

is that a reasonable, maximum price of yarn for co-operative sector to be lifted at least for five years.

There is a steep fall in the quantity of export of cloth from Kerala now-a-days. Sir, the main reason is the lower rate of wages prevailing in the adjacent States. Even the manufacturers in Kerala are getting their goods manufactured in the adjoining States. My request is to adopt a wage policy at least on the regional basis. Sir, I request the Government to look into the matter very seriously and save the industry from a complete crisis.

**REFERENCE TO THE
REPORTED HEAVY LOSSES
CAUSED BY FLOODS IN
CERTAIN AREAS OF
KARNATAKA.**

SHIUB. IBRAHIM (Karnataka): Mr. Deputy Chairman, I must thank you for giving me this opportunity. I draw the attention of the Government, Sir, through you, especially the attention of the Minister for Agriculture, to yet another natural calamity which has occurred at Kundapur in Dakshin Kanara District of Karnataka State. Sir, several parts of this coastal area and also Malnad are reeling under floods recently, only a few days after the flash floods at Udipu. There was huge damage due to heavy rains and floods. Apart from South Kanara, several parts of Shimoga, North Kanara and Chikmagalur Districts were affected very badly.

As per reports, 24 relief camps have already been opened for 9,543 persons at Kundapur itself. Sir, the worth of property lost or damaged in Kundapur in South Kanara District due to the floods has been put at Rs. 5 crores. A large number of paddy fields were also affected very badly. The National Highways No. 17 and

No. 48 were also damaged due to this heavy downpour.

Sir, the State Government is already seized of the matter in sanctioning immediate relief. But as you all know, without Central assistance the whole relief work could not be completed. Hence, through you, Sir, I request the Hon. Minister for Agriculture to release funds immediately so as to complete the relief work.

I shall be failing in my duty if I do not thank the Hon. Minister for Agriculture for having sanctioned Rs. 30 lakhs for the relief work at Udipu after my special mention here in this House on the 9th of the last month. Thank you.

**THE CONSTITUTION
(FORTY-SIXTH
AMENDMENT) BILL, 1982**

THE MINISTER OF FINANCE
(SHRI PRANAB MUKHERJEE)
Mr. Deputy Chairman, Sir, with your permission I beg to move :

"That the Bill further to amend the Constitution of India, as passed by the Lok Sabha, be taken into consideration."

I would like first to set out briefly the present Constitutional position with regard to sales-tax levied by the Union and the States. Entry 54 of the State List in the Seventh Schedule to the Constitution authorises the States to levy tax on the sale or purchase of goods, other than newspapers, taking place within their respective territories. Entry 92A of the Union List authorises Parliament to levy tax on sale or purchase of goods, other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce, the revenue from such tax being assigned to the States under Article 269(1) (g) of the

Constitution. Under article 286(3) Parliament is authorised to declare goods to be of special importance in inter-State trade or commerce and to lay down restrictions and conditions in regard to the system of levy, rates and other incidence of tax by States on such goods.

In the absence of a definition of the expression "sale of goods" in the Constitution, the Supreme Court has consistently held that this expression as used in the legislative entries in the Constitution bears the same meaning as that expression has in section 4 of the Sale of Goods Act, 1930. Therefore, while the State Legislature may, under the State List, legislate to levy a tax in respect of a transaction having the ingredients of a sale, viz., parties competent to contract, mutual assent, transfer of property from one of the parties to the agreement to the other party thereto for a price, it cannot levy tax on a transaction which is not a "sale" within the meaning of the Sale of Goods Act, 1930. In view of the present Constitutional position, consignment of goods by a principal to an agent or transfer of goods by a head office to a branch or vice versa, is resorted to in order to avoid liability under the Central Sales Tax Act, since these transactions cannot be regarded as sale, there being no passing of property for a price from one person to another. Besides, a works contract, which is entirely indivisible, is regarded as a contract of works involving skill and labour and not directly pertaining to transfer of property in goods. A hire purchase agreement is not regarded as sale as no property passes in such a transaction until the option to purchase is exercised and the other terms of the agreement are fulfilled. Further, in a judgment delivered in September, 1978, the Supreme Court held that service of meals whether in a hotel or a restaurant does not constitute a sale of food for the purpose of levy of sales tax but must be regarded as the rendering of a service in the satisfac-

tion of a human need or ministering to the bodily want of human beings.

As the Hon. Members are aware, the entire revenue from sales tax, including Central Sales Tax levied on inter-State sales of goods flows to the States. The State Governments, who administer sales tax, including Central sales tax, have been reporting large-scale avoidance of Central sales tax through the device of consignment of goods as also leakage of local sales tax in works contracts, hire-purchase transactions, etc. The various problems connected with the powers of States to levy a tax on the sale of goods and with the Central Sales Tax, 1956, were examined by the Law Commission in their 61st Report which was laid on the Table of this House on 22nd March, 1978. The recommendations of the Law Commission relating to the amendment of the Constitution were examined in consultation with the State Governments and a Bill for amendment of the Constitution was introduced in the Sixth Lok Sabha on 15th March, 1979, as the Constitution (49th Amendment) Bill, 1979. However, with the dissolution of the Sixth Lok Sabha, that Bill lapsed.

The matter was discussed in the Conference of Chief Ministers held at New Delhi on 16th and 17th September, 1980, as part of the general proposals for reform of the existing sales tax system. The Conference recommended, *inter-alia*, that the Central Government should consider introduction of a Constitution (Amendment) Bill on the lines of the lapsed Constitution (49th Amendment) Bill at an early date.

Sir, this recommendation of the Conference of Chief Minister was carefully considered by the Government and it was felt that in the interest of finances of the States, it is necessary to take steps to ensure that there is no leakage of revenue

from sales tax through various means for tax avoidance such as consignment transfers. It is also essential to ensure that the States do not lose revenue which they have hitherto been getting on certain categories of sales such as sales of food in hotels. It is accordingly proposed through this Bill to amend the Constitution of India to insert a new Entry 92B in the Union List in the Seventh Schedule to enable the levy of tax on consignment of goods where such consignment takes place in the course of inter-State trade or commerce, the revenue from such tax being assigned to the States by amending article 269. It is also proposed to include in article 366 of the Constitution a definition of "tax on the sale of purchase of goods" as inclusive of tax on :—

- (a) transfer for consideration of controlled commodities;
- (b) transfer of property in goods involved in the execution of a works contract;
- (c) delivery of goods on hire-purchase or any system of payment by instalments;
- (d) transfer of the right to use any goods for any purpose for cash, deferred payment or other valuable consideration;
- (e) supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration (supply of goods' by an incorporated society to its members is already regarded as a sale for the purpose of levy of sales tax); and
- (f) supply, by way of or as part of any service, of food or any drink for cash, deferred payment or other valuable consideration.

Clause (3) of Article 286 is also proposed to be amended to enable to Parliament to specify by law restrictions and conditions in regard to the system of levy, rates and other incidents of tax on transfer of goods involved in the execution of a works contract, delivery of goods on hire-purchase or any system of payment by instalments and on the right to use any goods. In order to protect the States from refunding the taxes already collected, which they would otherwise be required to do in the light of the Supreme Court's judgments relating to supply of food stuffs by hotels and restaurants, a provision to validate the past levies of the States has also been included in the Bill. Care has been taken in making this validating provision that no sales tax will be payable during the period between the dates of the relevant Supreme Court judgments and the commencement of this amendment Act, if the dealer concerned did not collect the tax from his customer during that period on the ground that no such tax could have been levied or collected at that time. The burden of proof in such a case will, however, be on the dealer.

Sir, the effect of the proposals contained in the Bill would be to transfer to the States an area of taxation with respect to transactions on the border line of or connected with transactions by way of sale of goods but which cannot be subjected to sales tax by them in view of the Court pronouncements. Technically, this area may be covered by the residuary Entry 97 of the Union List but the same is not capable of effective exploitation by the Centre because sales tax is an area largely falling within the States' sphere of taxation. Keeping this point in view, the proposals contained in the Bill could only amount to an attempt at rationalisation of the Constitutional scheme relating to tax on sales or purchase of goods and confirmation of the practice which has been

followed by States hitherto. There is no doubt that, if the proposed amendments are carried out, the scope for raising additional resources by the State Governments for their developmental plans would improve.

In view of the revenue implications, State Government have been pressing for early enactment of the Bill. I have, therefore, no doubt that the proposed amendments will commend themselves to all sections of the House. Sir, I move.

The question was proposed

MR. DEPUTY CHAIRMAN : I would like to announce that the voting will start by 3.30. Now, Mr. Ramamurthy.

