

[Mr. Speaker]

That will be for the future. will consider that. So far as this report is concerned, I shall place it before the House for its acceptance. The question is:

"That this House agrees with the Second Report of the Committee of Privileges laid on the Table on the 24th April, 1958."

*The motion was adopted.*

COMMITTEE OF PRIVILEGES  
THIRD REPORT

Sardar Hukam Singh: Sir, I beg to move:

"That this House agrees with the Third Report of the Committee of Privileges laid on the Table on the 24th April, 1958."

Sir, there is another case. The question was raised in the Legislative Assembly of Bombay. One member, Shri Deshpande, raised a question of privilege that Shri Chaudhuri another member had been taken into custody by the police but that fact had not been intimated to the Speaker of the Assembly. The Speaker first ascertained the facts and then because the police denied taking the hon. Member into custody, he had thought it fit to refer the matter to the Privileges Committee of that Assembly. The Privileges Committee there decided to examine one of our hon. Members here—Shri L. V. Valvi—as a witness because it is stated that he was present at the time when the hon. Member Mr. Chaudhuri was taken into custody.

Now, a request has been made to the hon. Speaker, Sir, by the Secretary of the Legislative Assembly, Bombay, that permission might be given to Shri Valvi to appear before the Privileges Committee of the Bombay Legislature. Privately Shri Valvi has agreed to appear—he has given his consent but, according to the precedents that are followed in the House of Commons when a Member has to appear before another House or a Committee thereof the permission of the House to which he belongs is to

be sought first; otherwise, if he appears before such permission is given to him that is rather considered as a contempt of the House itself. Therefore, the permission of this House has been sought in this particular case that Shri Valvi be granted permission to appear before the Privileges Committee of the Bombay Legislature.

This case was also referred to the Privileges Committee of this House. They discussed many things including the precedents that we have in the United Kingdom. They have only two Houses—the House of Lords and the House of Commons—and certain doubts were expressed whether we should adopt totally what is happening there because we have many legislatures in the States also. Ultimately we thought that at least this practice, that when a member of this House has to appear before the other House, permission of this House must be sought first, must be followed. We are bound to follow this practice until we have framed our own laws.

Therefore, the Committee has recommended that Shri Valvi be given permission to appear before the Privileges Committee of the Bombay Legislative Assembly so that that enquiry might be completed. That recommendation is now before this hon. House and I request that this report might be adopted by the House.

Mr. Speaker: The question is:

"That this House agrees with the Third Report of the Committee of Privileges laid on the Table on the 24th April, 1958."

*The motion was adopted.*

ESTATE DUTY (AMENDMENT)  
BILL—contd.

Mr. Speaker: The House will now resume further discussion on the motion for reference of the Estate Duty (Amendment) Bill, 1958 to a Select Committee. Out of 4 hours

allotted to this motion, 1 hour and 31 minutes have already been availed of and 2 hours and 29 minutes now remain.

Before I call upon Shri D. C. Sharma to continue his speech, may I request the hon. Minister to tell me how long he will take to reply?

**The Deputy Minister of Finance (Shri B. R. Bhagat):** That depends on the points made; but in any case not more than 15 minutes.

**Mr. Speaker:** It is 12-34 now. Therefore, we must conclude this item by 3-00. I will call him at about 20 minutes before 3-00.

**Shri Tangamani (Madurai):** Today there is non-official business.

**Mr. Speaker:** We will dispose this off; what is the meaning of keeping it pending? Then we will sit for half an hour more.

**An Hon. Member:** There is a Half-an-hour Discussion today.

**Mr. Speaker:** That will be after 5-30. God has given 24 hours. All right; let us proceed.

**Shri K. Periaswami Gounder (Karur):** Sir, I rise to a point of order.

**Mr. Speaker:** Point of order on Shri D. C. Sharma's speaking?

**Shri K. Periaswami Gounder:** Sir, the Estate Duty Act deals with agricultural lands as well as non-agricultural lands and other properties. 'Agricultural lands' is a State subject under item 48 of the Second List—Estate duty in respect of agricultural land. Parliament has no power to make law in respect of a State subject, but there is a special provision in that respect. Article 252 of the Constitution says:

"If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in articles 249 and 250 should be regulated in such States by Par-

liament by law, and if resolutions to that effect are passed by all the Houses of the Legislatures of those States, it shall be lawful for Parliament to pass an Act...."

That is the course which we adopted when we passed the Estate Duty Act. We got the consent of the States and then we passed that Act; that is to say the existing Estate Duty Act was passed under article 252 of the Constitution.

If such an Act has to be amended, then sub-clause (2) of article 252 comes in which says:

"Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner...."

According to this provision, if we want to amend the Estate Duty Act we must get the consent of two or more States before we proceed. Our Estate Duty Act has got Schedule I which has made it applicable to all the States after getting their consent. Therefore, the only course now open to us is to get the consent of all the legislatures of all the States and then proceed to amend the Act. Perhaps, an argument may be put forward that an Act passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in that manner. We may say that we will pass the Act and leave it to the States to adopt it in like manner as mentioned in clause (1) of article 252. According to clause (1) of article 252 we can pass an Act if we have the consent of two or three States and leave it to others to adopt it. Even that course won't be applicable here, because there is Schedule I of the Estate Duty Act which has made it automatically applicable to all the States.

Therefore, by passing this amending Bill, because we have got Schedule I in the Estate Duty Act wherein we have mentioned all the States, it will become automatically applicable to all the States. That won't be possible unless we adopt the course provided

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under article 252(2). The only course now open to us is to get the consent of the legislatures of all the States and then have the Act passed.

**Shri A. K. Sen:** Mr. Speaker, Sir, there is nothing in this point, with great respect to the hon. Member who raised it. If you peruse article 252, Sir, you will find that it refers only to matters with respect to which Parliament has no power to make laws for the States except as provided in articles 249 and 250. That means, in respect of matters where Parliament possesses no power existing under articles 249 and 250, article 252 applies. But we are really legislating under article 269. We are really not invoking any powers under article 249 or 250, but we are really invoking the powers under article 269.

Article 269(1) says:

"The following duties and taxes shall be levied and collected by the Government of India but shall be assigned to the States in the manner provided in clause (2), namely:—

- (a) duties in respect of succession to property other than agricultural land;
- (b) estate duty in respect of property other than agricultural land.

**Mr. Speaker:** He says agriculture is included.

**Shri A. K. Sen:** I am coming to that. Therefore, the main subject-matter was under article 269. Now, with regard to agricultural land, it is true that under list II of Schedule VII of the Constitution, agricultural land is a State subject. It is true that that is so. If you take list II, item 48 is "Estate duty in respect of agricultural land". With regard to that part of the subject-matter, which is covered by the original Act—the Estate Duty Act—you will find—I do not know if you have got a copy of the original Act..

**Mr. Speaker:** Yes; I have.

**Shri A. K. Sen:** If you look to section 5(2) of the original Act, it says as follows:

"The Central Government may, by notification in the Official Gazette, add the names of any other States to the First Schedule in respect whereof resolutions have been passed by the Legislatures of those States adopting this Act under clause (1) of article 252 of the Constitution in respect of estate duty on agricultural lands situate in those States, and on the issue of any such notification the States so added shall be deemed to be States specified in the First Schedule within the meaning of sub-section (1)."

Following resolutions passed by various States, almost all the States, the names of those States have been added to the schedule, and the parent Act was made applicable to them so far as agricultural land was concerned.

Now, the position is this. We are now seeking an amendment of the parent Act. The hon. Member argued that under article 252, clause (2):

"Any act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State".

The emphasis is that it cannot be amended by an Act of any legislature of the State, though the subject-matter falls within the State list. It says that the amending Act shall be passed or adopted in like manner.

**Shri V. P. Nayar:** What is that "like manner"?

**Shri A. K. Sen:** "Passed or adopted in like manner". That means that where the subject-matter has been resolved to be one on which Parliament should legislate, it should be passed by Parliament, but applicable

to States only which may be adopted in like manner indicated in article 252. It does not mean that for the amending again we have to go for the initial resolution of the two Houses of two or more States. All that it says is, "passed or adopted in like manner".

**Mr. Speaker:** It appears from the earlier portion of article 252—subject to further elucidation, of course,—Parliament has no jurisdiction to pass any legislation relating to any entry in the State list unless two or more States at least start and invoke the aid of Parliament for the purpose and then say they will adopt it. They must request Parliament to pass the legislation. The other States may adopt, by their resolutions, thereafter. What Shri K. Periaswami Gounder says is, the jurisdiction of this House can be invoked, by at least two States passing a resolution.

**Shri A. K. Sen:** For amending the Act.

**Mr. Speaker:** So far as the amending provision is concerned, it is new. Therefore, it is a separate Bill. No doubt this is an amending Act, but all the same, it is an Act. Therefore, how is this to be got over? The adoption is only by other States. Initially, there will not be, perhaps, even two States who have asked by their resolutions, to adopt a measure.

**Shri A. K. Sen:** No State has asked for an amending Act.

**Mr. Speaker:** Therefore it is open *quo moto*, to Parliament to amend the legislation which, but for the resolutions passed by the various States, it would not be competent to pass. In other words,—

**Shri A. K. Sen:** If there has been an initial resolution asking that Parliament should legislate on this subject—

**Mr. Speaker:** "In like manner." I thought also that perhaps as Shri Periaswami Gounder referred to clause (2) of article 252, there is no reference to an amendment in clause (1) of the same article. In the earlier portion of article 252, there is no

amendment being referred to. And so he imagines that the same procedure need not be adopted. But he pointed out to clause (2) where it refers to amendments also where the same procedure is to be adopted.

