon Members may speak on their amendments as well as on the amendments moved by others and also on the main clause.

Shrimati Ha Palchoudhuri In the Bill it is stated in clause 5 that gratuity payments for past service will be exempted from income-tax in respect of Government servants. So far as employees in the private sector are concerned, such gratuity payments are subject to income-tax. I see no reason why there should be discrimination between employees in the public sector and private sector in the case of income-tax on gratuity payments. So, my amendment seeks to insert the words "or under any recognised scheme of any employer" after the word "Act" in clause 5.

Shri M. R. Masani: I beg to move:

Page 4,—

(i) line 22, omit "from the Government"; and

(ii) for lines 26 to 33, substitute—

"Provided that in the case of any assessee who was in receipt of such entertainment allowance regularly from his present employer before the year beginning on the first day of April, 1955, the sum of seven thousand and five hundred rupees shall be substituted for the sum of five thousand rupees mentioned in the above sub-clause."

I would first of all like to support the provisions of amendment No. 11, which seeks to extend to employees of non-official concerns the same concessions that are now being extended to municipal employees, namely, where there is a recognised gratuity scheme, the benefits should also be available to employees in all parts of our national economy. The basis of discrimination between one kind of employees in one part of our economy

[Shri M. R. Masani]

and another is, I am sure, not one that appeals to the hon. Minister, nor is there any reason why it should exist.

Amendment No. 37 is two-fold and seeks to carry out the same purpose, though I think more comprehensively than amendments Nos. 12 and 38. What I am pressing is that from sub-clause (2) (ii) (a) the words "from the Government" be deleted, and in place of sub-clause (b), a new sub-clause in terms of my amendment may be substituted. The effect of this change would be this. Today an employee can draw entertainment allowance only if he were drawing it previous to 1st April 1955. Even if the same post is filled up by a new man, the new man cannot draw this entertainment allowance. Now, the drawing of the entertainment allowance is not a personal prerequisite for the benefit of a particular human being. It goes with the job. Either it is necessary to entertain people for the purpose of business or it is not. You cannot say that when our person is there, it is necessary and not when another person is there. Now, if an official is transferred and a new official is appointed, then the office comes across this difficulty. If they transfer X and put Y on doing the same job, Y cannot draw the entertainment allowance though X was drawing it. This creates a new difficulty and a new problem. The new incumbent is not able to get the same emoluments and facilities to entertain which his predecessor had. This is not very rational nor consistent with good business management. So, what my amendment seeks to do is, as Mrs. Ila Palchoudhuri and the previous speaker have stated in the discussion, to remove the discrimination between private employees and Government employees. I do not think we want to indulge in one set of methods about one set of employees and something quite different about another set of employees. If it is necessary in Government, it may be necessary outside also. The Government amendment says: "one fifth of this salary.... or five thousand rupees,

whichever is less."; not very ambitious, and still on that there is discrimination. Having said that, sub-clause (b) says that whoever got Rs 7,500 before 1st April 1955 may continue to do so. That concession may not be taken away. But when a new man is appointed to the job certainly let him be on the same level as in Government, viz., Rs. 5,000 or one-fifth, whichever is less. I think these amendments are sound lines and I hope the hon. Minister will accept them.

Shri T. N. Singh (Chandauli): I feel that our attempt all along has been to plug all kinds of holes that might cause tax evasion. Now all the allowances that have been made from time to time in any of our taxation laws, though on the face of it very reasonable and desirable but somehow they have resulted in creating more holes and I have a feeling, though it may appear that it is reasonable as to why should we discriminate and why should this happen or why should that happen, at the same time I am not very happy about the extension of these allowances so far as income-tax is concerned. They should be very cautiously done and they should be restricted as much as possible. No more allowances should be allowed for this purpose. So, I am unhappy that this provision is being extended and the scope widened as it is from today.

After all it is known that all these entertainments are also debited to the companies concerned. Similarly, entertainments are also made on behalf of the Government and local bodies. Why should they become something of a personal nature? They should not. But the very existence of an allowance attached to an individual officer and any exemption of income-tax on that ground means that such allowances are a desirable thing and they should be allowed. They can become a fashion. So, from the very beginning when this was introduced, I was opposed to it and I would very

strongly urge that any extension of this system should be very cautiously looked into. I am not at all happy about its any further extension as it is being done in this amended Bill, what to say of further extension of this principle which are being urged by some fellow hon. Members here.

Shri Morarji Desai: Taking, first, the last speaker, I might say that the hon. Member's anxiety can be very easily understood by me. It is, therefore, that Government is very careful in giving such allowances to Government officers and Government servants. There are very few people in very restricted categories to which these allowances are given and deliberately given because they have got to do entertainment. There is no question of their misusing it or taking it away like that. Therefore it is necessary that they should be continued.

When we have stopped exemption of these allowances to employees in the private sector after the 1st April, 1955, we have done so because in the case of private employees it is not necessary for them to have these allowances as they have got expense accounts in their companies to which they can always debit these bills. In Government, there are no such expense accounts, where this could be debited. It is, therefore, necessary to make this distinction. Moreover, when Government can be very careful about this matter, it is not possible to expect that there will be that sort of carefulness exercised in private companies. Therefore we have made this distinction. Even my hon. friend, Shri Masani, does not mind making a distinction of all allowing Rs. 7,500 to those who were drawing it before the 1st April, 1955 and he would be satisfied if others get Rs. 5,000. Therefore he also can get Rs. 5,000. Therefore he also can then let him be reconciled to this difference, which is a complete difference and which, I think, is a very healthy difference. I therefore oppose these amendments.

As regards the other thing of extending the gratuity advantage to private employees, there also the question is quite different. When we give it to Government employees, that is allowed because there it is death-cum-gratuity, i.e., pension-cum-gratuity allowance. There is no such system in private employ. There is no question of pensions and gratuities or anything. It is, therefore, not possible to extend it to private employees. We have extended it to corporations, i.e., to municipal corporations or local bodies because there the rules are the same as Government rules. It is, therefore, that it is extended to them and we do not propose to extend it to private employees because, as I said, it is likely to be misused and they do not stand in the same category. Therefore, I oppose all the amendments.

Mr. Speaker: I shall now put amendment No. 11, which is the same as amendment No. 20, to the vote of the House.

The amendment was put and negatived.

I shall now put amendment No. 12, which is the same as amendment No. 38, to the vote of the House.

The amendment was put and negatived.

I shall now put amendment No. 37 to the vote of the House.

The amendment was put and negatived.

The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6 was added to the Bill.

Clause 7—(Amendment of section 10).

Mr. Speaker: The House shall now take up clause 7.

Shri Morarji Desai: Sir, I beg to move:

Page 5,

for lines 4 to 41, substitute—

“(vib) in respect of a new ship acquired or new machinery or plant installed after the 31st day of March, 1954, which is wholly used for the purposes of the business carried on by the assessee, a sum by way of development rebate in respect of the year of acquisition of the ships or of the installation of the machinery or plant, equivalent to,

(i) in the case of a ship acquired after the 31st day of December, 1957, forty per cent. of the actual cost of the ship to the assessee; and

(ii) in the case of a ship acquired before the 1st day of January, 1958, and in the case of any machinery or plant, twenty-five per cent. of the actual cost of the ship or machinery or plant to the assessee.

Explanation 1.—In the case of a ship acquired or machinery or plant installed after the 31st day of December, 1957, where the total income of the assessee for the year of acquisition or installation (the total income for this purpose being computed without making any allowance under this clause) is nil or is less than the full amount of the development rebate calculated at the rate applicable thereto under this clause,—

(i) the sum to be allowed by way of development rebate for that year under this clause shall be only such amount as is sufficient to reduce the said total income to nil; and

(ii) the amount of the development rebate, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following year, and the development rebate to

be allowed for the following year shall be such amount as is sufficient to reduce the total income of the assessee for that year, computed in the manner aforesaid, to nil, and the balance of the development rebate, if any, still outstanding shall be carried forward to the following year and so on, so however that no portion of the development rebate shall be carried forward for more than eight years.

Explanation 2.—Where in any year development rebate is to be allowed in accordance with the provisions of *Explanation 1* in respect of ships acquired or machinery or plant installed in more than one year, and the total income of the assessee for that year (the total income for this purpose being computed without making any allowance under this clause) is less than the aggregate of the amounts due to be allowed in respect of the assets aforesaid for that year, the following procedure shall be followed, namely:—

(i) the allowance under paragraph (ii) of *Explanation 1* shall be made before any allowance under paragraph (i) of that *Explanation* is made; and

(ii) where an allowance has to be made under paragraph (ii) of *Explanation 1* in respect of amounts carried forward from more than one year, the amount carried forward from an earlier year shall be allowed before any amount carried forward from a later year;

Provided that no allowance under this clause shall be made unless—

(a) the particulars prescribed for the purpose of clause (vi) have been furnished by the assessee in respect of the ship or machinery or plant; and

(b) except where the assessee is a company being a licensee within the meaning of the Electricity (Supply) Act, 1948, or

where the ship has been acquired or the machinery or plant has been installed before the 1st day of January, 1958, an amount equal to seventy five per cent. of the development rebate to be actually allowed is debited to the profit and loss account of the relevant previous year and credited to a reserve account to be utilised by him during a period of ten years next following for the purposes of the business of the undertaking, except—

(i) for distribution by way of dividends or profits; or

(ii) for remittance outside India as profits or for the creation of any asset outside India;

and if any such ship, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government at any time before the expiry of ten years from the end of the year in which it was acquired or installed, any allowance made under this clause shall be deemed to have been wrongly allowed for the purposes of this Act."

Mr. Speaker: Any other hon. Member who would like to move an amendment?

Shri Nathwani (Sorath) rose—

Mr. Speaker: Do you want to move an amendment?

Shri Nathwani: There is no amendment which I have to move.

Shri Damani (Jalore) rose—

Mr. Speaker: Do you want to move an amendment?

Shri Damani: No, Sir.