SHRI P. RAMAMURTHI (Tamil Nadu) : Mr. Deputy Chairman, I welcome this Constitution Amendment Bill. I have got only to say that it is rather a belated move on the part of the Government. This Bill must have been brought forward long ago. The Supreme Court judgement which curtailed the right of the States to levy sales tax on certain categories of goods was passed, I believe, in 1978. Four years have elapsed and during these years the states have suffered.

I am also glad that in contrast to the usual tendency of the Central Government to curtail the powers and the resources of the State Governments, for the first time this Central Government is coming forward with an amending Bill which would enable the State Governments to levy certain taxes on certain items of goods on which they were not entitled to levy before. When I am talking about this tendency, what I mean to say is that the Government often brings forward in its annual budget various types of taxes such as customs duty, excise duty, income tax and so on. You know that excise duties and income tax collec-

ted by the Central Government are subject to being shared by the States on the basis of certain formula evolved from time to time by the Finance Commission. But unfortunately, in order to obviate the necessity to share the additional collection of increased taxes, the Government does not call it tax. The increase in the income-tax or excise duty is often called levy. And levy is not an addition. Certainly it is additional taxation, but the interpretation of the word 'levy' is such that it does not form part of tax and therefore, it is not part of the divisible pool. This has been the tendency of the Government for the last so many years. I do not blame this Government. Whatever Government has been there ever since the Constitution came into force, this has been the tendency.

In this respect the Constitution is the same as the Government of India Act, 1935. There is absolutely no difference between the two. I might remind the Hon. Leader of the House of the Congress Party that at that time the entire country rejected the Government of India Act, 1935, particularly, the so-called provincial autonomy scheme. But we entered the Assembly and we entered the Assembly with the specific purpose of wrecking that Act. That was done as per the resolution of the Lucknow Congress. At that time we specifically rejected the 1935 Act on the ground that while all the nation building activities were the responsibility of the States, the resources were concentrated in the Centre and the States were starved of the resources. This was the specific ground on which we opposed the Government of India Act of 1935.

Unfortunately, it so happened that the framers of our Constitution copied the same list without changing anything from A to Z. The same thing was copied without even changing a comma and it specifically lays down that additional levies will

not form part of the divisible pool. The 1935 Act also provided for sharing of certain taxes by the States on the basis of what is called the first Nemier Award. We have now, instead every five years a Finance Commission which formulates a particular formula on the basis of which it has got to be shared.

While supporting this amending Bill, I would like to say that the Government of India should give up that old tendency. Since the States are even now saddled with the responsibility of carrying out all the developmental activities, particularly with regard to education and health — these are not the responsibilities of the Central Government— their resources should be augmented. When in our country millions of people are uneducated and illiterate, it is incumbent on the Government to see that the State resources are augmented. Similarly, the nation's health is also the responsibility of the States. Therefore, while supporting this amendment, I would only urge upon the Government of India to give up that tendency to curtail the resources of the States and see that they are augmented.

MR. DEPUTY CHAIRMAN : Shri Advani.

SHRI LAL K. ADVANI (Madhya Pradesh): I can speak after lunch.

MR. DEPUTY CHAIRMAN: Still there are five minutes. You can start.

SHRI LAL K. ADVANI : Mr. Deputy Chairman, Sir, most of the points that have been raised by Shri Ramamurthi have great substance. I am of the view that at the time our Constitution was framed, the developmental burden that would increasingly fall on the States was not fully taken into account. Therefore, while allocating the Financial resources between the Centre and the

States, the States were given a very raw deal. Over a period of time, the States have been feeling starved. Of course the Finance Commission is there to look after these problems. But this is also true that when a Bill of this kind comes up, immediately there is an enthusiastic welcome from all the States. I am not at all surprised that the State Chief Ministers are extremely keen to see that this Bill is passed as early as possible.

But, Sir, I view it from a more fundamental point of view. I wish the Government took this House into confidence as to where precisely it stands on the issue of Sales Tax itself. I have with me the Congress Party's manifesto which very categorically and clearly has made a commitment on this. I would like to quote from it. The Congress Party's manifesto of 1980 says :

"With the cooperation of the State Governments, Congress will explore the possibility of replacing the existing Sales-Tax structure with a more modern and effective system so as to afford relief to the consumer, to avoid harassment of the trader and to obviate corruption."

I believe that a Committee has been appointed with Shri Tripathi-Ji as the Chairman. I would certainly like to know on this occasion when we are trying to amend the Constitution in order to give a wider definition to the phrase "Sale and purchase of goods," where exactly does the Government stand on the issue of sales tax.

My party has been of the view that in the matter of Sales Tax administration a lot of harassment takes place and that it engenders unlimited corruption. There is therefore a very clear case for replacing Sales Tax. We in Janata tried to do it, but we ran into difficulties with

regard to the States. The States had the problem that Shri Ramamurthi mentioned, of having no resources. The Centre will have to guarantee those resources. We in Government had drawn up a scheme. You may be aware of that. Now you are the Finance Minister. We tried to assure the States that the quantum of resources and even the projected increase that accrued to them from Sales Tax would not, in any way be affected provided they agreed, in principle, to replacing sales-tax by excise or tax at the source.

These problems have to be tackled by the Finance Minister and by the Government, particularly after having given this commitment. In Delhi this became the main election issue. The congress party's charge against us was: Here was a Government which had promised to replace Sales-Tax by excise but had failed to do that when it came to power. Well, we were there only for 2-1/2 years. In these 2-1/2 years, we failed to do it because we could not persuade the State Government to fall in line. You are in a better position, no doubt, provided you have the mind to do it.

SHRI PRANAB MUKHERJEE :
Not much,

IP. M.

SHRI LAL K. ADVANI : You don't have the mind.

SHRI N.K. P. SALVE (Maharashtra) : Whenever in the opposition that is what the Opposition thinks of the Government.

SHRI PRANAB MUKHERJEE :
The problem which you had, we are having the same problem.

SHRI LAL K. ADVANI: No.
My problem was of a different nature. If it had been my Party, suppose, for instance, the Jan Sangh, that had come to power, or if today the BJP comes to power, I can tell

you that we will be earnestly after this, and we shall see to it that this is replaced, that it is done. The problems that we had are of different nature. Today, you cannot plead the same difficulty that the Janata had. At least, you should not. And therefore

SHRI PRANAB MUKHERJEE : I am not talking whether should or should not. I am talking of the actual fact.

SHRI LAL K. ADVANI : Well you promised to explore the possibility of replacing the existing sales tax structure replacing it with a more modern, simplified thing. But what are we bringing in instead ? It is true that this particular amendment arises from a judgement of the Supreme Court, some recommendation of the Law Commission where it was suggested that avoidance of sales tax should be curbed, should be contained evasion of sales tax by way of consignment should be stopped. Understandable. But I have a fear that the remedy we are seeking to apply to the malady of sales tax evasion may prove worse than the disease. Personally I am not familiar with trade, commerce, business and industry as you may be, as Finance Minister. But I have had something to do with the film industry. And when I listen to their problems I feel flabbergasted as to what would be the result of what you are now proposing to do. I would blame not only you but myself also. I know it that this Bill was introduced earlier. Clause (4) defines "tax on the sale or purchase of goods." As including a -tax on the transfer of the right to use any goods for any purpose, whether or not for a specified period, for cash, deferred payment or other valuable consideration."

Now, Sir, take the film industry. It is one of the big industries. In fact, ours is the biggest film industry in the world. We produce about 750 films every year. And even

within the country, among the various industries, it is among the ten largest industries of the country. And this film industry has to have so many transactions which will come within the mischief of this particular provision—'hiring' of cameras, hiring of movieolas, hiring of studios, hiring of equipment, hiring of costumes, hiring of lights and all these things. At every transaction it would incur a sales tax. Today, these transactions do not affect sales tax because there is no sale. In the Statement of Objects and Reasons, it is argued that films instead of being sold out are leased out. True. But this has been so since a long time. But it is not a new way devised by some crafty film maker to avoid sales tax. And suddenly when one thinks in terms of augmenting State resources why must we pick upon this thing to increase resources? At a time we have been urging that the sales tax should be substituted, replaced by a more simpler form, etc. etc., instead of making it simpler. We are going to make the sales tax structure more deeply entrenched more complex and even more agonizing.

MR. DEPUTY-CHAIRMAN :
If you take more time, you can continue after lunch. If you finish within five minutes...

SHRI LAL K. ADVANI : I will complete in five minutes.