**Shri A. K. Sen:** The question is whether any initial resolution has been passed, authorising the Parliament to pass a law on that subject-matter, and whether article 252 (1) and (2), taken together, compels Parliament to seek a resolution of two or more States also on the particular amendment to the section. It is not that there is to be consent on the subject-matter. Article 252(1) says:

"...to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided ... should be regulated in such States by Parliament by law...."

**Mr. Speaker:** There is no subject-matter here. Therefore, whatever might be the provision, it appears as if—

**Shri A. K. Sen:** It is on a subject-matter.

"...any of the matters with respect to which Parliament has no power to make laws for the States except as provided in articles 249 and 250 should be regulated in such States by Parliament by law".

**Mr. Speaker:** So far as clause (2) is concerned, it does not refer to any subject-matter though clause (1) does.

**Shri A. K. Sen:** The subject-matter is, as I see, agricultural and non-agricultural land.

**Mr. Speaker:** Therefore, it is in the State list. What jurisdiction have we?

**Shri A. K. Sen:** It is of course in the State list. I am not doubting it. What I am saying is that a particular provision or regulation is not necessarily to be approved of or it need not form a subject-matter of prior resolution by States. All that is neces-

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sary is, a prior resolution of the States should be passed authorising Parliament to regulate the subject-matter. That resolution has already been made.

**Mr. Speaker:** I think that if this amending Act has nothing to do with agricultural land at all, possibly we can escape.

**Shri A. K. Sen:** I cannot say that. The original Act covers both agricultural and non-agricultural land. So, the amendment will also cover both the lands.

**Mr. Speaker:** True, but it can be that the amending Act may refer only to non-agricultural property. There is no harm.

**Shri A. K. Sen:** If it did, of course.

**Mr. Speaker:** If it did. Therefore, if this Bill refers to only such property over which Parliament has jurisdiction, even without consulting the States—I am referring to non-agricultural land—I may agree possibly with the hon. Law Minister's interpretation. It may be correct. But when it refers to agricultural land also which cannot be dealt with here by an Act of Parliament as an amending Act, and where, without the procedure being adopted 'in like manner', that is, by resolution, Parliament can come in, I am afraid we may not have jurisdiction. It is my provisional opinion.

**Shri A. K. Sen:** His suggestion is that these amendments are themselves State matters. There has already been a resolution authorising Parliament to make laws, that is, in regard to laws relating both to the parent Act and also the amendment Act. If what article 252(2) refers to is that if, by the amended clause, any other subject-matter is going to be brought in which is not covered by the original subject-matter authorised by the State legislature, then, a further resolution might be necessary. Article 252, clause (2) would refer to cases where Parliament has not obtained the prior permission by resolutions of the State Legislature if in the amending Act any other subject matter not originally

authorised was brought in. But if the subject matter covered by the amending Act was already authorised by previous resolutions, then all that the authority prescribes is that the subject matter may be regulated by law.

**Mr. Speaker:** If they say agricultural land beyond a particular limit, say, agricultural land consisting of so many acres and also minor agricultural lands are exempted, when once such a resolution is passed, estate duty may be levied on agricultural lands within that limit. Then Parliament can override that legislation. Therefore, in any particular matter, it is not as if they surrender once for all their right to legislate. Otherwise, what is the need for sub-clause (2).

**Shri A. K. Sen:** If by the original resolution, as is the case in this matter, Parliament can regulate succession to agricultural land by estate duty without any limitations and qualifications, having got that power, if Parliament can pass the parent Act, they can amend it on the subject matter....

**Mr. Speaker:** Then, what is the need for clause (2)?

**Shri A. K. Sen:** If by the amendment matters which are not within the original Act are brought in....

**Mr. Speaker:** The clause reads:

"Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State."

The words used are "in like manner". So, whatever might be contained in the original Act, if you touch that Act a resolution will be necessary.

**Shri A. K. Sen:** If it is already covered by the previous resolution, Parliament can by law regulate it. I do not see any point in seeking a resolution every time even if there is

a verbal amendment to the parent Act. (Interruptions.)

**Mr. Speaker:** Order, order. Let me first of all clear my doubts. Then I will allow some hon. Members to put some questions.

Whatever might be the hon. Law Minister's explanation, the framers of the Constitution took a different view. If an Act can be passed by Parliament only if a resolution is passed in the State Legislatures of at least two or three States, the Constitution does not want to enable Parliament to override or encroach upon that right.

**Shri A. K. Sen:** "adoption" is already there. It has to be applied in every case. My submission is that the initial introduction of the amendment does not require the same authorisation over and over again. It will not be binding on any State, unless it has adopted it "in like manner". It cannot be applied to any State unless that State adopts it by resolution.

**Mr. Speaker:** "in like manner" applies to the other provision, clause (1) of article 252, which reads:

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

So, the subsequent resolution is only or those other States who want to adopt it. There may be some States who may request this House to exercise jurisdiction in some matters. Evidently, the object of the framers of the Constitution was that in matters

entirely in the State List, let not Parliament indirectly by passing legislation in the interests of the country impose its own will upon the States. It is for them to decide whether to have estate duty or not. They can say: we do not want it repeal it. However good the intention of Parliament may be, they cannot go beyond their powers. Now the States do not want it. They have never asked for it. That is the objection.

**Shri A. K. Sen:** If the States object to regulation in this particular manner then I can understand their objection.

**Mr. Speaker:** It is up to them to say that. It is not for us to do a thing and make them cry from the house-tops. In sub-clause (2) the only thing in the matter of estate duty which is exempted from the Union List is "agricultural land". All properties, other than agricultural land, can be dealt with by the Estate Duty Act in the Parliament itself, without any resolutions from the State. Therefore, the only item in respect of which the States should take the initiative is agricultural land. Now, if agricultural land is also included in the List, there would have been no difficulty. As it is, they have given some power in respect of agricultural land. Now, if you would like to modify it in any manner, you will have to seek their permission. We may presume that the levy of estate duty also will change from year to year.

**Shri A. K. Sen:** The limit of exemption can be increased or decreased.

**Mr. Speaker:** Therefore, they have the right to say "don't decrease it" or "don't touch it". Under these circumstances, I am afraid, I am not in a position to agree with the hon. Law Minister.

**Shri V. P. Nayar:** In view of the importance of the point of order, I suggest that you may hold it over for half an hour or one hour. The hon. Law Minister had stated that there is no point of order. We are at a loss to find out whether that 'nothing' lies in

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the point of order or in the hon. Minister's observations.

**Mr. Speaker:** The hon. Member has always got a peculiar way of expressing things.

**Shri V. P. Nayar:** I would request you to hold it over for half an hour. Meanwhile, the discussion can go.

**Mr. Speaker:** There is enough time before 3 o'clock. I will consider this matter. I will allow one or two hon. Members to speak in the matter, but not every hon. Member.

**Sardar Hukam Singh:** It is a matter of great importance and it involves fundamental issues also. Ours is a federal Constitution. States have got certain rights and their Legislatures as well. If we just presume that because they have once given their consent, it can be implied everywhere that they would not object to any encroachment upon their right, the Constitution would not allow that and perhaps the court would come in because it is justiciable. Therefore, we have to take every care. The argument of the hon. Law Minister is that because once we have taken permission and the States have agreed that Parliament may legislate on this point, we can have this amendment without consulting them again. But, this is not the question. We can only go so far as that consent is given; not beyond that. Otherwise, as we have taken the jurisdiction, now even that consent might be denied to them. That must be there and the States should be zealous of guarding their rights. We should not enter into the field which is the monopoly of their own.

This article 252 makes it clear how we can legislate, so far as those subjects are concerned, which are the concern of the States. The procedure is laid down. It has to be initiated by two States at least and then if the Parliament passes that law, then a resolution has to be passed by other States. Unless that is done, we cannot pass any legislation about immovable property—agricultural land. Now, if that course is adopted, if at pro-

cedure is followed, then we could legislate so far as this estate duty is concerned. That has been done now. We cannot now say that because the States agreed in the first instance to the enactment of this legislation, further consent is not necessary. It is undisputed that changes are being brought about now. As has just been observed by the hon. Law Minister, the exemption limit is being lowered. Therefore there would be agricultural lands which were not covered before but which would be covered now. The rate is also being altered. Therefore it is certainly an encroachment into the arena which is reserved for the States themselves by our Constitution.

When that be the case, clause 2 of this Article clearly lays down that "Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner". That "in like manner" is to be emphasised and kept in view before we can take up any legislation. Whether we are certainly proceeding in like manner which we adopted when we took up the Estate Duty Act first that shall have to be followed. There is no escape out of it and I think the point of order is certainly justified.

**Shri Nathwani (Sorath):** I support the point of order and, with great respect to the hon. Law Minister, I am unable to agree with him on this point because the question involves the construction of Article 252(2) which says that an amending Act will be passed "by an Act of Parliament passed or adopted in like manner". If we were to adopt the construction suggested by the hon. Law Minister, the words "Act of Parliament passed or adopted in like manner" would lose its force. If the hon. Law Minister's contentions were right, we have to ignore the words "passed or adopted in like manner". These words would be superfluous and if we have to give some meaning to these words, we have to construe it as meaning that even an amending Act has to be sanctioned either by the Legislatures of two States or by other

States by adopting that amending Act. Otherwise, these words would have no meaning.

The reason why sub-clause 2 requires initially the sanction of Legislature of two or more States or the adoption of the amending Act is, as has been pointed out by the hon. Deputy-Speaker just now, that it involves serious consequences so far as agricultural land is concerned.

Therefore, again with great respect to the hon. Law Minister, the construction does not admit of any sort of doubt or difficulty and I am of the opinion that this amending Bill can be initiated either by the Legislatures of two or more States and it will come into force in the other States if it is adopted by other States. This is all that I have to submit.