Shri Bimal Ghose (Barrackpore): I wanted to move some amendments, but the difficulty is that the amendments tabled were in respect of the

original clause. Now, with your permission, I would like to move them in the appropriate place in the amendments moved by the hon. Minister.

Mr. Speaker: That is later on. It is not in respect of clause 7.

Shri Bimal Ghose: It is in respect of clause 7 but there is an amendment by the hon. Minister to clause 7.

Mr. Speaker: He has already moved it.

Shri Bimal Ghose: The amendments that I wanted to move were to the original clause.

Mr. Speaker: The same amendments may be applied now.

Shri Bimal Ghose: That is, those amendments may be at the appropriate place. For example, I want to say...

Mr. Speaker: Let him give the number.

Shri Bimal Ghose: For example amendment No. 27,....

Mr. Speaker: Whatever it might be, somewhere to the same clause whatever might be the sub-clause.

Shri Bimal Ghose: On page 2 of amendment No. 32 after "1st day of January, 1958" in proviso (b).....

Mr. Speaker: I shall give him an opportunity to move it with all the corrections.

Shri Bimal Ghose: I have three amendments to move.

Mr. Speaker: What are they?

Shri Bimal Ghose: They are Nos. 27, 28 and 29.

Mr. Speaker: Amendments Nos. 27, 28 and 29 subject to such modifications as may be necessary in view of amendment 32.

Shrimati Ha Fakhondhari: Sir, I beg to move:

That for lines 22 to 41, substitute—

“(b) except where the assessee is a company, being a licensee within the meaning of the Electricity (Supply) Act, 1948 or where the ship has been launched or the machinery or plant has been installed before the 1st day of January, 1958, an amount equal to the tax on the allowance due is debited to the profit and loss account within the five previous years succeeding the relevant previous year, and credited to a reserve account to be utilised by him during a period of ten years next following only for the purposes of the business:

Provided further that, in the case of a ship launched or machinery or plant installed after the 31st day of December, 1957, the allowance of development rebate under this clause shall be subject to the condition that the ship or machinery or plant shall not be sold or otherwise transferred by the assessee to any person except with the consent of Government, at any time before the expiry of ten years from the end of the year in which the ship was launched or the machinery or plant was installed.”

Mr. Speaker: Does the hon. Minister wish to explain his amendment?

Shri Morarji Desai: I have explained it. It is not necessary now.

Shri Nathwani: The object of the original clause 7 was stated to be that there are at least two abuses in the existing provisions which require to be remedied. The first object was that certain companies may with the help of borrowed capital instal plant or machinery but instead of building up further reserves may fritter away by way of distributing the same in the

form of dividends. That was one object.

The second object was stated to be that in some cases certain undertakings after taking advantage of this rebate sell it so that while they get the benefit of this rebate the industry not being continued in the same hand does not get the fostering care which a continuing management may ensure. To the extent that clause 7 sought to do this, it was welcome. But, as it was worded very widely, there were bound to arise certain genuine difficulties. The hon. Finance Minister, having been persuaded, has moved an amendment whereby substantial relief is sought to be given. I do admit that the amendment now put forward does give great relief. Still, it does not go far enough. There are bound to be genuine cases in which it will operate very harshly.

Before I give illustrations of this hardship, let me say a word in general as regards certain basic assumptions. It has been tacitly assumed that the provisions of this clause apply to companies only and that the other assesseees namely sole proprietary firms or partnership firms do not come in the picture at all. It is not so. Under this provision, even small or medium-sized concerns or undertakings which are generally run by individuals or firms will come and they are entitled to take this advantage. If so, what is the position of a sole proprietary firm which installs machinery or installs a plant? He is required under the proviso to earmark a certain amount and in that case, though these moneys which are set apart as reserves may not be required for that particular business, still, he cannot touch them for a number of years to come. He cannot withdraw his moneys for his private purposes. He cannot invest these moneys in other lines of business. He cannot utilise these moneys for investment or securities. He cannot advance these moneys at interest to outsiders. Is this really the object that is sought to be

achieved by this proviso? I certainly think that it is not the object. In the case of a concern which is a sole proprietary concern or a partnership firm, really the business entity is owned by individuals who are the beneficiaries themselves. To that extent, it appears to me, that the provisions of the proviso should not be applied to sole proprietary firms or partnership firms.

The second tacit assumption is that generally companies borrow money and invest it in new plant or machinery. But, there are cases of companies which, by prudent management, have accumulated large reserves. These large reserves could have been built up only at the expense or sacrifice of shareholders who have received in the past less or lower rates of dividends. If such companies invest out of their reserves, why should they be penalised further by being required to further deposit or earmark further moneys? That would impose a further restriction and call for further sacrifice on the part of the shareholders. Though in the past, they have received less which has led to the large accumulations being segregated, for the future, they would be required to take less in the form of reserves. Therefore, in my opinion, the provisions of the proviso should be restricted only to companies, preferably to those companies which try to invest in plant or machinery by borrowing capital from outside.

There is a second provision namely that the assets should not be transferred for ten years. The object, as I have explained, is laudable that the concern or undertaking should not change hands rapidly after taking advantage of this rebate. But, there may be genuine cases where the transfer or assignment takes place for a reason beyond the control of the owners of that concern. Take, for instance, an individual. He dies or wants to retire. The sons or heirs are not willing to continue that industry.

They may be inefficient; they may not be willing; the sons may like to go to other lines. They may like to be Doctors or Engineers. If they want to transfer such a concern, what happens? Again take the case of a partnership firm where a partner dies, where a partner retires or a new partner is taken. In each case, in the eye of law, there will be a transfer of these assets from one entity to another. Is it our intention that even in such cases, there should be deprivation of this benefit by way of development rebate? I am referring to these illustrations to show that this proviso or at least a part of it should not apply to sole proprietary firms or to partnership firms.

Secondly, even in the case of companies, there may be genuine cases where a transfer has to take place. Shri M. R. Masani moved an amendment embodying two or three cases where transfer takes place for legitimate reasons. He argued and showed that in such cases no transfer should be deemed to have taken place. Take the case of amalgamation; take the case of re-organisation or mortgage. It is very usual for companies to raise fresh capital by mortgaging the assets. Even in respect of existing debenture trusts, what happens? You know it is usual to have all the fixed assets included in a mortgage. When you substitute a new machinery or install a fresh one, under the usual provisions of a debenture trust deed, it is deemed to have been included in the security. But, we are seeking to exclude it. If it falls within the ambit of the usual clause, it would amount to a transfer and the man would lose the benefit of rebate. Therefore, when such a case arises, relief should be granted. I think the amendments which have been moved by my hon. friend Shri M. R. Masani, by Shrimati Ila Palchoudhuri and Shri Bimal Ghose, which say that if a transfer takes place without the consent of the Government, then only, it should be deemed that the allowance or rebate lapses, should be accepted. I think

[Shri Nathwani]

these are good reasons, valid reasons, why in such genuine cases, we should not deprive the companies or concerns of the benefits of this rebate.

Lastly, there is one provision, that is, para (i) of Explanation 1 in amendment No. 32. A doubt has been expressed in business circles whether under sub-clause (i) of Explanation 1, the whole amount of the profit is to be wiped out by the permissible amount of rebate or only whether 75 per cent of such profits would be set off against rebate. I am told that the intention is to allow only the debit of 75 per cent of the actual profits in case the profits are absent or inadequate. But, as the language stands, it seems clear to me that the whole amount is intended to be set off against the income of that particular year. I shall read the clause:

“the sum to be allowed by way of development rebate for that year—namely the year in which the income is less—shall be only such amount as is sufficient to reduce the said total income to nil;”

Does it leave any doubt in anybody's mind? Natural grammatical construction shows that the whole of the income is to be set off against the permissible amount of rebate. Therefore, though it is made clear that the intention is not to wipe out the whole income of that particular year, but to leave 25 per cent of the income for distribution, still, as the clause is worded, I find that the intention is not being carried out. That is all that I have to say.

Shri Bimal Ghose: Is it the intention? We do not know whether what the hon. Member said now is the intention.

Shri Morarji Desai: Yes. That is the intention.

Shri Damani: Sir, I welcome the two amendments moved by the hon.

Finance Minister. Firstly, if the profits of the concern are not adequate to cover the entire amount of the development rebate of the year, it can be carried forward up to a period of 8 years. Secondly, 75 per cent of the development rebate is to be kept in reserve which means that 25 per cent can be utilised for other purposes. I want to make one suggestion. If a choice is given to the claimant company to claim development rebate in five years, it will be beneficial to the company. It will not affect the revenue of the Government in any way. On the contrary, it will regularise the revenue of the Government very much. For example, suppose a concern makes a profit of Rs. 12 lakhs and in that year, the company is entitled to claim a development rebate of Rs. 10 lakhs. Instead of claiming Rs. 10 lakhs in that year, if the company chooses to claim Rs. 4 lakhs in that year, then Government will get tax on the balance of Rs. 8 lakhs. Similarly, in the second year, if the profits are maintained at Rs. 12 lakhs, and the company again choose to claim Rs. 4 lakhs, then also, Government will get tax on the balance of Rs. 8 lakhs. In the third year, the balance of Rs. 2 lakhs can be utilised. If Government allow this kind of facility, the revenue of Government will be regularised, and the companies will be enabled to distribute dividends or meet their other obligations. This will facilitate the companies, and also facilitate Government. Therefore, I think that the Finance Minister should consider this aspect of the condition and give this choice to the company.

Secondly, my hon. friend Shri Nathwani has explained the position about the reorganisation, amalgamation and the mortgage of the concerns. That is also a very important thing, and that should also be considered.

Shri M. E. Masani: Yesterday, I made the suggestion to the Finance Minister that the modification on the

lines that the two previous speakers have suggested should be considered by him. I then said that I would not press my amendment, if he did not accept the suggestion, and I have, therefore, not moved my substantive amendment on the subject, which is on the Order Paper. But Shrimati Ila Palchoudhuri's amendment No. 13 is more or less on the same lines. In view of the thoughtful considerations that have fallen from the two previous speakers, especially from the opposite side, I would once again like to renew the plea that I made yesterday in the course of the general debate that this is a modification that will carry out fully the purposes which Government have in view, and yet remove some of the hardships and deleterious effects which I tried to explain yesterday.