Sir, my submission would be that here is a matter which needs to be viewed in a more sympathetic manner. I have spotlighted the difficulties of one particular industry, a major industry. And there would be several other analogous, parallel industries where the temporary transfer of the use of certain articles may be very essential for them as it is in this case. And if in all these cases it is regarded as a sale, I am afraid that the burden that we are going to impose on that industry will be immense. And some of them

have said that it would be beyond endurance. I can tell you this much that though a lot of glamour is attached the film industry and there are certain stars in the film industry who earn lakhs and lakhs of rupees and a lot of black money goes on circulating. The bulk of the people who are engaged in the film industry subsist at a very very low level. Seventy per cent of the films produced in the country are hardly able to make their way. And, therefore, to inflict this kind of burden on the industry would be a wrong thing. I am aware that at the present point of time we are merely going to amend the Constitution and frame an enabling provision. But the result would be that very many States would immediately go in for certain things. I am told that the Bihar Government is already waiting for it. They say that the moment this Bill is passed, we will raise an additional income of Rs. 300 crores from this, from this and from that. There may be certain things which must be done, should be done. As I have said, preventing avoidance of sales tax is necessary and to the extent that we want to plug the loopholes, the move is correct. But precaution has to be taken lest the remedy proves worse than the disease itself. And this is what I apprehended particularly in the context of the film industry.

Therefore, Sir, I wish to make a concrete submission to the Finance Minister. Would it be possible for him to invite the representatives of the film industry and along with the I & B Minister discuss with them the implications of this amendment and the implications of any follow-up amendment in the Central Sales Tax Act that you propose to make or the State Governments might want to do in the respective Sales Tax Laws. Unless this is done I feel that the purpose, the limited purpose, which is sought to be achieved and which has been enunciated in the Aims and Objectives would not be fulfilled.

Thank you, Sir.

श्री उपसभापति : अब सदन की कार्यवाही 2.05 बजे तक के लिए स्थगित की जाती है।

The House then adjourned for lunch at seven minutes past one of the clock.

The House reassembled after lunch at seven minutes past two of the clock, the Vice-Chairman, (DR. RAFIQ ZAKARIA) in the Chair.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Now, we take up further consideration of the Constitution (46th Amendment) Bill. Shri Bhuvnesh Chaturvedi. Not here. Shri Shiva Chandra Jha. Not here. Shri M. C. Bhandare. Not here. Shri Matto.

SHRI GHULAM RASOOL MATTO (Jammu and Kashmir): Mr. Vice-Chairman, Sir, I rise to speak on the Constitution (46th Amendment) Bill. What I am going to say on this Bill is not only based on my experience as a businessman, but it is also based on my experience of fourteen years as an officebearer of the Kashmir Chamber of Commerce and Industry and six years as its President.

Sir, this measure which has been brought forward is a correct measure, in the system of sending goods on consignment basis by one State to another and then selling it was being grossly misused by certain unscrupulous elements. There are two types of people who were engaged in such practices. One was the multi-nationals who had their branches in various States and they would transfer the goods without an obligation to pay the duty and then distribute these goods even to pan/ bidiwalas so much so that there was

no dearth of any thing. Recently, a discussion took place about Colgate-Palmolive. Colgate-Palmolive had spread their branches to such corners that even pan/bidiwalas were able to sell their goods.

This was all due to the facility, as was available to them, because of this transfer on consignment basis. This was being done on the basis of General Sales Tax Act of the particular State that was obtaining at the moment. I give you an instance, Mr. Vice-Chairman. Under the General Sales Tax Act, the State of Maharashtra allowed transfer of goods to other States. Accordingly, certain goods were being transferred to the State of Punjab, where they were being sold without payment of the Central Sales Tax. But the State of Punjab did not allow such a facility for their own manufacturers. They could not send their goods to the State of Maharashtra without payment of tax. So these anomalies exist in every State which have created a lot of difficulties.

Another difficulty that was being experienced by people engaged in small scale industrial activity was with regard to the industrial raw materials. Rightly the Government of India wanted and wants that supply of industrial raw materials particularly for the small scale industries should be such that the incidence of duty on that, the sales tax on those goods should be less because other taxes being there, the end product will cost more.' But what was happening there was—and I give you a concrete example—that a particular commodity from West Bengal was being transferred from West Bengal to Amritsar or Ludhiana under the name of consignment transfer without payment of duty. In the local market, because of this policy of the State Government or the Central Government that the industrial raw materials should be available cheaper, that particular commodity was being sold in Amritsar without payment

of duty. I belong to Kashmir. If I have to get the same commodity for my industrial raw material from the State of West Bengal, I had to pay 4 per cent as Central Sales Tax. My competitor in Amritsar would not have to pay that 4 per cent. The total profit is only 1 per cent. How was I to compete with him in such a situation? So I congratulate the Finance Minister that he has come up with this Bill and this is the most appropriate time for it. But I have two observations to make, on which I will speak when the amendments are moved. But the anomalies in these amendments need to be understood. The first anomaly is, it has been stated that the tax is on the consignment of goods where the consignment is to the person making it or to any other person and where such consignment takes place in the course of inter-State trade or commerce. Sir, I have tried to consult all the dictionaries in the Library and find, Mr. Finance Minister, that the words "commerce" and "trade" both include money—that is transaction of money, whether by way of cash payment, of deferred payment, of credit, on BC basis, on DD basis, is included both in "commerce" and "trade". And in the case of consignment of goods, no monetary consideration is taking place, if the particular firm sends the goods to another branch of his, or any other associate of his in that State and if and when sales take place, then alone the goods are sold. So in my amendment, I have tried to find out the meaning of the word "commerce". It is exchange of merchandise, especially on a large scale, between different countries or districts comprising all forms of trade and ancillary services such as banking, insurance and transport.

Similarly, "trade" means business, especially mechanical or mercantile employment (opposite to profession) carried on as a means of livelihood or profit; (2) exchange of commodities for money or other commodities. So, in the case of trade and commerce, both, the money part is

there. If this, I am afraid, Mr. Minister, is going to be struck down by the court in case this case goes to the court with the amendment for which you have come here. My amendment proposes that after the word "commerce" we should add the words "or movement of goods." When the question of movement of goods comes, money is not involved. That is the one point that I would like the Hon. Minister to take into consideration because otherwise it will be impossible for them to do this.

The second and the most important thing is that as in the case of consignment basis, there are unscrupulous elements as the Minister himself has said, but there are certain genuine cases also. In the State of Maharashtra, for instance somebody is manufacturing one thousand fans and he is able to sell only two hundred in the State. He has to send them on consignment basis to other States and there he has to sell them as and when it is possible. Now the question arises, according to the amendment that is brought forward by the Hon. Minister, immediately he sends the goods from the State of Maharashtra to another State, he is liable to pay Central Sales Tax although the sale may take place only after six months, one year or two years. Therefore, for that purpose I have given this amendment:

"Provided that such taxes become chargeable in the course of movement of the goods in the inter-State trade or commerce but are payable by the consignee when the actual sale of the entire consignment or part thereof takes place in the State where the actual sale of the goods has taken place."

So, I would request the Hon. Minister that in order to plug the loopholes because.....

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA) : Please conclude now.

SHRI GHULAM RASOOL MATIO : One minute, Sir. I am sure this amendment in the Constitution is to be operated through the Central Sales Tax Act. I am sure that if these amendments are made in this form or in any other form, he might have to come back again for further amendments to plug the loopholes that have been obtaining there.

With these words I support this Bill along with the amendments that I have proposed. Thank you.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIAV. I find that most of the absentees have returned and, with your approval, I would like to restore them to their original positions. I therefore now call upon Mr. Bhuvnesh Chaturvedi to speak.

SHRI BHUVNESH CHATURVEDI (Rajasthan) : Mr. Vice-Chairman, Sir, I rise to speak in support of the amendment to the Constitution. "It was an anomaly which had crept in by a judgement in the Supreme Court and the Government is wise enough to remove that anomaly and to plug all those loopholes because of which many of the business houses were going to avoid sales tax. We welcome it.

As a matter of fact, this is a very innocent amendment and the House should unanimously accept it. However, when the issue of this Constitution amendment is here, we should also discuss the fundamental issues behind this amendment. The matter is very simple : the distribution of resources between the States and the Centre. Very visibly, the Centre is not large-hearted about the distribution of resources to the States and also in its support to them to stand on their own legs. But, over a period of time the States were dissatisfied that out of the resources raised by the Centre in the States, they were not getting their own share out of them.

Therefore, it is a welcome thing and I think the whole nation and the States are welcoming it.