**Mr. Speaker:** It means that if one State asked for this, the Parliament cannot pass it.

**Shri Nathwani:** At least Legislatures of two States have to pass a Resolution to that effect. Otherwise, the power of amending would not come into existence.

**Mr. Speaker:** What is the definition of "State"? Will Delhi or Himachal Pradesh also come under the definition of a State?

**Shri Nathwani:** No. The legislatures of the existing States.

**Shri Narayanankutty Menon (Mukandapuram):** In supporting the point of order, I wish to make it clear that we are all in agreement of this House passing the Estate Duty Bill. We are in agreement with the Bill, but one important principle is involved. When the Constituent Assembly drew up the Constitution, List No. 2 in the Second Schedule was given a sanctity of its own but from the many acts of the Government it is seen that there is a tendency, which is growing, to encroach upon that List.

I shall point out that when this particular Act was introduced and when the hon. Finance Minister made

his speech declaring that Gifts Tax and Estate Duty were going to be introduced, all the Legislatures were in Budget session and the mere fact that the Government did not think of availing that opportunity to get the consent of at least two Legislatures shows that as far as List No. 2 is concerned, the Government itself has a tendency to go in a haphazard way. Even though the hon. Law Minister said that there is nothing in the point of order and that once the sanction of the Legislatures has been taken in order to encroach upon the right of the States to legislate upon estates duty, the Parliament gets eternal power to legislate upon that subject, whatever might be the content of that legislation, that cannot stand. Presumably, when the two States give their consent to legislate upon estate duty, where the quantum of duty and the ceiling is placed, the States obviously have given consent to that extent. Article 252(2) is categoric that whenever that consent is obtained that consent is obtained only for that piece of legislation and any amendment or violation of that piece of legislation should automatically get the consent of the two Houses again. Article 252(2) reiterates almost the sovereignty of the State Legislatures to legislate upon this particular piece of legislation in the State List and it will be a violation of Article 252(2) if we accept the hon. Minister's contention.

Therefore, in view of the fact that Article 252(2) is categoric and this falls within the State List, certainly the permission of at least two State Legislatures will have to be obtained for any amending Bill. The hon. Law Minister said about verbal amendment. At least, he stuck to the point that whenever substantive amendments, which encroach upon the contents of the original legislation, is brought before the House, further consent of the State Legislatures will have to be taken. The amendment of the Estates Duty Act that has been introduced now is as good as a new Bill, because the ceiling is lowered as also the rate of duty is increased. We



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are very happy that they are being done, but still because it is an encroachment upon the right given to the States exclusively in view of Article 252(2), I submit that the point of order should be ruled in favour of the Mover.

**Shri T. K. Chaudhuri** (Berhampore): May I put in a word in favour of the hon. Law Minister?

The real point that has arisen is, whether Parliament is empowered to amend or repeal any Act of Parliament pertaining to these subjects without obtaining the prior consent of the Legislatures of the States concerned. I think that passing of any such repealing or amending Act is a separate process. Once, when the States the Parliament to pass such legislation, I think, they more or less waive their rights and empower Parliament for all time to come to legislate on these matters. The requirement contained in the phrase "repeal an Act of Parliament passed or adopted in like manner" would be satisfied if this portion is read along with or in the context of Article 252(1). They cannot be isolated from one another.

**Shri Naushir Bharucha** (East Khandesh): I submit that the point of order raised is fatal to the Bill itself and unless this matter is remedied straightaway I am afraid, any person who incurs any liability for payment of estate duty in respect of agricultural land can easily have it set aside in a court of law. The hon. Law Minister tried to make out that so far as clause 2 of Article 252 is concerned, the Bill does not really come within its mischief. May I point out that if that were so, there was no meaning whatsoever in inserting sub-article (2). Sub-article (2) would be totally redundant unless it has some meaning and the meaning is this. Any Act so passed by Parliament may be amended in like manner. Whether the amendment is material, whether the amendment is minor has no significance at all. If it is an amendment, particularly with regard to the subject

matter of agricultural land, the amending Bill itself has to be passed in the same manner as the original Act was passed. The condition precedent to the passing of the original Act was that it must appear to Parliament that two States desire it and that the Legislatures of such States must pass a resolution. Unless these two conditions are fulfilled, no amendment whatever can be made by Parliament. What I desire to point out is, apart from this being a very important matter, as the Deputy-Speaker pointed out, going to the root of the States' powers, the whole thing is absolutely fatal and the defect cannot be cured by any device whatsoever. Therefore, I submit, we are not empowered to enact legislation, even an amending Act which touches agricultural land, that being exclusively a State subject.

Some Hon. Members rose—

**Mr. Speaker:** How many hon. Members am I to hear? I will hear only Shri Jaganatha Rao.

**Shri Jaganatha Rao** (Koraput): Mr. Speaker, under article 252(1), two or more States by resolution have to signify their consent abdicating their power in favour of Parliament to legislate in respect of agricultural land. That resolution ensures to the benefit of Parliament in respect of an amending Act also.

Some Hon. Members: How?

**Shri Jaganatha Rao:** Because, it is not the case that any State which has by resolution authorised Parliament to legislate in respect of Estate duty concerning agricultural land, has passed subsequently any Act. The Estate Duty Act, 1953 is in force in respect of all the States. Then, the amending Act is an Act which is within the authority granted to Parliament by the State legislatures by resolution.

**Mr. Speaker:** No no. That is true. Whenever it is open with the consent of the Central Government for any State to pass legislation, if there is

any inconsistency, the provisions of the Act of Parliament will prevail. Is it not so?

**Shri Jaganatha Rao:** Yes, Sir.

**Mr. Speaker:** That ought not to be invoked merely because a State legislature did not pass legislation. We are not concerned with it. On the other hand, it possibly helps Shri Gounder's point that the State is not interested in getting this modified by itself or by the Centre. Sub-article (2) of article 252 definitely says:

"shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State."

It shall not do so. When once jurisdiction has been given to Parliament, only Parliament has got jurisdiction. The exercise of jurisdiction is restricted. If any two States want, then, the jurisdiction of Parliament will be invoked. It is for the other States by subsequent resolution to adopt this. Even then, a resolution is necessary. Automatically it would not apply. Initially there are no two States which have come forward asking for a modification of this Act. That is the point. Otherwise, sub-clause (2) of article 252 will be unnecessary.

**Shri Jaganatha Rao:** The words are 'in like manner'.

**Mr. Speaker:** It is only procedure.

**Shri Jaganatha Rao:** It means, in the same manner.

**Mr. Speaker:** Therefore, resolutions had to be passed or adopted in like manner. The wording is:

"Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed...in like manner..."

Parliament originally passed the law after resolutions were brought in from various legislatures.

**Shri Jaganatha Rao:** May I submit, "by an Act of Parliament passed or adopted in like manner".

**Mr. Speaker:** "Adopted" applies to the subsequent one. Out of fourteen States, only two or three States may originally move in sending the application to Parliament invoking its jurisdiction. The other eleven States may leisurely adopt or may not adopt at all.

**Shri Jaganatha Rao:** My submission is, those States which passed resolutions authorising Parliament to pass an Act in respect of agricultural land, must be deemed to have authorised Parliament and the authority continues once for all. Otherwise, it has no meaning.

**Mr. Speaker:** There is no meaning in sub-clause (2) then. The hon. Member has not added to what has been said already.

**Shri Dasappa (Bangalore):** Mr. Speaker, I feel that I should wholeheartedly agree with the stand taken up by the Deputy-Speaker. Here, we are establishing very healthy conventions and we ought to be very chary and very careful and cautious in trying to interfere with the rights of the States already truncated to a very large extent. I think the Constitution has very advisedly framed sub-clause (2) of article 252. If the stand taken by my hon. friend Shri Jaganatha Rao is at all to be accepted, it may be that once two States give this consent for enactment of the Estate duty Bill, that would mean for all purposes with regard to any subject within the exclusive province of the States, the Parliament will have the sole right to bring in an amending Bill. I think that would be a totally wrong construction and would go entirely against the intentions of the framers of the Constitution.

I was thinking that if, for instance, there was just an amendment with reference to agricultural land so far as enhancement or lowering of the limit to Rs. 50,000 is concerned, we may get over the difficulty. I find that the rates vary. That has an impact on agricultural land even above Rs. 1 lakh. The procedure also

[Shri Dasappa]

varies. Surely we cannot say that those who come under the operation of the mischief of this law so far as agricultural land is concerned, should not have a say in the matter. So far as procedure is concerned, it applies to co-parcenary property. Viewed from any point of view, I find that the proper course would be for this House to defer the matter until we are able to secure the consent of at least two States. It is not necessary that the States should take the initiative in this matter.

**Some Hon. Members:** Why?

**Shri Dasappa.** When Parliament feels that there is justification for a certain amendment in the Estate duty Act, it is open to the Government to move the States to get their consent beforehand. I am sure no law that is enacted once should be deemed to be perfect and should be unalterable. I am pretty sure that the objects of the Bill are wholesome and it is quite possible to secure the consent of two or more States in the beginning so that we may be enabled to go through the rest of the procedure. From every point of view, it will be a healthy thing if we accept the stand taken by the Deputy-Speaker.

13-19 hrs.

**Shri Naldurgker (Osmanabad):** Sir, there are two pre-requisites to be considered.

**Mr. Speaker:** The hon. Member is a lawyer?

**Shri Naldurgker:** Yes. One has been argued. To vest power in Parliament, it is necessary that the subject matter should be first initiated by two or more States. After that is done, another procedure has to be again followed. Article 274 has not been followed in this case.

**Shri A. K. Sen:** It has been followed.

**Shri Naldurgker:** Article 274 (1) reads:

"No Bill or amendment which imposes or varies any tax or duty in which States are interested, or which varies the meaning of the expression 'agricultural income'". . . . .