The other point on which I would like to make a brief remark, and where I am hopeful that the Finance Minister will meet our point, is in regard to the amendments moved by Shri Bimal Ghose, namely, amendments Nos. 28 and 29. I myself have a similar amendment to clause 10, which I shall move when clause 10 is reached. But I am glad that Shri Bimal Ghose has moved his amendments, because now on a second reading of Shri Morarji Desai's amendments, it appears that it was necessary to move them here also. This is a very small point and a very clear point, and I cannot conceive that the Finance Minister could possibly resist these two amendments. What do they say?

Instead of saying that a transfer of the plant can take place to Government alone, the amendments say 'or to any other party with the consent of Government'. The two previous speakers have given examples, from the amendment that I had tabled and that had not moved, and otherwise, to show that situations may arise within ten years where it may be necessary to part with the property or have a transfer and yet Government may not be interested in taking

that. Government, after all, do not want to buy up every plant that wants to get sold or get transferred. It may suit Government to say, 'Well, do not give it to us, but give it to another buyer. We will supervise the terms of the sale.'

Then, again, I do not think the legal implications have been well considered. May I point out that the Minister's own amendment, the official amendment, permits people to utilise this plant and to raise loans or further credits on it?

Now, one way of raising loans is through mortgages. This is a point which I would appreciate the Minister considering. When a mortgage is made, the legal title passes to the other party. It is a transfer of property, although in equity, the beneficial ownership remains with the man who has the property. While it is the intention of the Minister that all business purposes including the raising of loans should be open to the company, this clause as it now stands will prevent the mortgage or hypothecation of the plant and the raising of funds on it. That is not the intention of Government and yet, if Shri Bimal Ghose's amendments are not accepted, that will be the effect.

I do not want to waste the time of the House since the Minister has not given any indication, but I would like to think that in the spirit of the last para of Shri B. R. Bhagat's memorandum distributed this morning, which says:

"In imposing a new restriction, one has to be cautious because, different companies are in different financial positions and a rigid formula might, in certain circumstances, will hinder production."

the Hon. Minister would accept these amendments.

I think the Members who have spoken before, all of us, have pointed out that so far as clauses 7 and 10 are

[Shri M. R. Masani]

concerned, quite apart from the bigger considerations urged by Shrimati Ila Palchoudhuri, in so far as the facility to transfer the plant is concerned, certainly, let Government guard against any misuse; let them have the final say as to whether the transfer should take place or not; but let them not insist that they should be the only parties to whom the plant should be transferred. Let them allow money to be raised by mortgages to other persons also. But legally, mortgage is a transfer of property. And today, I say that under the clause as it stands in spite of the intention of the Minister, a mortgage will not be possible, because it will be a transfer which will not be to Government. Therefore, the party will not be able to raise money necessary for the purpose of the business. In other words, this particular part defeats the purpose of the liberal amendment that the Finance Minister has made. I hope, therefore, that he will respond to the wishes of those who have gone into it and have studied it and made out a good case, and add the words that Shri Bimal Ghose wishes to be added.

Shrimati Ila Palchoudhuri (Nabawip): I do press my amendment for the consideration of the Minister on the same grounds as the previous speakers have already pointed out. Shri B. R. Bhagat's memorandum circulated to us this morning has also said that the object of any legislation that Government may bring forward today is to produce more in the country. If any obsolescent machinery can only be transferred to Government, then, I think, in course of time, Government will be burdened with these things only.

Shri Morarji Desai: Government are not going to take it.

Shrimati Ila Palchoudhuri: In these progressive times, in a period of ten years, many things would become obsolete. So, I should certainly press

that with the consent of Government it can be transferred to other people, and money raised for any industry as needed.

I hope the Minister will consider this aspect and see that when transfers take place or mortgages take place, it can be done with some kind of fees, and no difficulties would be put in the way of greater advancement of industry in this country.

Shri Bimal Ghose: May I just explain where my amendments should come in the amendments proposed by the Finance Minister?

I beg to move:

That in the amendment proposed by Shri Morarji Desai, printed as No. 32 in List No. 6 of amendments,—

in part (b) of Proviso to Explanation No. 2, after '1st day of January, 1958, insert 'and where a company is less than five years old'.

That in the amendment proposed by Shri Morarji Desai, printed as No. 32 in List No. 6 of amendments,—

in part (b) of Proviso to Explanation No. 2, after 'transferred by the assessee to any person other than the Government', insert 'or except with the permission of the Government'.

My other amendment remains as it is.

I beg to move:

Page 6, line 8, add at the end:

"unless such sale, discarding, demolition or destruction has been approved by the Government".

Before I speak on my amendments, I want to refer to a small point, and that is with regard to a concession

given to shipping companies, which we have all welcomed. But there is this question whether this concession that we have given to shipping companies should not entail any obligation on the part of the shipping companies themselves in regard to the distribution of their dividends. I find that lately, in 1956-57, all the shipping companies have increased their dividends. The dividends ranged from ten to fifteen per cent. Now that we are giving this facility to shipping companies because we realise that it is an important industry which should be promoted and encouraged, does not a duty devolve upon the shipping companies themselves that they will not fritter away their resources by distribution of dividends but, on the contrary, try to take them to the reserve so that it may be utilised for the purchase of ships? I would, therefore, like to invite the attention of the Finance Minister to this aspect of the question as to whether Government have not any duty in this regard.

In my first amendment, I seek that some concession should be given to new companies. If I remember aright, the concession was given to the new companies under the Wealth Tax Bill, that is, the companies which were less than five years old. Yesterday, while the Finance Minister was speaking, he conceded that there might be a case for new companies, but he went on to say that the shareholders should abstain, and let them not have any dividends for four or five years, and that there should not be any difficulty if this provision were enforced. But the position is this, that it is not a question of the shareholders abstaining, but it is a question of the new companies finding themselves in difficulties, because if they cannot pay any dividends, the public may not be interested in purchasing the shares. This difficulty will be felt unfortunately by the small companies only, because big companies have their own reserves, or make sufficient profits. So if they undertake any expansion,

unless it be on a very large scale like Tatas, there will be no difficulty. The small companies will find themselves in difficulty, because they will not be able to distribute any dividends if they are not permitted to use it for that purpose and therefore they may find difficulty in raising capital. So that small companies may not suffer I propose this amendment and I hope the Finance Minister would give his consideration to it.

The other amendments have already been fully explained by the other speakers and I need not say anything more. There is an amendment No. 29 in regard to sub-clause (c) of clause 7, which also needs the same amendment, namely, selling, or demolishing or discarding. I think that should also be permitted, because it may be necessary to discard or demolish plant or machinery which might have become old. But whether it has become old, or is no longer of any use is something over which Government should also have a say.

I hope these amendments are reasonable and they will be accepted by Government.

Shri T. N. Singh: Sir, I find myself rather in a different position from other colleagues who have just now spoken. I must, however, pay tribute to the excellent lobbying that has been done in this regard, so that I find Opposition Members, Mr. Masani and some of my colleagues on this side expressing almost identical views in regard to this development rebate.

Shri M. R. Masani: Great men think alike.

Shri T. N. Singh: Sometimes they think muck.

I want to say that the House should give a little more thought to this question. Firstly let us remember that the development rebate system is something unique. Except for the shipping companies, nowhere else in the world does any industry get this kind of facility, except in India. It is therefore time that we ap-

[Shri T. N. Singh]

plied our mind, whether we should go on giving concessions, reliefs and other kinds of help and assistance in various ways. If we want to give some subsidy, or help, why not frankly say this is the amount which we shall give to industry. These are all incalculable amounts; what a particular concern is getting by way of relief, by way of concession, by way of actual help or assistance, nobody knows in terms of rupees. And yet we are always faced with the unhappy situation where somebody, some protagonist of a shipping company comes and says: Oh, Government is not helpful; they have done nothing for us. Because you have nothing to say in terms of money. All these kinds of concessions are so intangible that nobody can calculate. So I expect our Finance Minister, who, I know, is a very frank man, and calls a spade a spade, to bestow some attention on this matter. I am really not happy about the position where we go on giving concessions to various concerns in various ways not knowing the extent and nature of the concessions, reliefs and help given. That is my objection number one.

So, I have not found myself in general agreement with the system of development rebate as it has been in practice here for some time now. I was not happy even when it was introduced.

Coming back to the specific question, one of the underlying fundamentals was that this concession would not be utilised for the purpose of distribution of dividend. That was one principle. I hope there is no agreement on that point. That is conceded. After all it is State's money, the tax-payer's money. We are giving certain reliefs not for the purpose of a particular company being able to distribute dividends. I can understand relief being given for a national purpose. But when anything out of this rebate goes for dividend purposes, then you are defeating the very object of this Act.

Let us assume for the time being that this is a very sound principle which is in national interest, and for industrial development of the country we should give this concession, I had contested that in the beginning. But assuming that as a desirable object, is it not expected when this rebate was granted some years ago by the previous Finance Minister and the House accepted that proposal that these concessions are not utilised for dividend purposes, for distribution of dividend?

I want to put a very frank question. I would ask the Finance Minister—let him tell us frankly—whether the concession that is being given will not result in this concession being utilised for purposes of distributing the dividend. I feel that it is going to happen. I claim to know more facts and I claim to know the situation that would arise. Why cut at the root of the very principle? After all this House accepted this principle of developmental rebate on certain considerations. One of the main considerations was that this concession shall not be utilised for purposes of distributing the dividend. That purpose is being defeated. I say that we are going against the very decision that this House has taken, the very principles and policies which we have accepted.

Shri Bimal Ghose: Where?