The second thing is that there has been a national debate on the sales-tax issue. I hope the Government will give a serious thought to it and the heart-burning about the sales-tax will be removed, replacing it by a certain tax or replacing it by certain other formula. Because sales-tax is a major source of revenue for the States and for the Centre, we cannot afford to lose the revenue. Therefore, I hope and earnestly insist that the Centre should be able to get a formula out of it.

The other thing which I wish to submit is about the Centre-States relationship out of this amendment. I wish to submit that our Prime Minister went out of her way to support or to pull out the West Bengal Government by granting a special amount to the West Bengal Government. We appreciate it. I hope our friends that side, those who represent West Bengal, will respond to this treatment, special treatment. I hope the West Bengal Government will appreciate that the policy of the Central Government is not that of discouraging the States. Perhaps out of their fear-psychosis, they overspent their resources, they overspent the amount on non-productive things and, therefore, they were in a difficult economic position. But the Prime Minister, wisely assisted by her Finance Minister came to the rescue of the West Bengal Government and we hope that they will respond in a constructive way, I wish to submit that our State, Rajasthan, was second to West Bengal on the question of overdrafts and therefore, we envy this decision. We also behave like good boys, mobilizing resources on our own. So we hope the Finance Minister will be good enough to come to our rescue when our finances are in trouble, when our national pro-

jects like the Rajasthan Canal are in jeopardy. The Central Government should come to our rescue. On our own, we are raising resources. But without the active sympathetic attitude of the Central Government, we cannot get out of the woods. I hope the Eighth Finance Commission will be able to solve this glaring problem of the States and the Centre. There has always been a heart-burning that the States are not getting their due share. I hope the Central Government will under the terms of the Finance Commission be able to decide this issue once for all. We shall eagerly await the recommendations of the Eighth Finance Commission and we hope that the States will get justice.

Moreover, Sir, I wish to submit one more point before I close. This constitutional amendment will have far reaching consequences. Though it is a very innocent amendment, after execution, it will lead to many other anomalies. We hope the Government will give thought to all these points and adjust these matters.

श्री शिवचन्द्र झा : (बिहार) उप-सभाध्यक्ष महोदय,....

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA) : Do you want to speak in the third reading? Because first your name was given and now another name is given. So I just do not know what is what.

श्री शिवचन्द्र झा : मैं बोल लेता हूँ। उसके बाद वह बोल लेंगे।

उपसभाध्यक्ष : (डा० रफीक जकरीया) देखिये, ऐसे तो नहीं होगा।

You decide.

SHRI MANUBHAI PATEL : (Gujarat! : I have given the names.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA) Mr. Babul Reddy. {Interruptions} It is your Chief Whip who will decide.

श्री शिव चन्द्र झा : यह क्या हुआ ?

उपसभाध्यक्ष : (डा० रफीक जकरीया) अब मैं क्या करूँ। आप थर्ड रीडिंग पर बोलिए।

I had called you. {Interruptions} There is no question of that. Right at the time when I am calling, your Chief Whip sends me another name and he gets precedence over your name. Shri Babul Reddy.

SHRI P. BABUL REDDY (Andhra Pradesh) : Mr. Vice-Chairman, Sir, I as a protagonist for more powers for the States in our federal structure. I broadly welcome this Bill.

Financially today the position of the States is more or less that of the municipalities. Politically the elected Governments in the States are tenants-at-will in the hands of the Central Government. So, the position today is that the States mainly rely, for their resources to carry on the developmental works or to implement the welfare measures, on two sources- one, the sales-tax and the other the State excise duty. Both these taxes are paid by the poor man through his sweat and blood. Today the total collection of the sales-tax in the country by all the States is in the order of Rs. 4,000 crores. In the State of Andhra Pradesh, from which I come, that State collects about Rs. 300 crores by way of the sales-tax and about Rs. 200 crores by way of the excise duty on liquor.

Sir, I will now illustrate how the sales-tax is being levied very exorbitantly on the poor man in the country. Liquor is being purchased

by the Government—the Government has the monopoly in the trade—by paying Rs. 1.20 per litre to the distillery. To make it potable they add one litre of water. So, one litre of liquor becomes two litres. When it is supplied to the poor man, therefore, it works out to 60 nP. On that the State excise duty of Rs. 3.60 nP. is added. It becomes Rs. 4.20 nP. And on that the sales-tax is added. So, the issue price for a litre of liquor is 5.85 nP. By the time it reaches the consumers from the contractors, the contractor has to pay a heavy amount by way of rental. Take, for example, Vishakhapatnam, the contractor, the licensee of arrack shops, pays Rs. 1 crore per month by way of the rental. The result is, what is purchased by the Government at the rate of 60 nP. per liter, reaches the poor man for Rs. 40 per litre. So, he pays through his sweat and blood the sales-tax, the State excise duty, profits for the contractor and profits to the State Government.

Likewise, there is lack of uniformity in the sales-tax. Today the sales-tax is levied at different rates at different points on different items. On some items the first purchaser in the State pays, and on some items the last seller in the State pays the tax. The rates vary from 4 per cent to 33-1/3 per cent. The Hon. Members may know that in Andhra Pradesh the sales-tax is now being levied at 33-1/3 per cent or higher. I will now give an example. A beer bottle manufacturer sells a bottle of beer at Rs. 2/-. On that the excise duty of Rs. 2/- is levied. It becomes Rs. 4/-. On Rs. 4/- the sales-tax at 33-1/3 per cent is levied. So, it comes to about Rs. 5.50 nP. to Rs. 6/-. On that profits are added, and it is being sold at Rs. 8/- or Rs. 10/-.

Why I am saying that is, what originally emerged in 1938 in Rajaji's Government in the Madras State at .5 per cent or 1 per cent,

has now gone up to 33J per cent in some States. Rajaji originally brought this as a substitute. The State Governments were implementing as a policy, the prohibition. So, they were losing revenue at that time, in 1938 about Rs. 16 crores or so the Madras State Government was losing. Then he thought of a substitute, the sales-tax, to make up that loss. Unfortunately, the prohibition was scrapped. But what came as a substitute, the sales-tax, remained to thrive. What was Rs. 16 crores in 1938, now in the State of Andhra Pradesh it is about Rs. 300 crores. But today by virtue of this amendment, we are widening the net for collecting sales tax on transactions which do not really involve purchase or sale. All right, I do not grudge these small powers to the States. But lack of uniformity is creating great trouble. For example, Pondicherry is a Centrally administered area. There is a place called Yanam, a village near Kakinada in Andhra Pradesh, 450 miles away from Pondicherry and coming under Pondicherry. To go from Yanam to Pondicherry, one has to go 300 miles in Andhra Pradesh and 150 miles in Tamil Nadu. In that small village there are 40 wholesale liquor shops. It is not because the people are so thirsty in that village. The *modus operandi* is that they will issue a permit or a sale bill as if it is going from Yanam to Pondicherry. In Pondicherry the excise duty and sales tax are very low. In Andhra Pradesh, Tamil Nadu and Karnataka it is very high. On the strength of this permit, starting from Yanam near Kakinada, it passes through various towns and is unloaded in the States of Tamil Nadu, Andhra Pradesh and Karnataka, and the result is that crores of rupees are lost to the exchequer. So while we are trying to widen the net, we must also be equally careful and zealous to see that there are no loopholes. A conservative estimate in the State of Andhra Pradesh itself—I think it would be applicable to the other

States also—is that if the loopholes are plugged and the tax is honestly collected, another Rs. 330 crores will be the yield by way of sales tax in Andhra Pradesh itself. So before we go to widen the net, it is much better to plug the loopholes first and see to it that an amount of Rs. 300 crores which is now lost to unscrupulous business people, is saved to the Government. And while providing powers to the State Governments, it is also advisable to see that some sort of uniformity is achieved in the levy so that this sort of evasion of tax can be plugged.

Now, coming to the amendment as such, I have got objection to the levy of sales tax on the services rendered. A man goes to a hotel to appease his hunger and he takes food in the hotel. As the Supreme Court has said, it is the bodily need that is satisfied. And you are trying to levy a tax on that. I am saying that it is unethical even from the fiscal point of view to levy a tax on foodstuffs. One reason is that most of the ingredients of the food, be it rice or wheat or dal, sugar or edible oil, have already suffered sales tax. And when they become the ingredients of food, there is no need to tax it once again. The Minister of Finance may say that this is only an enabling provision made by amending the Constitution to enable the States to enact suitable sales tax laws. But I may tell him that the States are so hungry, so eager, that the moment you make a provision, they will clutch at it. Certainly they will not lose any time to raise revenue out of these things. So it is much better if a second thought is given to such provisions like enabling the States to levy a tax on services and on consignments. I thank the Hon'ble Vice-Chairman for the opportunity given to me.