**Mr. Speaker:** Has the hon. Member got a copy of the Bill?

**Shri Naldurgker:** Yes, I have got.

**Mr. Speaker:** Let him look at the last page of the Bill where it is said:

"The President has, in pursuance of clauses (1) (3) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to the Lok Sabha, the introduction and consideration of the Bill."

Therefore, that objection does not prevail.

**Shri Narayanankutty Menon:** He is talking about agricultural income. This is about agricultural land.

**Shri Naldurgker:** Then, these four words are necessary in article 254 (1).

**Mr. Speaker:** That is all right. The hon. Member is only saying the same thing as the other hon. Members have said. He is supporting the point of order.

**Shri Naldurgker:** Yes.

**Mr. Speaker:** Therefore, he is saying that this House has no jurisdiction to pass this legislation.

**Shri Naldurgker:** The words are 'Parliament has no power'.

**Mr. Speaker:** So, Parliament has no power really. That is the point. Now, the Law Minister.

**Shri Nathwani:** I wish to urge only one point. I have already spoken, but there is one point to which I should like to draw your attention. before the Law Minister begins.

**Mr. Speaker:** I am not going to allow him.

**Shri Nathwani:** I want to draw your attention to another aspect of the matter bearing on this question.

**Mr. Speaker:** I am not going to allow him. The hon. Member is a leading lawyer. Does he have so many chances in any court? I am not going to allow him. This kind of interruption would not be allowed in this House. Hon. Members are taking it to be a kind of too much of leniency in this House. The hon. Member will have only one chance. He ought not to interrupt now. That is not the way to proceed in this House. When am I to come to the judgment?

**Shri Khadilkar (Ahmednagar):** What I feel that is those who have come forward to support the point of order are trying to interpret the Constitution, they are making one mistake.

When the States gave consent, a certain pattern of taxation was before them. And so far as estate duty is concerned, in this particular sphere, the States have surrendered the power to the Centre to legislate. They have not said that 'You can legislate and fix rates up to this or up to that.' Under the nature of the taxation structure that was before them, after the Taxation Enquiry Commission's report, it was made clear to the States that a certain uniformity in taxation was required. And two States came forward to take initiative and surrender power, so far as this sphere of legislation is concerned.

I would like to submit very humbly that now the point of order is raised as if that consent was partial, and that was only for a particular measure. Or, was it a broad consent? In my opinion, you will have to cope with the content of that consent. I am surprised to find one of the Members on this side saying that in view of the past history, while interpreting this particular consent, we have to take into consideration, the nature of the consent, the content of the consent....

**Mr. Speaker:** What is the answer to clause (2) of that article? What is the significance of the words 'in like manner'?

**Shri Khadilkar:** I am coming to that. 'In like manner', I think, means that after the passing of the legislation, States will have a right to say what they want to say again. So far as this consent is concerned, for instance, two States initiated and gave consent; and others have adopted later on. Those States that adopted the legislation will have a right later on to say that they adopted that particular legislation, but they have not surrendered the whole sphere of legislation so far as land is concerned. To that extent, this applies.

**Shri Mulchand Dube (Farrukhabad) rose—**

**Mr. Speaker:** I have heard hon. Members sufficiently. Now, I am calling the Law Minister.

**Shri A. K. Sen:** We have really to answer the objection founded on the existence of article 252(2). It seems to be, as appealed to you, 'Why should article 252(2) be there, if, once the power is given, that power remains eternally or perpetually?' as the hon. Member sitting there has pointed out.

If you look at the content of authority prescribed under article 252(1), it would seem that a repetition of it was not required under article 252(2); all that was necessary in article 252 (1) was that a resolution was to be passed authorising Parliament to matter not within the competence of Parliament.

Now, if the objection is accepted by you, what will be the result? The result will be that the present amendments have to be initiated by a prior resolution being passed by at least two State legislatures, saying, 'We authorise Parliament to regulate.' Now, article 252 (1) says:

... except as provided in articles 249 and 250 should be regulated in such States by Parliament by law."

[Shri A. K. Sen]

That is all.

**Mr. Speaker:** That means that they have no right to say anything now, and they should merely say 'I am willing, if you impose such and such a rate; when once, agricultural land has been taken by you, you may do as you like', and the resolutions cannot say anything except 'We agree' so far as those States which are included in the Estate Duty Act is concerned? Have they no right to say that so far as agricultural land is concerned, the duty shall not be more than this or even this?

**Shri A. K. Sen:** The manner of regulation is contemplated. That is what I am pointing out.

**Shri Jaganatha Rao:** It is levy of tax.

**Mr. Speaker:** In regard to regulation also, they might say, 'Have one other appellate authority' or say what they cannot pass, for the purpose of uniformity.

**Shri A. K. Sen:** It is not only this subject-matter; there are also other subject-matters which can be left to Parliament by consent. If you look at article 252(1), you will find that all it says is that any of the matters with respect to which Parliament has no competence may be left to Parliament to regulate. They cannot say 'You regulate it in this line or in this manner'.

**Mr. Speaker:** Does not the whole include the part?

**Shri A. K. Sen:** It is not part. The whole subject-matter will be regulated.

**Mr. Speaker:** For instance, they may say, agricultural land would not include zamindaris. We shall assume that zamindaris have not been abolished. Can they not say that agricultural land would include land only in the ryotwari areas and not in the zamindari areas? After all, a State may consist of both ryotwari and non-ryotwari areas.

**Shri A. K. Sen:** Then, they will be really legislating themselves.

**Mr. Speaker:** It is on their behalf that this legislation is being brought forward.

**Shri A. K. Sen:** It is really a method by which the subject-matter is transferred from List II to List I. That is the only effect of article 252 (1).

**Shri K. Periaswami Gounder:** If they cannot say, then why is it referred to them?

**Shri A. K. Sen:** The whole purpose of article 252 is to transfer, as I shall show from other articles regarding sales tax and so on.

**Mr. Speaker:** Assume it is so. Assume they cannot impose conditions originally, and now also. Now, when you want to add, clause (2) of article 252 will become useless.

**Shri A. K. Sen:** I am coming to that. Suppose the objection prevails, and you throw out the Bill: then what will be the effect? It will be that if I have to bring these amendments, I shall have to get a resolution on the same terms passed that 'We authorise you to regulate agricultural land'.

**Mr. Speaker:** Yes. They will have before them this Bill . . . . .

**Shri A. K. Sen:** No.

**Mr. Speaker:** You mean to say that they will say, 'You regulate as you like'?

**Shri A. K. Sen:** That is the procedure, because nothing can be initiated otherwise; if what you are suggesting and what the hon. Members are suggesting is to prevail namely, that we cannot initiate any Bill in the House unless there is a prior resolution, then, there cannot be any Bill before anyone. All that the Houses have to resolve is that this matter which is not within the competence of Parliament be regulated by Parliament. That is the language. If that is so, then every time there is an amendment, there has to be a resolution

again in the very same terms: 'You regulate this subject-matter.'

My submission was that the purpose of article 252(2) was twofold. It did not require prior authorisation for amendment of this law regulating the subject-matter already assigned to Parliament, but it only gave authority to these legislatures to initiate again an amendment in like manner, because power to pass a law includes the power to make an amendment. Clause 2 is only to enable these legislatures, once they have assigned the subject-matter to the Parliament, to initiate amendments again. Therefore, you will find that article 252 (2) does not say that no other amendment shall be possible excepting as provided in article 252 (2).

I do not know if I have made myself clear. The purpose of article 252 (2) is that though these States have once abandoned their subject-matter in favour of the Centre, yet by the process mentioned in article 252 (2) they can still initiate amendments.

**Shri T. K. Chaudhuri:** That is another matter.

**Shri A. K. Sen:** We shall find that:

"Any Act so passed by Parliament may be amended or repealed by an Act of Parliament. . . ."

The Power to pass also means the power to amend. That is under the General Clauses Act.

**Mr. Speaker:** If we accept the interpretation of the hon. Law Minister, Parliament may, by itself, without any resolution initiating from any of the States, pass legislation.

**Shri A. K. Sen:** Yes.

**Mr. Speaker:** If Parliament can do that, those people may merely make a request to the Law Minister to introduce legislation. Why is it stated there 'in like manner'?

**Shri A. K. Sen:** I do not think I have made myself clear. It is my fault. What I submit is that under the General Clauses Act, the power to

pass a law includes the power to make amendment. That is a recognised principle of law. Once the power to make a law pursuant to resolutions of two legislatures is granted to Parliament, Parliament is also given authority to amend that law. No other power is necessary. But the purpose of clause 2 was that notwithstanding the State legislatures having parted with that subject matter, they can, nevertheless, themselves initiate amendment. That is why you will find the words: ". . . may be amended or repealed by an Act of Parliament passed or adopted in like manner". The States themselves may again propose, though they parted with the subject-matter by prior resolution or adoption. If I may, at the risk of repetition, try to re-formulate my point . . .

**Mr. Speaker:** It is always open to a State even with respect to matters where the Centre has no jurisdiction to ask for grants, and likewise ask them also to amend.

**Shri A. K. Sen:** The State legislatures may only recommended to Parliament to pass a law. This is a different matter—any Act so passed by Parliament may be amended by two State legislatures doing it and Parliament bringing in an amendment. It is only preserving to the States the right to initiate amendment which they would otherwise have lost by a prior resolution.