Shri T. N. Singh: I want to know whether this amendment, and the amendments to it suggested by my hon. friends, will not result in a situation where dividends can be distributed out of concessions received from the developmental rebate.

Some Hon. Members: No, no.

Shri T. N. Singh: It is easy to say no. I would suggest to the Finance Minister that it is not a matter which can be discussed here, in the whole House. It is not possible. I wish I could, and I am prepared to discuss it. I am not running away from it. If

what I am saying is correct, then let Mr. Masani and his other colleagues come out, we shall sit together across the table and discuss the issue. He has got his figures; I have got mine.

Shri M. E. Masani: Then let us have a Select Committee.

Shri T. N. Singh: We can go out and discuss and prove to each other. I will be content if the Finance Minister says whether my statement is correct or not.

Shrimati Ila Palchoudhuri: On a point of clarification: may I ask the hon. Member the average profit that any company or industry makes now-a-days.

Shri T. N. Singh: The average profit ranges from all kinds of figures, from 6 per cent to 24 per cent.

An Hon. Member: We want to know the average.

Shri T. N. Singh: It is no asking what is the average return that a company is getting out of any loan or assistance that Government gives in the shape of money loans, etc., to companies. Some are interest free. Government have recently given Rs. 10 crores interest free to each of the two big steel companies. Then the development rebate comes in. That is indirect assistance. Besides that we guarantee all the loans that have been taken from abroad. The tax-payer is liable for that; the contingent liability is that of the tax-payer and the State. It is our object to attract capital, so that it may descend to do something in the national interest by starting new industries. They are so patriotic that they require all these inducements. They won't do it otherwise. They want to be sure of their returns on any money they invest; they do not want to take any risk. I say give them all the help they want. They want a price for everything they do. You give them. But let us know what you are giving. We are all in the dark.

This kind of assistance by the back-door, by rebates, concessions and reliefs is entirely undesirable. We do not know where we stand. We have to hear every time, day in and day out, in this House and outside, that this Government is doing nothing to help the shipping industry. What has this Government not done for helping shipping? What have we not done to help private industry? Yet capital is shy. Therefore, I urge that let the various kinds of relief be calculated; let it be worked out in rupees, annas, and pies. Give it to them straightway, but not in these devious ways. We know where we stand.

Then there is this question of transfer. They can transfer it to anyone, with Government's consent, of course. Thank God for that mercy. But I ask why should it be transferred? Sitting in the Public Accounts Committee, I know that I have said many harsh things against our own Government and here I was applauded on the last occasion. What do I say? I say that their expenditure was ill thought out, they should not have entered into this. Now, they cannot do anything to make anything out of it. That is the criticism. Everyone welcomes it. But they want to overlook it, eschew all such things. These people invest in machinery. They want to sell it away the next year—or in two or three years. They cannot keep it even for ten years.

Shri M. E. Masani: Suppose they want to mortgage it.

Shri T. N. Singh: I am coming to that. Have patience. "Rest, perturbed spirit, rest."

That is the position. The argument was that that particular gentleman might die due to causes of nature. That has been advanced as a justification for transfer because death also amounts to transfer.

Shri Nathwani: May I ask one question? In a partnership, is it not

(Shri Nathwani)

usual for one of the partners to die? In that case, does transfer take place or not?

Shri T. N. Singh: I am coming to that. There is a difference. There is a difference between death duty and the stamp duty on transfers.

Shri Nathwani: How does it affect?

Shri T. N. Singh: The two are different things. This is not going to stand. Anyway, the law as stands—I am not a lawyer; probably my hon. friend is a Solicitor it. . .

Shri Nathwani: That is our difficulty.

Shri T. N. Singh: That difficulty is there, but commonsense is also there. Therefore, I say that this is not a thing that stands. Then about mortgages, yes. But do they amount to any transfer?

Shri M. E. Masani: Yes, definitely. Ask the legal advisers of the Government.

Shri T. N. Singh: The man who is raising some money by pledging that property continues to make use of that property.

Shri M. E. Masani: No, the property passes in law.

Mr. Speaker: I am afraid the hon. Member is treading dangerous ground. Mortgage is a transfer. He need not walk into their parlour. He might say—even if it should be an assignment, I am opposed to it.

Shri T. N. Singh: I would certainly take guidance from an eminent lawyer like you, Sir, in such matters. But what I feel is that these small technical points cannot justify a blanket rule whereby transfers can be permitted.

Shri M. E. Masani: There is nothing blanket; it is with the permission of Government. What can be less blanketly than that?

Shri T. N. Singh: But there is no limit. I am against vesting so much discretion with our Government. Everybody is willing to hit at the Government for small things. Why did they permit that in the case of this man, why not in the case of the other man? Why should Government take upon themselves this burden and this onerous task?

An Hon. Member: Corruption will grow.

Shri T. N. Singh: As a matter of fact, I am one of those who has believed in restricting Government's discretion as much as possible in matters of income tax, excise duty or customs duty. The reason is obvious. Even Shri C. D. Deshmukh, one of our distinguished Finance Ministers, when we were discussing the Estate Duty Bill, said that he did not want to take any discussion. That was a sound principle. We should stick to that. I do not want so much discretion to be vested in Government in this matter. If there are any genuine difficulties, we can look into them. That is another matter. But we cannot legislate giving general permission to any and every concern, with the Government's consent, for transfer of its developmental assets.

Shri Heda (Nizamabad): I always hold my hon. friend, Shri T. N. Singh, in high esteem for his opinions, but I think once in a way we should differ. I tried to understand his arguments. I regret to state that I am not able to appreciate them.

As he stated, I think there are no two opinions on the matter that this development rebate is not to be allowed for the use of payment of dividends. That is not the spirit of the Government amendment, nor of the whole scheme. The point is that a company makes a profit. Then, what are the preferences? Shareholders should get some dividend. How is the balance to be used? Rather, the whole scheme of the development rebate is intended as a sort of inducement to

the management or the shareholders not to take a greater amount as dividend but to be content with a smaller amount and invest the balance for development purposes. That has been the inducement, and Government have done very well by introducing this scheme, however novel it may be.

So far as the existing companies are concerned, if you look at their expansion programmes, the main credit for their success in achieving the targets in the private sector goes to this scheme of development rebate. Therefore, I do not think we need be sorry for introducing such a scheme. Rather, we should be proud that we have envisaged a very good scheme which has brought us dividends and produced good results.

Now, the first idea of Government was not to give any time-limit. They had come with the scheme that the whole development rebate may be used only in one year. In reply to the debate, the Finance Minister was good enough to make an announcement, and at that time, it appeared that he made it for 8 years and it was very much welcome. It may be my fault that I did not catch the whole thing correctly. When the amendment came in black and white, I found that what I took to be was not so. What was given by one hand, though not taken away totally by the other, has been substantially denied in other ways by making a condition precedent that the total income should be brought to nil. As regards this point, I would like to ask him whether he wants that shareholders should have some dividend or not. There is a difference between the income that the shareholders have and the income that the companies make. Many times companies make huge profits. All those profits are not divided among shareholders. Generally, the dividend is 5 per cent or 6 per cent and in some cases 8 or at the most 10 per cent. The days when dividends used to be 25 or even 40 per cent are gone. Now dividends are much lower. That is why nobody is bold enough to float

new companies. Capital is shy, because nobody thinks that it will bring in the high dividends they used to.

So the question is whether we want to deny the shareholders even a 5 per cent or 6 per cent dividend for the sake of expansion of the scheme. And what is the benefit of the expansion of the scheme? Suppose the total share capital is Rs. 50 lakhs. Today the assets of the company amount to Rs. 2 crores and by the development rebate, they go to Rs. 2½ crores. But the share value does not increase, because when the percentage of dividend does not increase, the share value does not increase. The shareholder is not benefited. In old days people who were purchasing the Rs. 100 shares were expecting that they may not get any dividend for the next three or four years. Afterwards, the company may start paying 10, 15 or 20 per cent. In case the company makes 10 per cent, the share value will go up from Rs. 100 to Rs. 150. Therefore, in the hope that he can sell the share at that time and get a profit of Rs. 50 he was investing the money. That attraction for the middle classes and other persons who were possessing these shares has gone away. Even if an expansion takes place in the assets of the company as a result of the development rebate, the share value does not increase and so there is no attraction to the shareholder. The main question, therefore, is should we deny the shareholder even the 5 per cent or the 6 per cent of dividend before he takes advantage of this development rebate? I am pleading that this aspect of the matter should be considered. So a simple rule should be made that any company not paying a dividend more than the average dividend it has been paying for the last 3 or 5 years—the period may be specified—may take advantage of the development rebate scheme up to 25 per cent in the course of any number of years—5 years or 8 years as the Government propose.

[Shri Heda]

My only point is that the first charge on the profits of the company should be that of the shareholders—and it is not an exorbitant one and may be up to 5 per cent dividend. To that we should allow first preference and development rebate and other things should follow. I hope Government will take a sympathetic view of this aspect of the question.

Shri Tangamani: I rise to oppose clause 7. After coming here I find that amendment No. 32 has been moved by the hon. Finance Minister himself.

Mr. Speaker: Is the hon. Member opposing both the clause and the amendment?

Shri Tangamani: The amendment wants to replace the entire clause. I want to oppose the clause itself; and the amendment is still worse. During the first reading itself, on behalf of our group, Shri Vasudevan Nair has made it clear that we are opposed to any development rebate. In the case of the new plants which have been set up, there is ample provision in the Companies Act itself by way of initial depreciation. The initial depreciation is generally much higher than normal depreciation. So, instead of adopting this normal course, if we adopt this abnormal course of development rebate, it will lead only to more and more slippery ground.

In the original clause there were certain safety provisions. In the amendment which has been moved, these safety provisions have been removed. The further amendments which have been moved only support the fears expressed by my hon. friend, Shri T. N. Singh as to how we are going into still slippery ground.