THE VICE-CHAIRMAN (DR. RAFRQ ZAKARIA) : I understand that the speeches of both Shri Babul Reddy and the previous speaker,

Shri Bhuvnesh Chaturvedi were maiden speeches and I would like to congratulate them. Now, Mr. Ramakrishnan.

SHRI R. RAMAKRISHNAN (Tamil Nadu) : Mr. Vice-Chairman, Sir, I thank you for giving me this opportunity. I whole heartedly welcome this Bill which has been brought forward by the Finance Minister to amend the Constitution. As you are aware, there is a little history to the Bill. This Bill has got the complete consent of all the State Chief Ministers and we have actually been insisting that this Bill should be put on the statute-book. Sir, I am proud to say that I come from the State of Tamil Nadu, which was the State of Rajaji who actually brought this sales tax, as my learned colleague was just now saying.

The reasons why he brought the sales tax may not be very relevant here. But we must indeed give a great salute to that great thinker, Rajaji, for sales tax is one of the few instruments in the hands of the State Governments to raise resources and it has come to stay. As one of the famous humourists, Mark Twain, put it, we have got to live with two realities—deaths and taxes. Therefore, sales tax has got to be there. The Constitution of India itself provides that we are federal in character and the Constitution of the Rajya Sabha itself says that we are a Council of States. Why I am coming to this point is I would like to tell the Honourable Finance Minister at this juncture that the views of my State have been made very clear in the past, both in the National Development Council meetings as well as in the Conference of Chief Ministers. One is to welcome this Bill; it helps the States to raise additional resources, to correct some lacuna in the provisions of law which has been made necessary by several judgements of High Courts and the Supreme Court. The other thing is to completely abolish the sales tax

which we are totally opposed to by replacing it by excise duty. I will come to that later. I would like to go step by step. Many Honourable Members have expressed and the Finance Minister himself in his introductory speech has explained why it is necessary, because so many persons are taking advantage of consignment sales and also in the light of the Supreme Court judgments. But here I must in a friendly way caution or warn the Finance Minister that the Indian businessman is very astute enough to find some loophole in this also and his fertile brain will look for something or other which the Finance Ministry, the Government of India, should carefully monitor. Several doubts have been expressed about certain clauses in this Bill, particularly Clause 6 which is only a validating provision. Here I would only like to quote what Plato said that "all laws are imperfect copies of perfect originals and it will be too much to expect a perfect law." I am sure that there are enough safeguards in this Bill itself to see that these things are not invalid. I am here to say something which is rather sensitive on the point of Centre-State relations, because the entire concept of sales tax hinges around the Union and the State finances. Today it may be interesting for you to know that for all State Governments nearly 53% is the sales tax contribution — 53% of the revenues of all State Governments — and 23 % of their aggregate revenues. So, the importance of sales tax- cannot be undermined. And this is where I would very respectfully submit to the Finance Minister that he should go a little slowly with the scheme to replace sales tax by excise duties. Here I would like to quote the Planning Commission itself which has cautioned the Government of India against going fast on this hasty replacement and it has given a very interesting reason for this. The Planning Commission—"has expressed concern over the possible loss of revenue in the event of more commodities

being brought under Central additional excise duty in lieu of the sales tax. It has taken note of the general complaint of the State Governments that the incidence of additional excise duties were rather low and the ratio of the yield from basic and special excise duties to that from additional excise duties was unfair to the States". I would like to compliment the Finance Minister on the one hand, while in the last Budget he imposed additional excise duties to the extent of Rs. 50 to Rs. 60 crores which again goes into the States' share as per the Finance Commission's formula, the excise duty does not give the same elasticity as the sales tax to the State Governments. And in the context of resources mobilisation for the various development programmes or the various welfare schemes undertaken by the State Governments, the Government of India or the Planning Commission want us to raise more and more resources and particularly when we have launched a massive Rs. 100 crore food for children scheme which really resulted in nearly six million children getting food. So, sales tax is an absolute necessity for the State Government.

I would not like to go over the ground already treated by most of my colleagues. Here, I would like to ask the Finance Minister what exactly is the position of Sukhadia Committee which has been replaced by Kamalapati Ripathi Committee. The Committee had been asked to go into certain items which are to be included in the scheme of additional excise duty. The Committee has been given very reasonable amount of time to submit its report and I understand that the report is to be submitted only in June 1983. The Committee has set up an expert panel headed by Mr. Vittal, an I. A. S. Officer who is a Secretary in the Andhra Pradesh Government.

They have cautioned¹ the Committee not to go very fast with the scheme of replacement of sales tax.

Sir, this is a most welcome bill and I would only congratulate the Finance Minister for bringing forward this Bill on this occasion. I have expressed our reservation about sales tax being replaced by additional excise duty or excise duty. I am sure the Finance Minister will keep this in mind. But we are not like the West Bengal Government. We have not gone to the court. We hope that wise counsel will prevail on the Government of India. I once again congratulate the Finance Minister for having brought forward this Bill which I hope will receive unanimous support from all sections of the House.

SHRI MURLIDHAR CHANDRAKANT BHANDARE (Maharashtra): Mr. Vice-Chairman, as an elected representative of the State of Maharashtra, speaking on this Bill in this Council of States, I deem it my privilege and pleasure.....

AN HON. MEMBER : Elected from the whole of India ?

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA) : He said : "Speaking as an elected representative of the State of Maharashtra". It is all right. Please go ahead.

SHRI MURLIDHAR CHANDRAKANT BHANDARE : I am thankful to the Hon. Member for the compliment.

Speaking in this Council of States as an elected representative of the States of Maharashtra, I deem it my pleasure and privilege to welcome this Bill. This is a measure which all Members of this House should welcome and as I see from the tenor of speeches that preceded mine, everybody is welcoming it. This would really plug the loopholes. I will deal with that aspect briefly a little later. It

will increase the revenues of the state under article 269 and also otherwise.

I find there is some poetic justice when this Bill is being moved by the Hon. Finance Minister because I remember the resentment and sharp criticism to his budget when he increased the additional excise duty which also goes to the States. I think this is poetic justice because today is an occasion when the same Members will rise and compliment him for augmenting the coffers of the States even through his budget.

Usually it is said the Constitutional amendments should be very slow. And in fact, as has been observed by Justice John Marshal, Constitution is a superior paramount law, unchangeable by ordinary means. When one is working in marble, it is not wise to doodle or use chisle impulsively.

This is one amendment which could not have waited even a day longer and it has not come a day too soon. In fact as early as in 1958 when the Supreme Court in Gannon Bunkerley's case ruled that works contract would not come under sales tax, steps should have been taken to set right matters. Then again there were other decisions as in the case of New India Sugar Mill which said that compulsory contracts with certain restrictions on sale also need not come under it. I am taking this opportunity to say that the Supreme Court in this case has taken a rather pedantic view. They said that the sale of goods in Entry 54, List 1 of 7th Schedule is *nomesis juris* in the same manner in which it has to be interpreted under Section 4 realising that the world has vastly changed and along with the sale of goods has come in the sale of services in an equally good measure. But what has baffled me are the last three cases which have been referred to in the Objects and Reasons. I will tell you what

happened in 1972 because I was associated with both the cases. The Associated Hotels which is owned by the Oberois challenged the Sales Tax and said that the hotel makes a composite charge both for the residence and for meals and you cannot split it up. The Supreme Court said Yes, yes, you cannot split it up. There is no parting of property and there is no sales tax for sale of food even to a guest staying in a hotel on a composite charge. In 1978, came another case. In this case, the Delhi High Court held to the contrary saying that if you eat in a restaurant, you really go there for the services and not for the food. You go there for the air-conditioned atmosphere. You go there for the soft music which the band plays. Again the Supreme Court said : Yes, yes, this is also a part of service. When you order *pakodas* or *samosas* or a cup of tea, you are really not ordering food. Now what is amazing about this decision is that all Five-Star hotels and big restaurants went out of the net of the sales-tax because it was said that etiquette requires that you cannot pack up and take home when you order a thing. If you went to any of the small hotels and asked for five *pakodas* to be packed, he is selling food to you on which he has to pay sales tax. I have not known such an incongruous decision at all. As regards the plea for a review of that judgment, the stark reality is that most of the people live in villages. They buy food across the counter. They have no time to go and sit and chat and spend hours leisurely in a five-star hotel. I think the Government has done well to plug the loophole.