**Mr. Speaker:** If Parliament refuses, notwithstanding the request?

**Shri A. K. Sen:** After all, the ultimate power is with Parliament.

**Mr. Speaker:** Therefore, what is the object?

**Shri A. K. Sen:** The object is only to ensure that notwithstanding their parting with the subject-matter. . .

**Mr. Speaker:** Is it open to Parliament to initiate legislation though there are no formal resolutions?

**Shri A. K. Sen:** Of course.

**Mr. Speaker:** What is the object?

**Shri A. K. Sen:** The words "may be amended" do not mean that it can only be amended in this manner. What I am suggesting is that in article 252(1), the authority to make a law is there. As you will find, "it shall be lawful for Parliament to pass an Act for regulating that matter". The power to pass a law includes the power to amend. What I am suggesting is that clause (2) only preserves to these respective State legislatures the power to initiate which they would otherwise have not possessed once they parted with this subject. If you note the words, they do not exclude any other power of amendment which is open to Parliament under article 252(1).

Some hon. Members rose—

**Mr. Speaker:** I have heard sufficiently.

**Shri A. K. Sen:** I forgot to add one thing in support of my contention. Under article 252(1), you can only assign the subject-matter and not the provisions of legislation. I only wanted to say that if that were not so, different State legislatures would pass different provisions imposing different conditions and there could be no legislation by Parliament. What it contemplates is that the legislatures must propose to assign this subject-matter, which is not otherwise within the competence of Parliament, to Parliament. That is all.

Shri Radha Raman rose—

**Shri A. K. Sen:** Otherwise, You will find that every time different States may propose different provisions.

**Mr. Speaker:** I have heard sufficiently. A point of order has been raised that inasmuch as the original Estate Duty Act covers agricultural land which under entry 48 of the State List is exclusively a State subject, before the original legislation could be passed, two or more States should invest Parliament with the power or

invoke the aid of Parliament for regulating the subject, by resolutions. It was urged that under clause (2) of article 252, when such an Act was amended, a similar procedure should be adopted, meaning that two or more States must also pass similar resolutions asking Parliament to introduce and pass an amending Bill. In this case, it is admitted that no such resolutions have been passed. It is also admitted that this Bill covers not only non-agricultural land but also agricultural land which is covered in the entry. Therefore, it was urged that this House had no jurisdiction to pass this legislation unless resolutions are passed by at least two State legislatures. They may, with the Act so passed, be adopted later on as in clause (1) and also in clause (2).

As against this, the hon. Law Minister has said that when once the jurisdiction of the Central legislature or Parliament has been invoked by resolutions of the State legislatures, the terms apply to the subject-matter and the entire subject-matter relating to the imposition of the estate duty on agricultural land has been conceded to Parliament, and it is open to Parliament to go on amending it from time to time without any further request or further authority by way of resolutions from the State legislatures. I understand that correctly. Then it is said that clause (2) is only an enabling one and that under general law, whichever legislature passes a Bill has also got the right to amend the same. Under these circumstances it is unnecessary to invoke the aid of clause (2). It was pointed that clause (2) referred to amendment. The hon. Law Minister says that it only enables State legislatures to pass resolutions requesting Parliament to amend the law. It is also admitted that even without any particular resolution of that kind, if the local Governments or State Governments intimate the Government of the Union that in the interests of a particular State or States similar legislation may be passed, there is nothing preventing the Centre from initiating that legis-

lation. Clause (3) will become unnecessary if this interpretation is accepted.

It appears to me—and a number of hon. Members have also expressed that view—that the General Clauses Act cannot apply in this case, that is, a legislature which passes legislation is entitled to amend it. It will be so in the absence of a specific provision, as in clause (2). Reference may be made to article 117 of the Constitution where with respect to the introduction of a Money Bill, the President should give consent. Otherwise, it cannot be introduced. But if it stated so and left it alone, possibly for amendments no sanction might be necessary. But it is definitely stated there that even for amendment, recommendation of the President is necessary. If the Constitution had been silent on that, without enacting clause (2) and left clause (1) alone, the interpretation of the General Clauses Act, that whichever authority has got the right to enact a law will also have the right to amend would have stood. But here a specific provision is enacted in clause (2) as to how this amendment has to take place. If the general interpretation is accepted clause (2) will become absolutely useless. No article of the Constitution or clause thereof should be understood to mean as useless. It must have some reference.

Therefore, there is every force in the argument that unless two or more States take the initiative in asking Parliament to amend the law, the jurisdiction vested in Parliament expires after the passing of the Act, and for further amendment, that ought not to be invoked.

But I feel that the prohibition is only to passing of the Act. We are only in the stage of referring this Bill to a Select Committee. Now, we can proceed with reference of this Bill to Select Committee. In the meanwhile, Government can ask the Select legislatures to pass resolutions and get those resolutions here. If, however, the States are not interested,

they will not get the enhanced revenue. Some exemptions are removed here. Therefore, it is to the advantage of the States. The Centre is only helping the States so far as this legislation is concerned.

Therefore, while agreeing that article 252(2) applies, I do not feel that we ought not to proceed with this Bill. It only goes to the Select Committee. The Select Committee can go on with it. In the meanwhile, resolutions may be passed by State legislatures. If they are not passed, a stage will come when the Parliament shall not pass the legislation amending the original Act. We have not yet reached the stage of amending or repealing it. By that time, let us see if resolutions are passed. If they are not passed, this will be infructuous.

**Shri V. P. Nayar:** There is one difficulty. I quite appreciate your view; but in four days no State Legislature can meet and pass a resolution.

**Mr. Speaker:** It will mean waiting. Hon. Members would be spending some time in the Select Committee on a number of principles of law. If not tomorrow, at the next session the States may pass resolutions. If no State is willing to pass a resolution, then Government will be undertaking a thankless task and, therefore, they won't pursue the matter.

So, I have no objection to have some tentative date for the presentation of the report of the Select Committee. We have always known that Select Committees have come to the House for extension of time. So, a reasonable time may be put in the motion.

Now, let us go on with this.

**Shri Tyagi (Dehra Dun):** The passing of this Bill will not make it an Act until the President gives his assent. The President's assent is needed to make it a law. Therefore, there is enough time for Parliament to meet again. We can also proceed with the Select Committee because the Select



[Shri Tyagi]

Committee is one step. There are so many steps, one after the other. The Act becomes complete only when the President gives his assent. Until such time we shall be going on with one step or another. Therefore, there is ample time for the Legislatures to meet and pass resolutions.

**Mr. Speaker:** The hon. Member has misunderstood the position. The President does not come into the picture. He came into the picture earlier. The hon. Member's reasoning seems to be strange. If it is so, we can get through it and if it is not a condition precedent we can go on passing legislation after legislation which is subject only to the President's giving assent. The hon. Member is making a confusion between two things.

There are certain matters which require the recommendation of the President before the matter can be taken up or passed. Then, after passing, the President comes into the picture. In those cases, the President comes into the picture for giving the recommendation under articles 117 and 274. But, in this case the President does not come into the picture here. He comes in later. We can proceed with certain things; and in the meanwhile, if we find that it is useless, it will be withdrawn. We won't pursue the matter then. There is no analogy here.

Now, we will proceed.

**Shri Surendranath Dwivedy:** What time will be allotted for this, now, Sir?

**Mr. Speaker:** The same time. All this forms part of the discussion.

**Shri K. Periaswami Gounder:** The States have been given the power to pass a resolution. They may do so. But the Select Committee must certainly have this matter before it. In Madras State they do not want to introduce it. Before the matter goes to the Select Committee, the resolutions must be before them. We must have the resolutions passed.

**Mr. Speaker:** The Select Committee can take notice of any of the suggestions made in the resolution.

**Shri K. Periaswami Gounder:** But this will be over by the time the resolutions are passed.

**Mr. Speaker:** The Select Committee will wait till the resolutions are passed.

**Shri D. C. Sharma (Gurdaspur):** Yesterday, while speaking on this motion, I referred to the two fundamental objectives of this Bill. One is the social objective and the other is the developmental objective. And I said that our previous experience has shown that this Act has only partially fulfilled those anticipations which were had about it when it was passed.

On the floor of this House I put some questions about the realisation of Estate Duty from the various States of India. Of course, the collection of this duty was not up to the point that was expected. The collections fell short of our anticipations or expectations. There was a definite shortfall. I remember an hon. Member putting a supplementary question on this and asking what this shortfall is due to, and a very light-hearted answer being given to that. It was said that the Ministry could not forestall the deaths of certain persons and the Ministry could not in any way bring about the death of any person.

But that is not the reason for this shortfall. The reasons for the shortfall are different and the question is whether this amended Bill will be able to circumvent those reasons which have led to the shortfall so far. I feel that the amended Bill will fail in that objective. It will fail as dismally as the original Act failed. I know something had been done in order to bring in a little more of revenue.

For instance, the floor had been lowered to Rs. 50,000. I do not think that the lowering of the floor will bring in more revenue. It may bring in more revenue but it will not be

commensurate with the lowering of the floor. That is to say, the anticipated amount will be one thing and the realised amount will be another thing and there will be a big gap between the two. It is because people have mastered the art of evasion. They have made a science, an art of evasion. The operation of this Act for the last two years has made them adepts in this art. Therefore, the lowering of the floor will not materially affect the revenue that is going to accrue to us.

Another point is made and it is this, that the period of 2 years had been increased to 5 years. If any gifts have been made before the death of any person during that period, then, they are liable to Estate Duty. Of course, ostensibly speaking, there is some virtue in it. Instead of taking into account the gifts given in two years we will now have to take into our purview the gifts which have been given away during the previous 5 years. But, I think, that the complications of accountancy and the complications of check-up which this provision will give rise to will not be easy to overcome. I therefore think that this is not going to be a magic wand in the hands of the Finance Ministry to get a little more money. This will not help them in any way; or, even if it helps, it will help only a very little.