I wish to read only certain portions of the memorandum which was distributed to us today. So far as the development rebate is concerned, 25 per cent has been allowed and it is

restricted to installations of new plants and machineries. The two conditions that were sought to be imposed by the original clause were that the company that claims the development rebate should, for a period of at least 10 years, put in resources an amount equal to the development rebate and that the company, for a period of 10 years, should not dispose of the plant and machinery on which it has obtained the development rebate.

The spirit of this amendment is twofold. The first change that is brought about is that it allows companies to claim development rebate not only in the year of installation but in 8 years following. The second change that is brought about is that the amount that has to be put in the reserves should not be equal to the actual tax-saving as claimed by the industry but that the tax-saving will be 50 per cent of the development rebate. Now, it is going to be one and a half times the tax-saving. Under these circumstances, I say the mischief which is likely to be caused is going to be greater. We oppose the clause itself and the amendment is still worse. The other amendments which have been moved take us to more and more slippery grounds.

Shri Achar (Mangalore): I would like to say a few words on this question of development rebate. I am inclined to agree with Shri T. N. Singh. I think the real question is more or less to give a kind of protection to some industry. The general problem that is involved is the question whether there should be some protection to some industry. If you want to give protection to a particular industry, whether it is shipbuilding or any other industry, that question must be looked into from that point of view. There is the Tariff Commission. They look into the cost of production and other aspects which would decide the matter for the benefit of the nation as

a whole. Instead of giving this development rebate, a sort of indirect protection, it would be better if the question is viewed from a general point of view.

As Shri T. N. Singh put it, we do not know how exactly this development rebate works out and how far it will affect the question of distribution of dividend also. Not only that; we will not be knowing exactly what we are giving and what we are not giving. So, to make it clear as to which industries we are protecting and to what extent, it would be better to consider the problem in that spirit.

Take the whole problem and find out which of the industries require protection. The House can quite agree to give protection to a particular industry which deserves it. I submit that instead of having this more or less secret—at least the thing is not clear—instead of adopting that method we should adopt the method of having a regular enquiry into the matter and come to a definite conclusion as to which industry and to what extent should be helped. It would be better to consider these problems from that point of view—I may be permitted to say—at least not in an indirect manner.

Shri Morarji Desai: Sir, I have considered these points which have been raised in the amendments and also by my hon. friend, Shri Nathwani, for many days. Whereas there may be something in what they say, I am not convinced that there is going to be any very great difficulty as they are imagining. But, at the same time, I was not very happy when I heard my hon. friend, Shri T. N. Singh, not because of the arguments that he gave, but particularly because of the attitude he took as regards the hon. Members who spoke. There can be honest opinions in agreement from different sides of the House on different questions. Why should we say it is lobbying and all that sort of thing? That does not help us, because, then the other persons will say that the Opposition also lobbied with him and he also agreed with

my communist friends. That is what other people might say. I do not think this helps us in any way, though I cannot say that all his fears are in vain. But we cannot always go merely on fears; nor can we completely disregard possibilities. That is the line which this Government generally takes.

Then, again, there seems to be an idea on the one side that we are obliging these companies and doing something which it is not necessary to do in the interests of the country. On the other side, there is the idea that we are throttling the companies and that we are carrying a prejudice against them so that we want to harm them or do them away with by an indirect method. Both these attitudes to my mind are based on suspicions or hearsay. I can understand my Communist friends saying what they say because they believe in an ideology where they want to remove a certain section of the society completely and have everything in the hands of Government. That I can understand. But we have belief in mixed economy. Democracy means mixed economy to my mind. But that does not mean that any sector or any part of the society takes advantage of the other. On that we want to be careful and are careful. There are bound to be holes in any society. Even in totalitarian societies, there are holes. One can never say that there is no smuggling in totalitarian States. There is smuggling even there. There are thefts even there and people take advantage of various things there. It is part of human nature. We can only minimise these disadvantages and that is what we are trying to do.

As regards the advantages given to the companies, we are not giving any advantages which will profit private persons merely as such. If a depreciation allowance is given, it is given because it is to be given if a factory is to exist. Depreciation allowance is very necessary. Otherwise, it would be ridiculous and nobody will start a

[Shri Morarji Desai]

factory. I am prepared to say that all those who do business do not do it in the national interest to start with. But, therefore, I cannot say that they do not work in national interest. The primary urge may not be national interest. But how can that interest be said to be governing many people in this country? It is not. Everybody has some private interest which guides him. We have only to see that that private interest does not go against the national interest and that is what we are trying to do.

It is easy to know from the figures of any factory, if anybody wants to find out, what are the concessions given. It is not difficult to calculate them. We have got the laws and the income-tax and we know what concessions are given.

Shri T. N. Singh: It is easy for you, not for us.

Shri Morarji Desai: My hon. friend, as Chairman of the Public Accounts Committee, has done great work and his anxiety to know more and more goes on increasing the more he knows. That is where the difficulty arises. Why does not he know everybody and everything? When there is some danger we certainly should know. It is necessary for the Government to know all this and therefore the Government knows many of these things. But everybody cannot know and will never know, even if he becomes a genius, everything in this world. That is not possible. But, for that, no suspicion need be raised about everything that we do not know.

In this particular case, when we are giving development rebate, the development rebate was started four years ago. It is not started this year. It is given because we are an under-developed economy and we want to develop our country. We cannot compare our country with countries which are already developed where many difficulties do not arise. It

should not be imagined that our industrialists also work under all easy circumstances and they have no difficulties at all. They have also difficulties. There are people who take advantage of many things but they also come to grief and bring others also to grief ultimately. That is also there.

Shri T. N. Singh: Not often.

Shri Morarji Desai: I am not saying that most of the people are doing so. It will be an evil day if we imagine that the majority of our countrymen are doing like that. I do not think it would be a right thing to presume because that presumption will not allow us to do anything. Many a time, I have found in the case of several of my lawyer friends who do only criminal practice that they disbelieve every person whom they talk to. They think they are lying because many a time they come across witnesses who lie . . .

Shri D. C. Sharma (Gurdaspur): What about Magistrates?

Shri Morarji Desai: The Magistrates have a more balanced view because they know both sides and they do not get only one-sided view and so they have a balanced view which is a judicial view. A lawyer's view is not a judicial view; it is a one-sided advocate's view. So, he is also responsible for perpetuating some of the wrongs because he supports, advances and advocates this. Therefore, this thing happens.

Let us, therefore, not be considering these matters from these extreme points of view but take a reasonable view of human society and then provide these things. Otherwise, I do not know whether we will be able to provide any workable law. It will be very difficult.

We are giving this development rebate in order that our industries may advance more. It is an incentive given to them. We are not giving anything which is coming from the

Budget. This is a thing which will accrue only if they go on expanding. We want them to expand. Therefore, it is an incentive. It can certainly be said that this money belongs to Government. It is, therefore, that we impose conditions. Then my industrial friends say that we are being hard. I am afraid they are not correct when they say that. If we say that they must get 51·5 per cent of rebate, it is really the income-tax part of it, to which they are not entitled. It is given to them as an incentive. We are quite right in insisting that it must be utilised only for the legitimate business of the concern and for furthering the cause of the concern rather than for distributing profits. We have therefore kept a minimum of ten years during which it could not be done. I do not see how by any stretch of imagination this reserve can ever be utilised for giving dividends. It is possible that as a result of expansion they may get more profits and from those profits in future years they can give more dividends. That is possible. But they cannot utilise this money for giving dividends for ten years. After ten years, maybe, it may be possible. Therefore, we need not be afraid that this will be utilised for giving dividends.

Shri T. N. Singh: As against the previous position, will not the scope for profit distribution increase? I wanted to know this. Supposing the profit was of the order of Rs. 5 or Rs. 6 lakhs, as the note supplied by Shri B. R. Bhagat himself says, as a result of this concession will not the scope for profit distribution increase compared to the previous position?

Shri Morarji Desai: As against a position where hundred per cent was supposed to be taken to rebate, we have certainly released 25 per cent . . .

Shri T. N. Singh: For dividend purposes.

Shri Morarji Desai: . . . of their own money—not the money of the

Government. Let it not be imagined that we are giving any money out of Government income-tax for giving dividends. That is not what we are doing. When we are asking them to reserve 48·5 per cent more we are taking away from their own money, from their capital or from their profits to be set apart along with the reserve created from the income-tax of 51·5 per cent. Out of that we have now given 25 per cent. We have released that because we thought that it was not proper that we should say that we gave 51·5 per cent; let them also give an equal amount. I do not think it is necessary. For their *bona fides*, we want to say that they must also set apart 23·5 per cent. They are also earnest in earning the rebate. That is what we want. We want them to earn the rebate. Therefore, we are doing this.

Formerly, there were not these stringent conditions. There were no conditions before. On the contrary it is more stringent.

Shri T. N. Singh: Now, you have relaxed it again.

Shri Morarji Desai: We are not relaxing it at all. Therefore, I am not accepting the amendments moved. I am not accepting even the amendment about the consent of Government because I do not want to assume more powers which will give us more blame than credit. More than that, this Government at any rate is not anxious to have more powers except it be absolutely necessary in the interest of the people themselves.

We do not want to take this power. There are thousands of concerns—30,000 companies or more, and there may be some private ones also as my hon. friend Shri Nathwani stated. If all these people go on applying to Government for some transfer or the other, when am I going to dispose them off; when am I going to look into them? It is therefore, Sir, that we do not want to have this power.

[Shri Morarji Desai]

Then, as to whether this will cause any hardship, why should there be a transfer within ten years? I do not know. There is the question of amalgamation of two concerns. But the amalgamation can also be with the motive of writing off the loss into one which is making profits. How can I agree to that sort of amalgamation to be accepted.

Shri M. E. Masani: Sir, I raised the question of mortgage for raising funds for purposes of the business allowed by the Minister.

Shri Morarji Desai: I am coming to that. The words used are: "sold or otherwise transferred". My hon. friend, Shri T. N. Singh is not a lawyer; I am not a lawyer either. I have been advised that under this clause those simple mortgages are not going to be covered. But if there is any such difficulty, we will certainly consider it.