There are one or two aspects on which I will say something because there is almost a unanimity on this measure and there is nothing to be said. I do feel that Clause 4(d) which talks of a tax on the transfer of rights to use any goods for any purpose in cash or deferred payment or other valuable consideration is

capable of being not correctly interpreted in future by the State. I am aware that this is only an enabling provision and it will enable the States to enact a sale-tax law to take within it all the things which are provided, such as hire-purchase, transfer of goods and so on and so forth. I feel that if we do not at this stage when we are passing this constitutional amendment Bill, invite the attention to the things which should not be done in future, we would not be doing our duty. I think the whole exercise to get out of this restricted technical pit a of *nomen juris*, viz. the sale of goods which are really intended to be business transactions, transaction by way of sale, by way of hire purchase, by way of transfer of goods, though not technically the property, should come under the umbrella of this taxation, I feel that even small things like circulating libraries which lend books to children, particularly, may also come under this. I do hope that the purpose, as shown in the Objects and Reasons is to really get out of the leases of the cinema films and other things. I do hope that the Government, when they operate on this clause, when they make use of this enabling provision, will see that small things like hiring chairs for a function, are not treated as sales. No tax is laid on the sale or purchase of the goods just because you have the right to use them for a short period.

Sir, there is nothing much to be said. This debate should really generate larger issues which have been raised like the abolition of the sales tax. I do not know. But, I think, serious attention is being paid to this question also. But it is a very complex problem because unless we are in a position to substitute those revenues which accrue to the State by way of sales tax, I do not think we can just abolish the sales tax. Unless an alternative machinery is there, unless an alternative remedy is there, I do not think we can think

of really abolishing the sales tax and at the same time we can not even postpone it or making available the various avenues of taxation which have been avoided. There is a difference between avoidance and evasion. Under the Supreme Court rulings what was avoided was the tax. It was not evaded. And when it was avoided, it remains the duty of the exchequer to bring it within the net of taxation. I hope that whenever these provisions are brought into effect, the State Legislatures will see that there is an element of trade, there in an element of business and will see that innocent people are not further taxed.

Lastly, I must also congratulate the Hon. Finance Minister for introducing the retrospective effect because if that had not been done, tax which has been collected from consumers would have been pocketed by the five-star hoteliers and other people. I am glad that the burden is thrown on them to show that even after 1978 they did not collect it. The burden is on them and this is a right step because the tax was paid to be given to our exchequer and that should not be taken away under the garb or under the cover of any judgment. (*Time bell rings*) I have done, Sir.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA) : Now, Mr. Nigam. Which Lok Dal you represent ?

SHRI LADLI MOHAN NIGAM (Madhya Pradesh) : Real Lok Dal.

उपसभाध्यक्ष (डा० रफीक जकरीया) : लोकदल के नीचे आपका नाम था, मैंने कहा कि अपनी मालूमात बढ़ा हूँ।

श्री लाडली मोहन निगम : एक ही लोकदल है जिसमें मैं हूँ।

श्री एन० के० पी० साल्वे : एक ही अगर है तो वह कौन सा है जिसमें आप हैं ?

श्री लाडली मोहन निगम : उपसभाध्यक्ष महोदय, मैं वित्त मंत्री जी का बहुत शुक्रगुजार हूँ जो वे यह संविधान संशोधन इस मामले पर लाये। यह बहुत पहले भी आ सकता था। असल में इसकी मंशा करों की जो चोरी होती रहती है और खासकर किसी एक मद में, वह किसी न किसी तरह से रोकी जानी चाहिए। कुछ हद तक तो मामला बिल्कुल ठीक है लेकिन जैसा श्री मेरे पूर्व वक्ताओं ने कहा है कि कुछ चीजें ऐसी हैं जो ग्राम आदमी को बहुत ज्यादा महसूस होती हैं जिनका उनकी रोजमर्रा की जिंदगी से ताल्लुक है, जिंदा रहने के लिये बहुत आवश्यक है, मतलब रोटी। खैर इस वक्त मुझे इस पर कुछ नहीं कहना है, मैं इतना ही कहना चाहता हूँ कि सपना तो यह होना चाहिए अगर हम प्रजातंत्र के विकेन्द्रीकरण में विश्वास करते हैं, केन्द्र में संसद है और राज्यों में विधान सभायें हैं लेकिन हिन्दुस्तान में प्रजातन्त्र तब मजबूत होगा जब जिला परिषदें खुद-मुस्तार होंगी, ग्राम पंचायतें खुद-मुस्तार होंगी। हमारा यह दृष्टिकोण होना चाहिए कि ये जो स्वायत्त संस्थायें हैं वे सार्वभौम संस्थायें होनी चाहिए ताकि ये संस्थायें पैसों के मामले में परावलम्बी न हों बल्कि स्वावलम्बी हों, तब तो हम सही मायनों में प्रजातन्त्र की ओर जा सकते हैं। खाली वोट का अधिकार प्राप्त करना आजादी नहीं है। वोट के साथ-साथ रोटी भी जुड़ी हुई है। आइन्दा अगर ऐसा हो सके तो बहुत अच्छा है। अगर आप हिन्दुस्तान की सभी राज्य सरकारों को इस बात के लिये तैयार कर सकें और इस तरह से कर लें कि हिन्दुस्तान में रोटी पर टैक्स कहीं लगेगा नहीं तो यह सबसे बड़ी बात होगी। कम से कम रोटी की तो आजादी होनी चाहिए। अगर हमारा मन आजाद हुआ और पेट आज भी गुलाम बना

रहा तो फिर शरीर कुछ बनता नहीं। पेट गुलाम रहे तो कभी मन भी गुलाम बन जाता है। इस वास्ते टैक्सों का ढांचा सुचारु रूप से चलता रहे यह जरूरी है। टैक्स लोगों को देना ही चाहिये लेकिन जहां-जहां चोरी होती है, एक राज्य से दूसरे राज्य में जो मुक्तलिफ टैक्सेज की दरें होती हैं, जिसके जरिये चोरी को प्रोत्साहन मिलता है अभी श्री बाबुल रेड्डी साहब कह रहे थे कि लोग तीन तीन सौ मील जा कर के माल खरीदते हैं क्योंकि किसी जगह टैक्स की दर 7% है तो किसी जगह 15% है इस तरह से टैक्स की चोरी लोग करते हैं। इन सब चीजों को लोग न करें नम्बर दो का काम न करें और देश को जो जायज पैसा है वह मिले, नम्बर-2 में न जाए इसके लिए जरूरी है मैं समझता हूं यह विल इस तरह इशारा करता है और मैं इस विल का पूरी तरह से समर्थन करता हूं लेकिन इतना ही मैं निवेदन करना चाहूंगा प्रगर आप के मंत्रित्व काल के रहते अभी से लेकर अगले बजट सत्र तक हिन्दुस्तान में रोटी भी आप आजाद कर देंगे और रोटी की आजादी के साथ-साथ, हिन्दुस्तान में वोट तो आजाद है ही अगर ऐसा भी कर सकें कि हिन्दुस्तान में कफन बिना टैक्स के मिलने लगे तो बहुत बड़ी बात होगी। मौत कम से कम अमीर गरीब में कोई फर्क नहीं करती क्योंकि कफन तो एक ऐसी चीज है जो हर आदमी को पहनना पड़ता है उसके ऊपर आप कम से कम टैक्स न लगायें। रोटी जो हर आदमी के पेट की गुलामी की प्रतीक है यह हर आदमी को मिले।

उपसभाध्यक्ष (डा० रफीक जकरीया) :
बड़ी दर्द भरी अपील है आपकी।

श्री लाडली मोहन निगम : शुक्रिया
आपका, मैं इतना ही निवेदन करना चाहता हूं।

SHRIMATI USHA MALHOTRA (Himachal Pradesh): Mr. Vice-Chairman, Sir, I rise to support the Bill brought forward as the Forty-Sixth Amendment to the Constitution which has been introduced by our Hon. Finance Minister. Sir, I welcome this amendment which, I think, has come at the right time when it is being lauded by our Hon. colleagues across the floor. There have been loopholes and ambiguities in the existing provisions of the Constitution which are being taken advantage of by unscrupulous traders to evade the levy of sales tax; rather I would say both traders and manufacturers, as my Hon. colleague has just now pointed out. Now, in this case the sufferers are the States because the entire proceeds of sales tax go to the States. At present the States are finding it very difficult to meet the essential and over-increasing demands for funds for their developmental activities which they are to carry out and which is expected of them as their responsibility. The difficulties of the States are evident from the fact that they had heavy amounts of overdrafts which have now been converted into loans. The position demands that the financial resources of the States are improved and the Central Government helps the State Governments to achieve their objectives. Instead of imposing new taxes and increasing the present rate of taxation, it is better to plug the loopholes in the existing tax structure to prevent tax evasion and thus increase the revenue to be collected by the States. The present amendment is a step in the right direction and, therefore, it will and should receive the support of all in this august House. The resources of the State Governments are limited and the scope for further taxation is not very much. The limited resources are being depleted by certain interpretations of several constitutional provisions by courts of law. For instance, the sale of food by hotels and restaurants has been termed as rendering of a service and this puts the States to a loss in revenue. In

a judgment delivered in September 1978, the Supreme Court held that the service of meals whether in a hotel or a restaurant does not come under the purview of the Act, i.e., no sales tax can be levied on the food as it amounts to rendering of a service to the satisfaction of human needs.