Again, so many exemptions have been given, gifts made in consideration of marriage, gifts made in consideration of normal expenditure etc. Of course, I know these are necessitated by the social context of our country. But I believe that in a law of this kind, the larger the number of exemptions, the greater the possibility of escape; the larger the number of concessions, the greater the danger that the person who is going to be assessed will escape from its operation. When it is said in the Statement of Objects and Reasons that we are going to give some concession, I believe it has been done in a spirit which is not in accordance with the circumstances of the case. Again

all kinds of assessments have been introduced. There is going to be a provisional assessment, then a regular assessment and then a reassessment. All these things are being done in order that nobody should be able to escape from the provisions of this law. But I believe that there is need for reassessment of property when it has been concealed. I do not see why there should be provisional assessment and regular assessment. I believe this shows—I was going to use a hard word but I do not want to use it—the failure of the Ministry to evolve a procedure which can be foolproof so far as assessment is concerned. In matters of law, we do not talk in terms of all provisional things. We have got to be firm and foolproof and strict. Here this provisional assessment is going to be brought so that people can have some loopholes for escape and some ground for going to a court of law and file an appeal. This is something which is not going to work for the objectives of the Bill which are at the heart of the Ministry of Finance.

It is good that we have provided for appeals in this Bill. Appeals are bound to be there in the income-tax and everywhere but the provisions for appeals have been so outweighed with legality that this Bill, I think, will mean a heaven or paradise for our legal practitioners. Anybody who goes about this country will see that any person who practises income-tax law is the happiest person in this country. They are lucky and happy persons because they get good briefs and good payments for those briefs. I do not grudge them. They deserve what is their due. But by the introduction of all these kinds of appeals and reference to High Courts and other courts, this Bill has come to be overlaid much more than is necessary by legal considerations with the result that the cases instituted will go on and the finances of the country will suffer. One of the ways of bridging the gap in the realisation is the strengthening of the department.

[Shri D. C. Sharma.]

[Mr. DEPUTY-SPEAKER in the Chair]

I do not want to say anything about the income-tax department. I have many things to say about it but I am talking only in the context of this Bill. The income-tax department should have been enlarged so that there could have been more adequate and more proper functioning of the department so far as this Bill is concerned. Only Rs. 5 lakhs have been provided for the additional staff. The result will be that cases will be kept pending for a long time. Decisions will be taken after a long time and delays will become the normal function of this department. I would like to ask the hon. Minister one question. How many arrear cases has the department now.

**The Deputy Minister of Finance**  
(Shri B. E. Bhagat): Arrears of what?

**Shri D. C. Sharma:** In the matter of income-tax and other cases. I believe all these things will add to the number of arrear cases and therefore, there will not be that amount of advantage to be gained from this Bill.

When the Estate Duty Bill was passed, the then Finance Minister, Shri C. D. Deshmukh, has said that he was sending some officers to U.K. and other countries to learn about the administration of estate duty there. I do not know whether these officers were sent or not and what the advantage to the nation was if they were sent to U.K.

When we are bringing up this socio-fiscal legislation in this country, there is very much a necessity for giving a new look to the income-tax department. By new look, I do not mean that their salaries should not be improved. Their salaries may also be improved if necessary. But by new look, I mean that they should be put through some intensive and specialised training which could fit them for the particular job in hand. Up to this time, we have been giving

them only a general kind of training and we have been thinking that these general purposes men can perform all kinds of functions. We have inherited the old mentality from the British that the I.C.S. could do everything. Similarly, we have thought that the income-tax officer can do whatever work is entrusted to him. That is an outmoded and obsolete theory. Proper training must be given to them. Otherwise, the purpose of the Bill will be defeated to a large extent. I would not like at the same time that their number should be increased unduly. There should be some criteria evolved so far as the performance of these income-tax officers are concerned. In Punjab there was formerly known a formula called Jenkin's formula which was applied to the performance of Sub-Judges, Sessions Judges and other Judges. It was very useful in expediting cases of law in the courts. It reduced the period of delay so far as judicial cases were concerned. The Ministry of Finance would be well advised in having some criteria for judging the work of persons. I am told that some of these income-tax officers are sent to those States the language of which they do not know. Proper kind of training should be given to them so that they can discharge their functions very properly.

14. hrs.

It was said many times in this House and also yesterday that this kind of a legislation could not only be a fiscal measure or an administrative measure. It is a socio-moral kind of a legislation. People should be properly educated about the socio-moral effects of this kind of legislation. It was Lord Macaulay who said that in the 19th century a great change came over the character of the State. For a long time the State was thought to be a hangman, but liberal thought of the 19th century made people feel that the State was not a hangman, but the State was also an educator and other things. We have gone much beyond what Lord Macaulay thought the State to be.

I would, therefore, say that so far as the Ministry of Finance is concerned it should not only be a Ministry which collects revenue, it should not only a Ministry which sometimes puts unnecessary spokes in the wheels of those who want to spend money,—that is what is said about this Ministry—it should not only be a Ministry which watches all these things, but it should also be a Ministry whose functions should include the socio-moral education of persons in this particular field.

Sir, the Father of the Nation said that all of us are trustees of our nation so far as wealth is concerned. Now a new conception has been given, the conception of co-partnership. The same thing has been said in the socialist pattern of society. I would like to ask the persons connected with this Ministry, what have you done to educate the people so far as the social implications of these Acts are concerned? You have passed the Estate Duty Act, the Wealth Tax Act, the Expenditure Tax Act and how you are going to have the Gift Tax Act passed. What have you done to educate the people? I do not think the Ministry has done anything in this respect. After an Act is passed, it is simply passed over to the income-tax officers and they, of course, make whatever use of it they like to have or whatever use of it they think it is capable of. Nothing is done to educate the people. Is it not the function of the Ministry to tell the people what a particular Act is going to lead to? I am pointing this out for the simple reason, as I said yesterday, that wherever you go people say that the Government is burdening them with too much taxation. I do not know what the experience of other Members of this House is, but at least the Opposition party members always make this point against the Government all the time that they are burdening the people with over-taxation. This was also said during the recent Corporation elections. This is said everywhere.

Therefore, we have to justify this kind of taxation policy not only on fiscal grounds but on social and moral grounds also. Who is going to do that? It is not that one Ministry will collect the money and another Ministry will justify the collection of that money. No. The Ministry that collects the money should also justify the collection of that money. The Ministry should explain to the people what for that money is going to be taken and what social purpose it is going to serve. Unless that is done, I think all this legislation is going to be a kind of irritant to people. I do not want that it should be like that.

I also say this, in view of the fact that there are certain forces at work in this country today. Some people call them lions, some call them tigers, some call them by this name and some by that name; but I do not want to call them by any name, I only want to say that there are certain forces at work in our country today, that are opposed to the very idea of this kind of progressive legislation which has social welfare objectives. They are inundating the country with their literature. They are publishing pamphlets and distributing them free to the people. They are publishing magazines and they are trying to pulverise every clause of this Bill. They are trying to educate the people in the wrong way. They want to show to the people at large that the legislation which the Government of the day is undertaking is not for the good of the people. I can show the pamphlets that they are distributing free to the people; they are sent to all persons in this country.

If this kind of propaganda is being carried on by a particular section, who is going to meet it, who is going to make counter propaganda? I know it will be said that it is no use joining issue with those persons. I know that this is a very exalted attitude, a high and mighty attitude. But, Sir, democracies are governed by public opinion. That public opinion is created by propaganda, and pub-

[Shri D. C. Sharma.]

His opinion is also moulded by counter-propaganda. Therefore, it becomes the duty of those who pass such kind of legislations to tell the people what they should do.

Sir, our experience of this new form of legislation has not been very happy—I mean the Estate Duty Act and other Acts. That is one of the reasons why we are bringing in this amending Bill. After having pointed this out, Sir, I would say that our experience should be happy after this new amending Bill has been passed so that our social welfare State marches ahead.

I wanted to devote some time to the clauses, but as my time is over I do not want to take any more time of the House. Before I conclude, I only want to say that two many Concessions have been given here. Where concessions are given they should be scrutinised properly and the concessions should be reduced to a minimum. Where penalties have been suggested, those penalties should be deterrent and not lenient. I hope, Sir, if this is done, this Estate Duty (Amendment) Bill will fulfil the objectives which all of us have in our hearts.

**वर्ष 1950-51 का प्र. ३ गरीबों (सागर) ।**

उपाध्यक्ष महोदय, यह आ बिल इस सदन के सामने प्रस्तुत हुआ है, मैं उस का समर्थन करने के लिये खड़ा हुआ हूँ। पांच वर्ष पहले जब अपने मूल स्वरूप में यह बिल इस सदन में आया था, तब इस देश के नागरिकों को प्रसन्नता हुई थी कि सोशलिस्टिक राज्य भले ही कायम न हो रहा हो, लेकिन हम इस दिशा में बढ़ ज़रूर रहे हैं, उस दिशा में जो देश की गरीबी को दूर करने में सहायक होने वाली है, इस देश की विषमता को खत्म करने की दिशा में बड़ी हद तक सहायक होने वाली है।

इस पुराने बिल के कानून में परिणत होने के पश्चात् पांच वर्ष बीत गये। पांच वर्ष

में जो कार्पुजारिया हुईं उन कार्पुजारियों से हमें सन्तोष नहीं है। हम ने ऐसी उम्मीद की थी कि उस से हमें ६ या साढ़े ६ करोड़ की वार्षिक आय होगी, लेकिन हमें भुक्तिल से दो या ढाई करोड़ की आय प्राप्त हो सकी। इन सब चीजों ने हमें बहुत सन्तोष नहीं दिया, इसलिये यह बिल सदन के सामने रक्खा गया है ताकि उन लूपहोल्स को खत्म किया जाये जिन के कारण जो सम्पत्ति राष्ट्रीय कोष में होनी चाहिये और जिस देश के नवनिर्माण में खर्च किया जाना चाहिये, वह गलत हाथों में, अव्यक्त हाथों में रह जाती है। तमाम लूपहोल्स को रोकने के बाद देश को नई ताकत मिले, इस बात का विचार कर के यह अमेंडिंग बिल पेश किया गया है।