Shri M. R. Masani: Will the hon. Minister add an explanation saying that a simple mortgage may not be considered as transfer? Then I will be quite satisfied. I have got, in my amendment, a similar explanation; if he accepts that, I will be quite satisfied.

Shri Nathwani: The word "Transfer" in juxtaposition with the word "sell" will certainly include mortgage where the entire property is not conveyed or conveyed subject to a right of redemption. In case of simple mortgage the property is transferred. Here the words are "sell or transfer". Therefore, it is not merely the change of ownership with all the rights it may be, something less than that; but still it would amount to a transfer.

Shri Morarji Desai: I do not want to enter into an argument over this matter. I am not a lawyer and, therefore, I cannot argue about it. It is only a judge who can give a decision in this matter; neither my hon. friend there can give it nor my learned friend

here, who is learned in law, can give it. If there is any difficulty we shall certainly see that that difficulty is removed. We are not averse to coming before this House often. If there are difficulties we shall remove them. I do not think any difficulties will be created as a result of this. In all legitimate purposes we want to see that impediments are not placed but we also want to see, as my friend Shri T. N. Singh says, that nothing is misused. Therefore, we do not want to create conditions whereby we may have to regret afterwards that there was a loophole and we are now going to plug that loophole. We do not want to take that course. Therefore, we do not want to depart from the wording that has been used. But I can assure my hon. friend that there is no intention of restricting anybody beyond the spirit which is involved in this amendment. I hope, therefore, that my hon. friends will accept this assurance, that if there is any impediment we shall certainly come forward to remove it.

Shri M. R. Masani: I understood that the hon. Minister was prepared to add an explanation to say that a mortgage for purposes of raising funds would not be a transfer under this section, because our advice is that it is a transfer and it will bar all mortgages.

Shri Morarji Desai: I am not prepared to add anything to this just now. As I said, if I find any actual instance of that I shall certainly come forward before this House; nothing much is lost in that time.

Shri Nathwani: May I take it that it is not the intention of the Government to treat it as a transfer when there is a change in the constitution of a firm?

Shri Morarji Desai: That is not a transfer at all.

Shri Nathwani: Very well; then I am satisfied.

Shri Morarji Desai: Administrative whatever impediments can be removed we shall remove.

An Hon. Member: About the rebate in.....

Mr. Speaker: Order, order. Hon. Members had their turns and they were given time to express their views fully. I shall now put amendments Nos. 27, 28 and 29 moved to amendment No. 32 to the vote of the House.

The amendments were put and negatived.

Mr. Speaker: I shall now put amendment No. 13.

The amendment was put and negatived.

Mr. Speaker: Now I shall put amendment No. 32. Those in favour of this amendment may say 'Aye'.

Several Hon. Members: "Aye".

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

Some Hon. Members: "No".

Mr. Speaker: I think the "Ayes" have it.

Some Hon. Members: The "Noes" have it.

Mr. Speaker: Shall we divide now?

Shri T. N. Singh: Sir, there is a convention that during the lunch interval no division is pressed for.

Mr. Speaker: All right. It will stand over.

Shri T. N. Singh: They are not pressing it.

Shri Narayanankutty Menon: Not now, but afterwards.

Mr. Speaker: I shall put clauses 8 and 9 together. The question is:

"That clauses 8 and 9 stand part of the Bill."

The motion was adopted.

Clauses 8 and 9 were added to the Bill

Mr. Speaker: Then we come to clause 10.

Shri Morarji Desai: I beg to move:

Pages 6 and 7,—

for lines 33 to 41 and 1 to 4 respectively, substitute—

"(II) Where an allowance by way of development rebate has been made wholly or partly to an assessee in respect of a ship, machinery or plant in any year of assessment under clause (vib) of sub-section (2) of section 10, and subsequently at any time before the expiry of ten years from the end of the year in which the ship was acquired or the machinery or plant was installed—

(i) the ship, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government; or

(ii) the assessee utilises the amount credited to the reserve account under that clause—

(a) for distribution by way of dividends or profits; or

(b) for remittance outside India as profits or for the creation of any asset outside India; or

(c) for any other purpose which is not a purpose of the business of the undertaking".

Shri M. R. Masani: I beg to move:

That in the amendment proposed by Shri Morarji Desai, printed as No. 33 in List No. 6 of amendments,—

in clause (1) of sub-section (11), after "Government" insert "without the previous consent of the Government."

[Shri M. R. Masani]

Mr. Speaker, Sir, this amendment is in similar terms and similar lines to those moved by Shri Bimal Ghose to clause 7. On being discussed, I had really hoped that a modest amendment of that kind, which met real difficulties which were pointed out not only by myself but by hon. Members opposite, would have been accepted by the Minister. I really cannot conceive why, when difficulties are pointed out and rather a very courteous clause was moved providing for consent of Government for transfer in case where it was necessary for the purpose of business like a mortgage, it should not have been accepted. A real difficulty was pointed out that the clause as it now stands will bar the raising of funds for the purpose of business, which the Minister's own amendment admits. Yet, Sir, this has been rejected without any convincing reason being given by the Minister. Yesterday, the Minister was accused of rigidity by certain Members of the Opposition. I am sorry to say, with great sadness, that this is certainly an example where he has shown rigidity which one feels sorry about.

Shri Morarji Desai: The rigidity seems to be applying only on one side; the hon. Member is not rigid at all when he sticks to his own.

Shri M. R. Masani: I did not move a very important amendment after what he said yesterday; that shows how rigid I am.

Shri Morarji Desai: That is all right. After giving all this assurance, if my hon. friend is not satisfied I can only say, I am sorry. There is not going to be any difficulty. Yet he says that there is difficulty. I am prepared to suffer the title given to me of being rigid, but I am not prepared to accept his amendment.

Mr. Speaker: I shall put amendment No. 41 to the vote of the House.

The amendment was put and negatived.

Mr. Speaker: I shall also put amendment No. 33. The question is:

Pages 6 and 7,—

for lines 33 to 41 and 1 to 4 respectively, substitute—

“(11) Where an allowance by way of development rebate has been made wholly or partly to an assessee in respect of a ship, machinery or plant in any year of assessment under clause (vib) of sub-section (2) of section 10, and subsequently at any time before the expiry of ten years from the end of the year in which the ship was acquired or the machinery or plant was installed—

(i) the ship, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government; or

(ii) the assessee utilises the amount credited to the reserve account under that clause—

(a) for distribution by way of dividends or profits; or

(b) for remittance outside India as profits or for the creation of any asset outside India; or

(c) for any other purpose which is not a purpose of the business of the undertaking”.

The motion was adopted.

Mr. Speaker: The question is:

“That clause 10, as amended, stand part of the Bill.”

The motion was adopted.

Clause 10, as amended was added to the Bill.

Clauses 11, 12, and 13 were added to the Bill.

Mr. Speaker: Then we come to clause 14.

Shri Morarji Desai: Sir, I beg to move:

Page 8,—

for lines 30 to 33, substitute.

“(b) in clause (xvi) of subsection (1) of section 5, for the words “and post office national savings certificates”, the words “post office national savings certificates, post office national plan certificates and twelve year national plan savings certificates” shall be substituted.”

Shri Tangamani: I beg to move:

Page 8,—

omit lines 34 to 37.

Mr. Speaker: I shall put amendment No. 39 to the vote of the House.

The amendment was put and negatived.

Mr. Speaker: I shall put amendment No. 34. The question is:

Page 8,—

for lines 30 to 33, substitute—

“(b) in clause (xvi) of subsection (1), of section 5 for the words “and post office national savings certificates”, the words “post office national savings certificates, post office national plan certificates and twelve year national plan savings certificates” shall be substituted;”

The motion was adopted.

Shri Tangamani: I beg to move:

Page 8,—

omit lines 34 to 37.

Mr. Speaker: I shall put amendment No. 39 to the vote of the House.

The amendment was negatived

Mr. Speaker: I shall now put amendment No. 34.

The amendment was adopted.

Mr. Speaker: The question is:

“That clause 14, as amended, stand part of the Bill.”

The motion was adopted.

Clause 14, as amended, was added to the Bill.

Mr. Speaker: Then there is New Clause 14A—amendment No. 8.

Shri M. R. Masani: Mr. Speaker, Sir, I move New Clause 14A.

I shall read it for the consideration of the House.

“14A. Notwithstanding anything contained in this Act or in the Income-tax Act or in the Wealth-Tax Act, 1957 or in the Expenditure-tax Act, 1957, the aggregate amount of all taxes payable under these Acts shall not, in respect of any year of assessment, exceed eighty per cent. of the income, profits and gains of the assessee as calculated for the purposes of the Income-tax Act for such year, and in the event of such taxes exceeding eighty per cent. the respective taxes in the said Acts shall be reduced pro rata.”

This clause would seek to incorporate in our Finance Bill a provision that forms part of the legislation of very advanced and socialist countries like Sweden, Switzerland and Norway, all of which have advanced a great deal further than us in the direction of social justice. In those countries also there are wealth-taxes more or less on the lines that we have and because the cumulative burden of those taxes sometimes—

Shri Morarji Desai: May I interrupt? I do not think this amendment would be admissible. Rule 80 of the Rules of procedure may be looked into. This amendment alters the scope of the whole Bill.

Mr. Speaker: I agree that if this is beyond the scope of the Bill, it cannot be allowed. What is the amendment, and what is the scope?

Shri M. R. Masani: May I make a submission? The scope of the Bill is to re-enact this year the wealth-tax, the expenditure tax and the income-tax laws for the coming year. These are set out in the schedules. In other words, if these measures had been new, then certainly my amendment would have been in order, and I would have said that the Wealth-tax Bill, the Expenditure Tax Bill and the rest of it be abated. But I want to say this. Let no one be mulcted to the extent of more than 80 per cent. of his total gains in a year. The schedule to this enactment re-enacts new laws made last year, the wealth-tax, the expenditure tax and the rates of super-tax and income-tax. This Bill does re-enact and re-legislate those provisions. In that case, where the total effect of what is contained in this Finance Bill exceeds 80 per cent of a man's gain in a particular year, this tax shall be attracted. In other words, if this Bill can levy certain taxes, it can also, by an amendment, mitigate the effect of those taxes to the extent that the House may desire. I therefore think that this amendment is entirely in order.