3 P.M.

The entire revenue from the sales tax including Central Sales tax levied on the inter-State sale of goods, flows to the States. The State Governments who administer the sales-tax including the Central Sales Tax have been reporting of large-scale avoidance of sales tax through the consignment of goods and also through leakage of local taxation. In view of the present Constitutional provisions that we have, consignment of goods from a principal to an agent, transfer of goods from a head office to a branch office and vice-versa is resorted to in order to avoid the liability under the Central Sales Tax Act. Sale transaction under (b) cannot be regarded as sale as no property is being passed on for a price from one person to another. Hire-purchase agreement is not regarded as sale as no property passes on until option to purchase is exercised and all other terms are also fulfilled. The trading class by its ingenuity are out to evolve new methods of transactions to evade and avoid sales tax. Hence, it has become very essential to plug these loopholes. By giving different pleas, the traders go to the courts of law to challenge the levy of the sales tax, and since the States already suffer by way of depletion of revenues, it is a welcome Bill which I think would be lauded by one and all in this House and all sections of people in the country.

I am happy that by bringing this Constitutional amendment, the Government proposes to bring in within the taxable net such transactions which, although intended originally, were escaping the taxation

net on account of loose definitions of the provisions in the Constitution. The amendment is, therefore, in the interest of the finances of the States. It will ensure that there is no leakage of revenue. The proposed amendment would help in augmenting the resources and revenue of a State. By this Bill, to amend the Constitution of India, the Government proposes to insert new entry 92B in the Union List under the Seventh Schedule to enable levy of tax on consignment of goods where such consignment takes place in course of inter-State trade or commerce; the revenue from such taxes is being assigned to the States by amending article 269. Article 366 of the Constitution is also being proposed to be amended. This is a definition of tax on the sale or purchase of goods. Keeping in view the proposals mentioned or contained in the Act and in this Bill that has been introduced, it is an attempt to rationalise the Constitutional provisions relating to sales tax.

I would congratulate the Finance Minister for having brought in this Bill at a time, I feel, when it is receiving all the appreciation and applause around.

With these words, I conclude and welcome this Bill and support it wholeheartedly.

SHRI SHRIDHAR WASUDEO DHABE (Maharashtra) : Mr. Vice-Chairman, this Bill is partly trying to amend the legislation by amplifying and extending the concept of sale of goods as defined in the Sale of Goods Act.

Power is not given to Parliament to amend the provisions of the law, through this Constitution (Amendment) Bill. If the tax is to be levied retrospectively, then, the relevant provisions of the Act will have to be amended and not the Constitution. Now, this amendment is based on the judgement of the Supreme Court. But I am sorry to say, the draftsmen

have only put the ratio of the decision given in the Supreme Court judgement, in amplifying the definition of sales-tax. The judgement of the Supreme Court is more than twenty years old.

Now, Sir, clause 6 of the Bill does not mention any article of the Constitution. It does not refer to any article of the Constitution or to any entry in the Seventh Schedule. I would like to say that retrospective effect cannot be given through an amendment to the Constitution in this way. I could have understood if a composite Bill had been brought forward, proposing amendments to the Sales-Tax Act as well as amendments to the Constitution. But clause 6 of the Bill says :

"For the purposes of every provision of the Constitution in which the expression 'tax on the sale or purchase of goods' occurs"

It does not mention a single article or provision of the Constitution. I fail to understand how such an amendment, as in clause 6, giving retrospective effect for more than twenty years, can be implemented. It will be difficult to recover tax; it will create more problems and there will be more and more litigation. Therefore, this amendment to the Constitution should have related only to the Constitutional provisions. In regard to the retrospective effect, I would like the Hon. Finance Minister to explain under what provision of the Constitution this has been done. Clause 6 does not say anything. Clause 6 only says :

"For the purposes of every provision of the Constitution in which the expression 'tax on the sale or purchase of goods' occurs...."

SHRI R. RAMAKRISHNAN :
This is an enabling provision.

SHRI SHRIDHAR WASUDEO
PHABE : This cannot be in the

Constitution. This can only be in the legislation. My submission to the House is that, if you want to amend the Constitution, this will not only be a bad precedent, bad in law, but it will also be against the provisions of the Constitution. Hence, I would request the Hon. Minister to consider very seriously whether clause 6 should be a part of the provisions of this Constitution (Amendment) Bill. I do not find any warrant to include clause 6 in this Constitution (Amendment) Bill. Secondly, Sir, I would like to say, if you give retrospective effect for so many years, this is going to work very adversely and it will not be desirable.

Even after this Constitution (Amendment) Bill, trade and business people will, through their ingenuity, try to get out of the provisions. I think, Parliament should enact a new Sales-Tax Act.

Then, Sir, the items which have been added in clause 4 and which form part of an amendment to article 366 of the Constitution, are very vague and they can be used very widely. I would now like to refer to sub-clause (d). This has been mentioned by my colleague, Mr. Advani, also. This refers to paragraph six of the Statement of Objects and Reasons of the Bill which says :

"Device by way of lease of films has also been resulting in avoidance of sales-tax. The main right in regard to a film relates to its exploitation and after exploitation for a certain period of time, in most cases, the film ceases to have any value. It is, therefore, seen that instead of resorting to the outright sale of a film only a lease or transfer of the right to exploitation is made."

This is the reason given for this clause. If you read sub-clause (d), it says :

"A tax on the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration."

Even the MPs will be charged because we hire the furniture. The Government hires furniture for running the offices and for many other purposes. Private persons also take it on rent. The term 'right to use' is so wide that it cannot be restricted to the use by the film industry alone. Therefore, sub-clause (d) will have a very wide import. I do not think the Finance Minister wants to tax everything. Even renting of a cycle by anybody will come within the ambit of sub-clause (d). Sub-clauses (d), (e) and (f) which are used in clause 4 amplify the "tax on the sale or purchase of goods". It is called an inclusive definition. It does not say, "Notwithstanding anything contained in the sale or purchase of goods" under this clause. In spite of these things, the concept of the Sale of Goods Act will stand valid. That is not affected by this amendment. It is not stated in this amending clause 4 th.it it will prevail in spite of the definition given in the Sale of Goods Act. Therefore, they have used this definition probably for the simple reason that they want to give additional power to the States to amend the Sales Tax Act in the light of these observations. But all these sub-clauses (d) to (f) are the ratio of decisions of the Supreme Court from time to time and the office should have taken care to rationalise it and put it in a concise form. What it says is an inclusive definition. The concept of the inclusive definition is that the main clause of definition does not include the following things. Therefore "the term 'tax on the sale or purchase of goods' includes" means the ordinary definition of the Sale of Goods Act and the tax on sale or purchase of goods, and does not include the following things. Therefore, this law or the legislation or

the amendment wants to include by legal fiction the matters mentioned in sub-clauses (a) to (f). Therefore, inclusive definition which is used for inclusion in the Constitution enlarges the definition of the sale of Goods Act by legal fiction. I therefore, my ordinary concept of Sale of goods is very clear, there cannot be any exception even for the purpose of taxation. Taxation power does not mean that it will go beyond the concept of ordinary transaction. Unless transfer of property takes place you cannot say that the sale has taken place. The main ingredient for any sale or transaction is the actual transfer of property. If you want to tax other transactions, right to use and other things, you cannot do it by enlarging the meaning of the sale or transfer of property because that is there. You are taxing without any sale taking place, without any transfer of property taking place. You want to charge even hire for temporary use. If that is the power to be taken, the power to be taken is in a different way and not in this way. It will only give rise to more litigation and many eminent lawyers will have a good number of cases and it will be a lawyer's paradise in High Courts and the Supreme Court. Under sub-clause (e) it is said ;

"a tax on the supply of goods by any unincorporated association or body of persons to a member thereof for cash....."