यह बात सत्य है कि हम इस देश में एक बड़े उत्तम तरीके से आर्थिक विषमता को खत्म करने की कांशिश कर रहे हैं, कोई बड़े क्रांतिकारी कदम हमारे नहीं हैं, लेकिन फिर भी एक निश्चित और क्रमिक तरीके से हम अपने लक्ष्य की ओर अग्रसर हो रहे हैं, ऐसा हम महसूस करते हैं। इस बिल में जो खास बात है वह यह है कि टैक्सेशन को स्ट्रक्चर को ब्राडबैंड बनाया जाये। नये प्रस्ताव के अनुसार हम टैक्सेशन का आधार ५०,००० रुपये पर ला रहे हैं। इस सदन में इस पक्ष के मित्रों की ओर से इस बात का थोड़ा विरोध किया गया है। मुझे अफसोस होता है इस तरह की बात मुन कर। अगर हम को अपनी पंचवर्षीय योजना को सफल बनाना है, अगर हम को इस देश की आर्थिक विषमता को दूर करना है, अगर हम को इस देश में जो गरीबी है उस गरीबी को दूर करना है और एक जनकल्याणकारी राज्य को अधिक में अधिक गतिशील बनाना है तो हमें अपने आर्थिक साधनों को विस्तृत करना होगा। जो सांग इस देश की गरीबी का अध्ययन करते हैं, जो जानते हैं कि इस देश का अधिकांश मानव समाज किस स्थिति में है, किस गरीबी और मुफलिती की स्थिति में है, वह इस चीज को धक्की तरह से धरना सकते

है कि जिस की ५०,००० की सम्पत्ति है, वह सम्पत्तिशाली धपने मरने के बाद अगर इस देश को कुछ दे जाता है, देने के लिये मजबूर किया जाता है तो कोई ज्यादाती नहीं है।

जब इस तरह से देश को विस्तृत करने के बाद इस बिल की धारा हमारे सामने रखी गई है, तो हम समझते हैं कि यह बड़े स्वागत योग्य बात है। पहले १ लाख से ऊपर पर हम टैक्स वसूल करते थे अब हम ५०,००० पर वसूल करेंगे। यह बात जरूर है कि १ लाख से ऊपर कर वसूली के वक्त हम ने जो धाय कूती थी वह नहीं मिली, लेकिन अब चूंकि हमारा कार्यक्षेत्र विस्तृत होने वाला है, इसलिये हम कुछ काम कर रहे हैं, हम ऐसा उपाय इवाल्व कर रहे हैं जिस से हम बदलती हुई स्थिति में हम अधिक ताकत के साथ काम कर सकें। मैं यह महसूस करता हूँ कि टैक्सेशन के स्तर का निर्माण जो होता है टैक्सेशन का जो हमारा कायदा बनता है वह ऊपर से बनता है, लेकिन हम देश का दुर्भाग्य है, दूसरे देशों में भी यह बात हो सकती है, लेकिन हमारे लिये तो यह बड़े लाञ्छन की बात है कि हमारे देश का बनिक्त समाज धाय बचाने की कोशिश करता है। हमारे सामने २६८ करोड़ के धाकड़े धाय कि इनकी धाय हो सकती है, टैक्सों के द्वारा, इनकम टैक्स के द्वारा। लेकिन जब यह दुखद नकशें हैं तो इस धाय की प्राप्ति किस तरह से हो सकती है? एक तरफ व्यापारी वर्ग बचत करता है धीर दूसरी तरफ हमारे कर्मचारी इस चीज में सहयोग करते हैं, वह कनाइव करते हैं। जितनी सख्ती और ईमानदारी उन को बरतनी चाहिये, वह उतनी सख्ती और ईमानदारी नहीं बरतते हैं। सुयी की बात है कि यह बिल आज सेनेक्ट कमेटी के सुपुर्व हो रहा है। मैं चाहूंगा कि सेलेक्ट कमेटी के विचारवान लोग इस चीज पर विशेष रूप से ध्यान दें कि टैक्सेशन के इन्ड करने के जो तरीके धपनाये जाते हैं उन पर अधिक से अधिक रोक लगाई जाये, कुछ ऐसे

संशोधन करें जिन के द्वारा जो इन्वेजन्त ध्राफ टैक्स, खास तौर से इस नये टैक्स का, होता है वह रोका जा सके और हमारे कर्मचारियों पर भी अधिक सख्ती हो सके ताकि वह सजगतापूर्वक और ईमानदारी के साथ काम करने को मजबूर हों। मैं यह चीज महसूस करता हूँ कि जो आदमी टैक्स इन्ड करता है उस से डबल टैक्स वसूल करना बहुत मामूली सी सजा है, यह कमजोर प्राविजन है। मुझे तो ऐसा लगता है कि जो ऐसे लोग हों उन्हें देशद्रोहियों की कोटि में रखना चाहिये आज के प्रजातन्त्रात्मक देश में जो व्यक्ति सम्पत्ति को छिपा कर देश को धपने हक से मजूर रखते हैं, भेरा दूड और निश्चित मत है, वे देशद्रोह के अपराधी हैं और ऐसे आदमियों के लिये सेलेक्ट कमेटी की और अधिक सख्त सजा की व्यवस्था करनी चाहिये। मैं चाहूंगा कि पलाइंग इन्स्पेक्टोरेट जैसी व्यवस्था कर्मचारियों के अन्दर हो। एक अफसर जो एक जगह पर बंड कर फंसले करता है, उस के कामों पर गुप्त रूप से कोई नियंत्रण हो, इस चीज को मैं इस देश में बड़ा आवश्यक समझना हूँ। किसी एक व्यक्ति की सम्पत्ति अमेस की गई और उस पर कर निर्धारित किया गया, जो असेसमेंट हमारे कर्मचारी द्वारा किया गया, वह सही है या गलत है, इस की छानबीन की बारीकी से, और में समझता हूँ कि सर्प्राइज के तरीके पर, किये जाने की व्यवस्था की जानी चाहिये। यह बहुत जरूरी है। यह बहुत बड़ा लूटहोल है जो कि मैं महसूस करता हूँ हमारे टैक्स वसूली के रास्ते में है। अनेक जगहों पर ड्रर उधर कर्मचारी और टैक्स देने वाले व्यक्ति या अन्य तबके मिल जाते हैं और ध्रापस में बैठक कर टैक्स निर्धारित कर दिया जाता है। फिर इस बात की छानबीन कम की जाती है। मैं नहीं मानता कि बिल्कुल छानबीन नहीं होती, लेकिन कम होती है कि जो टैक्स लगाया गया वह जायज था या नहीं। मैं चाहूंगा कि सेलेक्ट कमेटी इस प्रकार की कोई व्यवस्था करे जिस व्यवस्था में जो प्रसिस्टेंट

## [पब्लिश ज्या० प्र० ज्योतिषी]

होता है उस प्रसेसमेंट की जांच हो सके। जांच होने के बाद खुफिया तरीके से भी जांच हो और कोई कर्मचारी कम प्रसेस करता है किसी व्यक्ति को, तो उस के खिलाफ सख्त कार्रवाई की जाये।

यह जो बिल इस रूप में सदन को सामने आया है, एक बड़ी हद तक उस में जो पुरानी कमियां हैं उन को दुरुस्त करने की कोशिश की गई। सेलेक्ट कमेटी के विचारवान लोग गम्भीरतापूर्वक हर टैक्स की वसूली में, खाम कर इस टैक्स की वसूली में, जो खामियां होती हैं, या जो अड़चने आती हैं उन को महसूस करते हुए एउम में आवश्यक संशोधन करें और इम देश का कोष अधिक विस्तृत हो सके और इम के लिये जो व्यवस्था इस विधेयक में की जा रही है, उम को सफल बनायें।

इम सदन में चर्चा के दौरान में यह बात हमारे सामने आई कि कुछ लोग टैक्सेज के खिलाफ एक वानावरण निमित्त करने की कोशिश करते हैं। यह एक बड़ी खतरनाक चीज है। अगर हमको अपने रचनात्मक कार्यों को और विकास के कार्यों को सफल बनाना है तो हमें इम देश में एक ऐसी कन्साइमेंट निमित्त करनी होगी कि नोग ईमानदारी के साथ अपनी सम्पत्ति का, अपनी आय का और अपने उत्पादन का जो उचित अंश है उसको सरकार को देने के लिये तत्पर रहें।

उपाध्यक्ष महोदय, मैंने जो खाम बात आपके द्वारा मंत्री महोदय से कही है वह यह है कि एक ऐसी मशीनरी एवाल्स की जाये जो कि कर्मचारियों पर नियंत्रण रखे और उसकी और में विशेष रूप से सदन का ध्यान आकर्षित करता हूँ।

पुराने जमाने में हर एक जिले और हर एक प्रदेश में खुफिया पुलिस होती थी या खुफिया कर्मचारी होते थे। मैं नहीं समझता कि आज के जमाने में हम क्यों न उस तरीके

के ईमानदार व्यक्ति इधर उधर नियुक्त कर के रखें जो कि व्यापारी वर्ग के कार्यों का कच्चा बिट्टा शासन को भेजे। मेरे जिले में मैं जानता हूँ कि कुछ भ्रादरियों की तरफ से एक खास भ्रादमी की बाबत केन्द्रीय सरकार को बारबार लिखा गया कि भ्रमुक जगह पर भ्रमुक व्यक्ति टैक्स इवेजन कर रहा है। उनकी शिकायत है कि शासन ऐसी बातों की तरफ और ऐसी शिकायतों की तरफ पर्याप्त ध्यान नहीं देता। मैं समझता हूँ कि जगह ब जगह ऐसे भ्रादमी हैं जो कि शासन को इस तरीके के कार्यों में मदद दे सकते हैं। ऐसे लोगों से एनफार्मेंशन इकट्ठी की जाये और यह जो टैक्स इवेजन होता है उसके लूपहोल्स को प्लग किया जायें। इन शब्दों के साथ मैं इस एस्टेट ड्यूटी (अमेन्डमेंट) बिल का समर्थन करता हूँ।

**The Deputy Minister of Finance (Shri B. R. Bhagat):** Mr. Deputy-Speaker, I am very grateful to the House for the fullthroated support to this measure, because all the hon. Members who have spoken have generally supported the measure.