Mr. Speaker: The reference is to the taxes not levied under this Bill but in other Acts.

Shri M. R. Masani: I believe so. But this is not in order, then, where else can it come if not in the Finance Bill?

Mr. Speaker: For instance, the Estate Duty Act formulates the imposition of a tax. So, year after year, we do not introduce any further Act but we add the provisions in the schedule.

Shri Morarji Desai: The schedule deals with the income tax, corporation tax, etc., but not the wealth-tax rates. They are separate.

Shri M. R. Masani: As it is, it creates a situation. The amendment could be moved to the rates of income-tax levied in the case of cer-

tain assesses, in whose case there comes a situation which Parliament does not want. Last year, when these taxes were introduced, such a situation arose.

Mr. Speaker: The hon. Member may consider this question. Notwithstanding anything contained in the Finance Bill, can he say that the super-tax, for example, shall not be applicable and shall not be taken into consideration?

Shri M. R. Masani: Will it not be better that in this Bill, the super-tax and the income-tax should be abated by the amendment?

Mr. Speaker: It is not covered by this. Is super-tax attracted by this. Super-tax is only on the income as calculated.

Shri M. R. Masani: May I point out this? I have discovered it now, since you mentioned it. Actually, clause 14 of this Bill seeks to amend the Wealth-tax Act.

Shri Morarji Desai: Only three sections.

Shri M. R. Masani: Therefore, the Wealth-tax Act is not beyond the scope of the Bill under discussion. If an amendment can be made to the Wealth-tax Act—of course that is not my amendment—cannot an amendment which is common to the Wealth-tax Act and the Income-tax Act be made here?

Mr. Speaker: I do not agree with Shri M. R. Masani. It is not that; because a particular clause of an Act which has already been passed is amended here, another amendment relating to some other clause of that Act cannot be brought in here. I have no objection to an amendment bearing on this Bill which may amend a particular section of another relative Act. But here, clause 14 relates to the wealth-tax and perhaps a consequential amendment may be

in order. Of course, I cannot even refer to that immediately. It does not arise out of this. The amendment to the Wealth-tax Act in this Bill refers to the definition of a company and its extension to the State of Jammu and Kashmir. "A company within the meaning of any law in force in the State of Jammu and Kashmir relating to companies". Therefore, the hon. Member's amendment is foreign to the scope of the Bill. Though the Bill refers to the Wealth-tax Act, it does not refer to the fixing up of a rate of duty or whether it should go into the computation of the super-tax, etc. Therefore, the amendment of the hon. Member is out of order.

The question is:

"That clauses 15 and 16 stand part of the Bill."

The motion was adopted.

Clauses 15 and 16 were added to the Bill.

Clause 17—(Amendment of Act I of 1944.)

Mr. Speaker: Amendment No. 42 is out of order.

Shri Mulchand Dube (Farrukhabad) rose—

Mr. Speaker: He has not moved any amendment.

Shri Mulchand Dube: No. But I want to speak on clause 17. I wish to say a few words about the excise duty on tobacco provided for in clause 17 of the Bill. It appears that the Government do not have a firm policy with regard to the excise duty on tobacco. Initially, about two or three years ago, the duty was levied on the basis of the use to which the tobacco or any particular kind of tobacco was put. Then there was an expert committee appointed and on the recommendation of the expert committee the duty was changed, in the sense that the duty was based on the physical appearance of the tobacco concerned.

Again, in this Bill, the duty is again put on the granule ('rawa') of tobacco of a certain size to which the leaf is pounded or cut. The difficulty is, a large quantity of tobacco, which is said to be of the order of about 20 lakh maunds or thereabouts goes waste. During the last few years, a sort of cess also is levied at the same rate of duty. My submission is, this is not at all a proper thing to do. Much of it is being destroyed. The particular kind of tobacco may not be found marketable on account of the high duty that is being imposed upon it. If the duty is reduced, there may be fair chances of that kind of tobacco also being marketable, and it may bring about Rs. 5 lakhs to Rs. 7 lakhs to the Government also. But somehow or other, a policy is being pursued by which the duty on that tobacco is not reduced, with the result that large quantities of that kind of tobacco are to be destroyed by being burnt. My submission is that to put the same amount of duty on damaged tobacco as well as on the tobacco that is good, does not seem to be a very sound proposition.

13.58 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

My hon. friend, Shri Morarji Desai, may recollect the Gujarati poem

which is taught in the schools.

'ढकं संर भाजा ढक संर खाजा'

The same duty is levied on both the bad tobacco and the good tobacco. There is absolutely no point in sticking to this, and seeing that a large quantity of tobacco is destroyed because of this very reason. After all, the cultivator must earn something. I have certain figures, and probably the hon. Minister will be able to find out whether the figures that I am giving are correct. From my figures, I may say that about 25 per cent. of tobacco-growing areas have not been used for the growing of tobacco this year. It may be that in the next year the percentage may be higher still. If we follow this policy, it will mean killing

[Shri Mulchand Dube]

14.00 hrs.

the goose that lays the golden egg. The result is that we not only lose the excise duty that we are otherwise able to get on tobacco, which is a very large amount, but, if we go on at this rate, the cultivator will also suffer and he will not be able to pay the duty that is imposed on him on the tobacco that he grows. So, the Government as well as the cultivator will lose. It appears that everyone is losing on account of the high rate of excise duty that is being imposed on tobacco.

Shri Khadlikar: I want to speak on amendment No. 42 to clause 17.

Mr. Deputy-Speaker: That has been ruled out of order. If the hon. Member wants to speak on the main clause, he may do so.

Shri Morarji Desai: I do not know whether 25 per cent. less crop is grown this year. But if it is less, it will be an advantage; the food crops will be more to that extent. Therefore, there is not going to be a loss to us. There are some difficulties in this matter and we are trying to look into them and reduce them, as far as possible. There is no possibility of any change in the clause, as it stands.

Mr. Deputy-Speaker: The question is:

"That clause 17 stand part of the Bill."

The motion was adopted.

Clause 17 was added to the Bill.

Clause 18 was added to the Bill.

Shri Tangamanal: I beg to move:

Page 10—

for line 17, substitute—

"(1) On the first 4,200 of total 4,600 of total 5,000 of total Nil."

My amendment to the First Schedule seeks to increase the lower limit for the rate of income-tax from Rs. 3,000 to Rs. 4,200. Now, in this Schedule

exemption from income-tax is "Where the individual has no child wholly or mainly dependent on him or where the Hindu undivided family has no minor co-parcener" is Rs. 3,000. My amendment seeks to raise it to Rs. 4,200. Then "where the individual has one child wholly or mainly dependent on him or where the Hindu undivided family has one minor co-parcener" the exemption from income-tax is up to Rs. 3,300. My amendment seeks to raise it to Rs. 4,600. "Where the individual has more than one child wholly or mainly dependent on him or where the Hindu undivided family has more than one minor co-parcener" the exemption provided in the Schedule is up to Rs. 3,600. My amendment seeks to raise it to Rs. 5,000. I need not say much on this, because during the discussion on the first reading several members of the House have mentioned about the hardships experienced by the middle class employees particularly. I distinctly remember that my hon. friend, Shri N. G. Ranga, had stated that this Rs. 3,000 limit should be considerably raised. Otherwise, the hardship is going to be felt by the middle class employees. With these observations, I commend the amendment for acceptance by hon. Members.

Shri M. R. Masani: I beg to move:

Page 16, lines 27 and 28,—

for "at the rate of 30%" substitute "at the rate of 20%."

Pages 16 and 17,—

for lines 35 to 38 and 1 to 24 respectively, substitute—

"(c) in addition, in the case of a company referred to in clause (ii) of the preceding proviso which is referred to in sub-section (9) of section 23A of the Income-tax Act which has distributed to its shareholders during the previous year dividends in excess of

6 per cent. of its paid-up capital, not being dividends payable at a fixed rate—

on that part of the said dividends which exceeds } at the rate
6 per cent. } of 10%”

My amendment No. 9 reduces the rate of tax from 30 per cent. to 20 per cent. in the case of bonus shares and the following amendment, Amendment No. 10, applies to section 23A companies. I would like to make a few observations on this latter provision.

It is true that some slight relief in the face of gross inequity has been conceded by the Finance Bill this time. In the top slab, instead of 30 per cent., a ceiling of 20 per cent. has been inserted in the case of these companies. But, I regret to say, that this is altogether inadequate to the real needs and justice of the case. Section 23A companies are the hardest hit of all categories of assesses for income-tax. Section 23A company has been defined as a company in which the public is not substantially interested. But this definition is so widely framed that many genuine public companies can be caught within its meshes. Even though it may be a company which may have several thousand shareholders, if its shares are not dealt with in a recognized stock exchange, it falls within the ambit of section 23A. Similarly, if six persons, including a public company, hold more than 50 per cent. of the total voting power in a company, then that company is a 23A company, notwithstanding the fact that there may be hundreds of other shareholders holding small allotments.

Now, any 23A company which is an investment company, that is to say, a company whose business is mainly in dealing with or holding investments, must declare 100 per cent. of its profits as dividends, if it has to escape the penal super-tax of 50 per cent. on

its undistributed income provided in this section. If, on the other hand, it is a finance company or a managing agency company, it must declare 60 per cent. of its profits as dividends. Where the reserve is accumulated and transferred as paid up capital or fixed assets of the company, 90 per cent dividend must be declared under pain of penalty of 37½ per cent. Therefore, an investment company which does not distribute its profits pays 51½ per cent. of income-tax and super-tax and 50 per cent. penal tax on the balance. So, when the total is computed, the tax is in excess of 75 per cent. of the net income.

No power is, unfortunately, given to the tax authorities, as previously existed, to relax the provisions of this section in suitable cases with the result that many genuine, *bona fide* industrial houses which promote or develop or manage industries, if the parent company is a 23A company, are deprived of the very sinews on which depend the expansion of the plant or the development of the industries. These taxation provisions relating to 23A companies, therefore, militate against the stated policy of the Government that companies should save and retain profits for further development. Normally, we are told: “don't distribute profits”. Now, these companies are told: “you must distribute almost everything that you earn”.

It would be understandable if there was no penalty for distributing profits. If only section 23A companies were taxed for not distributing profits, there may be some reason in it. But the amazing thing is that they are taxed in either event. Under one set of laws, they are taxed for not distributing profits and penalties are imposed on them. If they say “All right, we will distribute profits”, there is another penal tax imposed on them for distributing profits. Formerly, this anomaly did not exist. Formerly, section 23A companies, quite logically, were excluded from the dividend tax, because they were doing only what they were asked to do by law, and not to do that would be a crime. Now,

[Shri M. R. Masani]

however, section 23A companies have also been brought within the ambit of the dividend tax in recent years.

Now, what is the result of this? 23A companies have to declare in some instances 60 per cent., in some instances 90 per cent. and in the case of investment companies hundred per cent. of their profits as dividend, failing which they have to pay a penalty of 37½ per cent. But, if only to avoid this heavy penalty, a company declares dividends, which it is compelled under section 23A, then it is called upon to pay a heavy penal tax amounting to 30 per cent.—now 20 per cent. under the Bill—in distribution in excess of 18 per cent. profits. So, as an American publicist once said in relation to international relations "We are damned if we do and we are damned if we don't". This is not a situation in which the Government should wish to put any particular section of the community. They are given a choice of evils, which is illogical. There should be some middle path where Government say: "all right, if you distribute so much, you pay tax on the undistributed amount, and we don't punish you for distributing that". Today, there is no such middle ground. Therefore, the force of my amendment would be to end this anomaly and to bring the dividend tax down to ten per cent.

Shri Morarji Desai: I can very well understand the argument of my hon. friend, Shri Masani, but I am not prepared to accept that all this is without any thought or only comes out of any want of consideration or out of rigidity or out of confusion. It is all a part of a composite scheme of corporate taxes and it is only in some cases where there would be some hardship. Therefore, we have reduced it from 30 per cent. to 20 per cent. But that does not mean that this tax is not proper. It is, therefore, that it is not possible for me to accept the arguments of my hon. friend at the cost of being called rigid once again.

I may tell him that an analysis of the details regarding the number of groups of industrial companies discloses that under ordinary circumstances the Excess Dividends Tax will amount to only 2.5 per cent or 3 per cent. of the taxable income of the company. That is what we found as a result of the analysis that we have made. Therefore, it is not such a hardship as my hon. friend considers it.

As regards the first amendment moved for lowering the taxable limit, I would say that I had explained this matter when I had first spoken while asking for a consideration of this Bill and also the hon. Prime Minister had given reasons for not raising the minimum limit of taxation. No new reason has been given just now while moving the amendment. But I may point out that even in advanced countries where the *per capita* income is high the minimum limit is very low. Take the United Kingdom for instance. For a single person the lower limit is Rs. 1,866 and we have Rs. 3,000. For a married person with two children in the United Kingdom it is Rs. 5,866 but even then it is 1.4 times of their *per capita* income whereas our limit is eleven times of our *per capita* income. In U.S.A., it is Rs. 2,857 and for a married person it is Rs. 11,428, which is 1.2 times their *per capita* income. In Japan, it is Rs. 1,066 and in Sweden it is Rs. 1,840. It will thus be seen that our limit is much higher than all these advanced countries and, as I said, if we are going to have more and more people having these incomes and coming into this sector it is necessary to see that they pay a tax. What is that tax? The tax does not amount to more than Rs. 1-8 to Rs. 3 per month up to Rs. 3,600. Therefore, it is not a very severe tax. I think it will enable these people to have more self-respect to say that they are also contributing to the development of the country and they are not escaping their share of responsibility. I oppose all the amendments.

Mr. Deputy-Speaker: I shall put amendments Nos. 40, 9 and 10 to the vote of the House.

The amendments were put and negatived.

Mr. Deputy-Speaker: The question is:

"That the First Schedule stand part of the Bill."

The First Schedule was added to the Bill.

The Second Schedule was added to the Bill.

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

Mr. Deputy-Speaker: Clause 7 was held over for amendment No. 32. Should we wait till 2.30 p.m.? It is not yet 2.30 and so we cannot put it just now but if the House agrees we can do that.

Shri Morarji Desai: I have no objection.

Mr. Deputy-Speaker: We shall save some time for the third reading if we get it through. Do hon. Members agree?

Shri T. N. Singh: They can say that they will not press for a division. Why hold up the thing?

Mr. Deputy-Speaker: Then I might put it to the House and decide it by a voice vote.

The question is:

"That amendment No. 32 be accepted by the House."

Those in favour may say 'Aye'.

Shri Tangamani: I thought we were pressing for a division.

Shri T. N. Singh: I thought you were now agreed to the revised procedure.

Mr. Deputy-Speaker: I asked that question but no answer came. Therefore I presumed that we could put this to the vote of the House.

Shri Morarji Desai: We can have voting just now.

Mr. Deputy-Speaker: If the House agrees, we can have it. I am having the bell rung. Let the lobbies be cleared.

Shri Kasiwal (Kotah): It cannot be done before 2.30.

Mr. Deputy-Speaker: It can be done if the House agrees. We have a convention established that no count shall be taken between 1 and 2.30 p.m. We have been conforming to that but if the House itself desires in order to save time for the third reading and if all parties agree I can put it to the vote of the House. If there is any objection I would not do it.

Shrimati Renu Chakravarty (Basirhat): Of course the House can always decide by a majority of votes but there is a certain convention which we have established and people do not know that voting is going to take place. That is the only reason for having it at 2.30.

Mr. Deputy-Speaker: There is no question of a majority. I am not deciding by a majority whether we should have a count or not. I am asking if all the hon. Members agree, then alone I will put it. I enquired from the Opposition first.

An Hon. Member: There was an idea given by the Speaker....

Mr. Deputy-Speaker: Subsequently I put it to the House and ascertained the views of the hon. Members. Even now I am prepared to abide by that, but if there is no objection I can put it to the vote.

Shri V. P. Nayar (Quilon): After all, we have only ten minutes to go.

Shrimati Bena Chakravarty: In future this will be taken as a precedent.

Shri Morarji Desai: We will sit for ten minutes if that is their view.

Mr. Deputy-Speaker: I shall adjourn the House.

Shri Morarji Desai: We can take up the Gifts Tax Bill, I am ready for it.

Shri V. P. Nayar: Take the vote after 2.30 p.m.

An Hon. Member: We may take up third reading.

Mr. Deputy-Speaker: We have to begin the third reading after this is finished. If there is any objection, certainly, I would not ask the House to divide on that. We can proceed to the next business, holding this over.

Shri Morarji Desai: It may be taken after I make this motion.

Mr. Deputy-Speaker: Then, we take up the next business if the House so desires.

Shri V. P. Nayar: Will the time for third reading also be postponed?

Mr. Deputy-Speaker: Yes. Now, the hon. Minister will make his motion and after that, we will take this up again. That is what I propose to do. That is the only remedy.

Shri V. P. Nayar: He can make his speech in two parts.

Mr. Deputy-Speaker: We will not divide the speech into two parts. He will conclude the speech and then we will take this up.

GIFT-TAX BILL

Shri Morarji Desai: I beg to move:

That the Bill to provide for the levy of gift-tax, be referred to a Select Committee consisting of—

*Shri Asoke K. Sen, Shri C. D. Pande, Shri Tribuan Narayan Singh, Shri Mahavir Tyagi, Shri S. Ahmad Mehdi, Shrimati Uma Nehru, Shri Shivram Rango Rane, Sardar Iqbal Singh, Dr. Y. S. Parmar, Shrimati Renuka Ray, Shri Liladhar Kotoki, Shri Jaganatha Rao, Shri Narendra-bhai Nathwani, Shri Radeshyam Ramkumar Morarka, Shri Harish Chandra Mathur, Shri Radhelal Vyas, Shri Vidya Charan Shukla, Shri C. R. Pattabhi Raman, Shri N. G. Ranga, Shri M. Shankaraiya, Shri Satyendra Narayan Sinha, Shri George Thomas Kottukapally, Shri A. M. Tariq, Shri Kamalnayan Jarnalal Bajaj, Shri B. R. Bhagat, Shri Mathura Prasad Mishra, Shri T. Sanganna, Shri S. R. Damani, Shri Rajeshwar Patel, Shri T. C. N. Menon, Shri Prabhat Kar, Shri R. K. Khadiikar, Shri Bimal Comar Ghose, Shri Arjun Singh Bhadauria, Shri M. R. Masani, H. H. Maharaja Sri Karni Singhji of Bikaner, Shri Premji R. Assar, Shri N. Siva Raj, H.H. Maharaja Pratap Keshari Deo, Shri Naushir Bharucha, and the Mover with instructions to report by the 1st day of May, 1958.

Sir, while introducing this Bill as part of the Budget proposals, the Prime Minister had explained the necessity for levying a tax on gifts. I do not propose to embark on a further elaboration of those reasons, as I find that by and large the need for a measure of this nature is not disputed. The criticisms that have been made so far are only against some of the details of the Bill and not against the basic principles. Some of these criticisms, I find, are based on an incorrect appreciation of the true nature of the provisions and the Select Committee will, no doubt, consider whether further clarification of these provisions is necessary.

Coming to the main features of the Bill, the tax is proposed to be charged on gifts made by Individuals. Hindu

*The names of Shri Thirumala Rao and Dr. A. Krishnaswami were added at the adoption stage on 24-4-58.