The hon. Member, Professor Sharma, spoke about the fool-proof arrangement and said that Government must evolve a fool-proof system of assessment.

**Mr. Deputy-Speaker:** That arrangement has to be evolved in his absence.

**Shri B. R. Bhagat:** I am sorry, he is not here. I am disheartened, because I cannot refer to him in detail.

This amendment Bill is based on the experience of the past four to five years and in a way it is an improvement based on our experience, although we cannot claim that it is fool-proof. For the matter of that, nobody is fool-proof either my hon. friend Shri Sharma, nor any institution created by man. But there is a continuous effort to make the system or institution more stream-lined and to plug the loopholes.

I will now come to the hon. Member who initiated the debate, Shri V. P. Nayar. He raised one or two very valuable points. He went into a little bit of history also. There I am in a little advantageous position, because I was also in the Select Committee and we were together when the Bill was passed and we shared the working of the administration of this Bill, although from different points of view. When he referred to the period, he said that he had at that time suggested that the period for exemption should not be two years but five years and that the Select Committee and the House did not accept it. He said that he was wise in the matter. It is very easy to say after the event "I have said so".

**Shri V. P. Nayar:** I said that even before.

**Shri B. R. Bhagat:** Whether this period of two years should be changed to one year or five years, there is no *a priori* reason about it. It is all based on the rule of the thumb. Even in England, when this Bill was enacted in 1894, they put the period as one year and it was increased after sixteen years' of experience. Later on, the period was increased to five years in 1946.

**Shri V. P. Nayar:** When we had a Bill, what was the period in England? Unless we did not want to gain from experience, I do not know what was the purpose in fixing it at two years.

**Shri B. R. Bhagat:** Although this Bill is very much based on the U.K. Act, the conditions in India and England are different. There is much difference between the property rights in India and in England. There it is very easy to arrive at a correct evaluation of the estate, because in most cases the succession certificate or the probate is there. So the valuation of the property passed on is known. Under our law, particularly under the Hindu joint family system, there is no succession as such. Here we have the co-parcenary sys-

tem. So, there is a very fundamental difference. Then there is the question of the nature of the property. Although we adopted the U.K. system, it was not as if the conditions here were the same as in England. So, we could not adopt all the provisions. So far as the Government is concerned, we took or adopted this provision about two years as an experimental measure. We thought "let us have such a period in the first instance". We said that based on our experience, if we think that it is necessary to change it, we will change it.

The hon. Member went into the history a bit and referred to the then Finance Minister. I would like to quote here what the then Finance Minister said about this, which is very relevant. This is what Shri C. D. Deshmukh had stated:

"If experience shows that this is either inadequate or adequate, I am sure, when the occasion comes—and there will be very many to amend this Act—then we shall have to do something about this period also."

Now, the occasion has come and I think we are very much in line. With the experience we have, we think that in order to plug the loopholes it is better to have a period of five years. Not only that. The administration had some experience for the last five years. Now, some hon. Members have asked whether we have sent our officers for training to U.K. Well, some of our officers have gained enough experience in this line of evaluation. So, we are now changing the system of the appellate machinery. So, we are in a better position now to bring about this change from two years to five years.

Then he said that the rates of duty should be increased to the level in U.K. What are the U.K. rates? The rates in U.K. range from 4 to 80 per cent. Our proposed rates range from 6 to 40 per cent. So, in the lower slabs our rates are higher. For an estate worth Rs. 1 lakh in India the



[Shri B. R. Bhagat]

duty will be Rs. 3,000, whereas the duty in England for the same estate will be Rs. 4,000. For an estate worth Rs. 2 lakhs, the duty here will be Rs. 12,000 whereas it will be Rs. 16,000 in U.K. It will thus be seen that there is not much difference between these two countries in the matter of tax in the case of medium estates. Then, while bringing in a comparison between India and U.K. we should not forget that gifts made prior to five years of death are completely exempted from tax in U.K.

**Shri V. P. Nayar:** If I may be permitted to say so, that is not correct. My point was not about the revision of the rates of duty. I only referred to the higher slabs. I pointed out instances of estates worth over Rs. 10 lakhs and showed how the incidence of tax in India, as under the near proposals would be far too much below the rates of duty which an estate in U.K. with a pound value of the equal amount in India would have to pay. I never said that the lowest slab should be raised. I only emphasised that the higher slabs should have to pay a higher duty, corresponding to the level in U.K. Here is a copy of my speech.

**Shri B. R. Bhagat:** The lower slabs are already high. That is what I am saying. If we go into the gamut of the various ranges and various rates, we will find that there is not much of difference. Then, we have to take into account the effect of other taxes like wealth-tax, expenditure tax etc. So, from that point of view, our rates are not incomparable.

The hon. Shri Heda asked why the exemption limit has been lowered to Rs. 50,000. This point has already been covered by the hon. Finance Minister when he moved this Bill for consideration. If you see the exemption limits in various countries—in U.K. it is £3,000, i.e., Rs. 40,000, in Australia it is Rs. 30,000, in Ceylon a country which is comparable to ours in per capita income or eco-

nomy, it is Rs. 20,000. Thus whether we consider advanced countries or countries nearer our home or countries the economic situation of which is very much comparable to ourselves, we see that the exemption limits are lower in many cases. So, from that point-of view the exemption limit is not unreasonably low.

There are other points made about the administration. He said that the arrears should not be allowed to be so high. So far as this particular question of arrears or disposal of cases of estate duty is concerned, the situation is not very bad. Every year we have given consideration to the new cases that come. The disposal of cases, whether in appeals or in valuation, is pretty efficient. So far as valuation is concerned, despite the fact that they posed so many problems, there has not been any complaint of harassment because in most cases there has not been any difference about the valuation between the officials and the assesses. Only one case has gone for arbitration.

I think the other details that have been referred to will be taken care of by the Select Committee. With these words, I conclude.

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

"That the Bill further to amend the Estate Duty Act, 1953, be referred to a Select Committee consisting of Shri Asoke K. Sen, Shri C. D. Pande, Shri M. Thirumala Rao, 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 Narendrabhai Nathwani, Shri Radheshyam Ramkumar Morarka, Shri Harish Chandra Mathur, Shri Vidya Charan Shukla, Shri Radhelal Vyas, Shri C. R. Pattabhi Raman, Shri N. G. Ranga, Shri M. Shankar-

aiya, Shri Satyendra Narayan Sinha, Shri George Thomas Kottukapally, Shri A. M. Tariq, Shri Kamalnayan Jamnalal 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. Khadilkar, Shri Bimal Comar Ghose, Shri Arjun Singh Bhardauria, Shri M. R. Masani, H. H. Maharaja Sri Karni Singhji of Bikaner, Shri Premji R. Assar, Shri Tribhuan Narayan Singh, Shri N. Siva Raj, H. H. Maharaja Pratap Keshari Deo, Shri Naushir Bharucha, Dr. A. Krishnaswami and Shri Morarji Desai with instructions to report by the 1st May, 1958."

*The motion was adopted*

**Mr. Deputy-Speaker:** The House will now take up the non-official business.

PRIVATE MEMBERS' BILLS AND RESOLUTIONS COMMITTEE

TWENTY-FIRST REPORT

**Shri Supakar (Sambalpur):** Sir, I beg to move:

"That this House agrees with the Twenty-first Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 24th April, 1958."

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

"That this House agrees with the Twenty-first Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 24th April, 1958."

*The motion was adopted*

RESOLUTION RE: REORIENTATION OF THE SYSTEM OF EXAMINATIONS—*cond.*

**Shri V. P. Nayar (Quilon):** Sir, I wonder whether there is a quorum. Now we are entitled to a quorum. It

is a very important subject which is coming up before the House.

**Mr. Deputy-Speaker:** The bell is being rung.

Now there is quorum. The House will resume further discussion on the Resolution moved by Dr. Deorao Yeshwantrao Gohokar on the 11th April, 1958, regarding re-orientation of the system of examinations.

Out of two and a half hours allotted for the discussion of the Resolution, one hour and forty-one minutes have already been taken up and forty-nine minutes are left for further discussion today.

Is there any hon. Member wishing to speak?

There is no one. Then I call the hon. Minister.

**The Minister of Education (Dr. K. L. Shrimali):** Mr. Deputy-Speaker, Sir, my hon. friend, Dr. Gohokar, by moving this Resolution has drawn the attention of this House to an important problem which has engaged the attention of educationists for the last fifty years. The examination system has been criticised from every quarter—parents, teachers, society, administrators and everybody. But it has got such a strong hold over our people that in spite of general dissatisfaction with the system there has been little effort to change it and replace it by a better system. This subject forms the subject matter of discussion in various education conferences and committees, both official and non-official, but I must say that so far there has only been a tinkering of the problem here and there and we have not made any substantial progress. The Ministry of Education has recently taken a very important step for bringing about certain radical changes in the examination system. But before I come to this question, I think, it is necessary that we should be clear about the issues involved in this matter.