I do not understand why this amendment is necessary in the Constitution, why it is necessary to say "unincorporated association or body of persons or to a member thereof". This is exactly the wording and phraseology used by the Supreme Court in one decision and it has been taken from there. Sir, constitutional amendment has got very wide repercussions. Unless the wording is clear, is concise, it will give rise to a number of interpretations and in that sense the Sale of Goods Act will include so

many things. It should have been in a concise form, not like this. Then under sub-clause (f) it is said :

"A tax on the supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration."

Such transfer, delivery or supply of goods shall be deemed to be a sale of goods. This is really a concept which is really outside the ordinary concept under the law of the sale of goods. Therefore, unless you change the concept of the sale of goods in the Central legislation on Sales Tax, this will not work. I think the Hon. Finance Minister should have taken care to see that the drafting of clause 4 is made precise and shorter so that it does not give rise to a lot of litigation in this matter.

In this connection, I would like to say that this is an item on which the State Governments are concerned and there is also a demand by the businessmen and traders that rationalisation should take place of the Sales Tax and the taxation machinery. In our country, in the name of increasing the resources and the revenue and income, we get support from all the States. But the main crux of the problem is that the taxation law should be simple, that it should be recoverable. Huge arrears of taxes are not paid by the businessmen and the big houses in this country. But those who are having salaried incomes, those who are employees, those who are Government servants whose income is fixed and determined by some law, they are only required to pay tax. A majority of persons who are making money, who are black-marketeers

and who are evading and not showing their real incomes, are outside the purview of this Act. I therefore, the Sales Tax recoveries are so huge that recoveries cannot be made. Instead of that the ordinary citizen is required to pay more tax and the big businessman gets out of it. This is an anomalous situation which has arisen in our country. If the taxes are recovered, I am certain the Finance Minister will not be required to bring forward additional taxation measures in a big way.

My last submission is that there is a great demand in my State and also everywhere that octroi should be abolished. Octroi is charged on goods entering the municipal limits and is one of the sources of getting money. I here is a demand for the abolition of octroi. I would like to take this opportunity to appeal, through you, Sir, to the Finance Minister that certain steps should be taken to rationalise the tax structure so as to make it recoverable and easily payable by the trading Community.

In the end, though there are certain lacunae in the Bill and I feel that clause 6 is unconstitutional, I support it.

SHRI VITHALRAO MADHAV-
RAO JADHAV (Maharashtra) : Sir, I rise to support and welcome this Bill. However, as I stand to support this Bill, I have got a different angle to look at it. Being a farmer's son, I have gone through this Bill with that angle. In 1930 when Pt. Jawaharlal Nehru had given the resolution on socialism at the All India Congress Committee meeting, he had clearly stated that freedom will not have any meaning unless the economic and social justice is given to the people. So from that point of view I have seen this' Bill. Our hon'ble and intelligent Finance-Minister has removed so many anomalies by this Bill and this is a

most welcome Bill. As a farmer of this country and as a representative of those farmers, I rise to welcome this Bill.

Sales tax is levied by the Union and the States. Entry 54 of the State List in the Seventh Schedule to the Constitution authorises the States to levy tax on the sale or purchase of goods (other than newspaper) within their respective territories. I would like to read an important resolution. On the 16th and 17th September, 1980, in the conference of Chief Ministers, a resolution was adopted recommending inter alia that the Central Government should consider introduction of Constitution (Amendment) Bill on the lines of the lapsed Constitution (49th Amendment) Bill at an early date. It is accordingly proposed through this Bill to amend the Constitution of India to insert a new entry 92B in the Union List in the Seventh Schedule to enable the levy of tax on consignment of goods where such a consignment takes place in the course of interstate trade or commerce. He has given what are the clause*. From that it is quite clear that the State Governments can increase their levy and utilise that money for their development and for the improvement of their Plans. We know that recently our Finance Minister has stated that the State Governments have drawn overdrafts of more than Rs. 1,700 crores and he converted them into loans. The State Governments claim that because they do not have sufficient resources of income, they had to take overdrafts. I think their argument also is just. Now a new era has started for the collection of this levy, to charge these taxes from those people who were avoiding them for the last thirty years.

Sir, I would like to tell you that I have read in one newspaper—I have never gone to any five-star hotel—that a five-star hotel of Delhi

charges Rs. 1,200 per night. On the contrary, the income of a common man in our country is not even Rs. 1,200 per month. There is a lot of evasion. Once a friend of mine took me to the Taj Mahal Hotel for a cup of coffee and the charge was six rupees. I felt he could have given me rather an ordinary cup of coffee. ...*(Interruptions)* In Maharashtra the Government has formulated a Farmers' Wages Act under which a minimum wage of six rupees and a maximum wage of ten rupees are given. That means the whole labour of a farm labourer is consumed in just one cup of coffee. I feel this is a very serious situation. Now the time has come when we must give social justice to all classes and all masses of this country and from that point of view, Sir, the hotel people are earning a lot of profit. They are constructing storeys after storeys and the poor farmers and farm labourers are living in huts. From that point of view, I think, though it is not complete, the process of socialism has been started and I really congratulate our worthy Finance Minister because he has very intelligently put this amendment before the House. Also I would really congratulate most of the Opposition Members -I have got very high regard for them—who also came to co-operate with this Bill.

Sir, the Law Commission has stated in its report :—

"The Union has the power to tax works contracts under the Constitution, Seventh Schedule, Union List, Entry 97."

Again it says :—

"Narrow interpretation and the expression 'sale' was not the practice before the Supreme Court judgments. Entries in the Legislature Lists should receive a broad interpretation. Finances need not be material transactions resemble sale in substance. Hence the power should be given to the States "

On another occasion, about hire purchasing the Commission has stated :—

"If we abolish the dichotomy referred to above in regard to hire purchase, the position would become less complicated as the above difficulties would be avoided"

Sir, here I would tell the Hon. Finance Minister that when we charge sales tax for hire purchases, there are the agricultural people also. Some people purchase on hire, bullock carts. Poor people use cycles which they purchase on hire purchase basis. Then there are some people who purchase tractors on hire purchase bases. Therefore, on such purchases also if they levy this tax, the poor man will be charged more. From that point of view if there are some anomalies, I would request the Hon. Finance Minister to look into this matter and he must help the economically depressed people of this country.

Sir, I am very much thankful to you for giving me this chance to speak on the Constitution Amendment Bill though it is not my subject. I am a man of agriculture and I have given some of my impressions on what all the agriculturists feel about this Bill. With these few words, I fully support this Bill. Thank you, Sir.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA) : The Secretary-General is becoming rather restless and he wants to adhere to the time schedule. If I have to adhere to the time schedule, I cannot call more than two speakers—and there are six speakers. So, all I can do is to request them to be brief. If the time schedule is decided by the Business Advisory Committee of the House and one has to adhere to it. And *therefore*, as I said, I would request the speakers to be as brief as possible. Mr. Suraj Prasad.

श्री सूरज प्रसाद (बिहार) : आप मुझे समय बताइये कितना दिया, उसके मुताबिक बोलूंगा ।

उपसभाध्यक्ष (डा० रफीक जकरीया) : आपके पांच मिनट हैं ।

श्री एन० के० पी० साल्वे : यह किस पार्टी के हैं ?

उपसभाध्यक्ष (डा० रफीक जकरीया) : यह सी० पी० आई० के हैं ।

श्री सूरज प्रसाद : इतनी जल्दी भूल जायेंगे तो कैसे काम चलेगा ।

उपसभाध्यक्ष (डा० रफीक जकरीया) : साल्वे साहब आपने एक मिनट खराब कर दिया ।

श्री सूरज प्रसाद : यह जो संविधान संशोधन बिल है मैं इसका समर्थन करता हूँ । मैं यह समझता हूँ इस बिल को लाकर वित्त मंत्री महोदय ने बहुत अच्छा काम किया है । क्योंकि इसके जरिये राज्यों की आमदनी जो बहुत सीमित रही है उसको बढ़ाने में काफी मदद मिलेगी । बार-बार राज्यों के मुख्य मंत्रियों को केन्द्र के वित्त मंत्री के पास आकर साधन के लिए हाथ पसारने पड़ते हैं । हर वित्त मंत्री लठ लेकर खड़ा रहता है और कहता है कि इस तरह की बातें साधन के बारे में हमारे सामने न किया करो । यह ठीक है कि इस संशोधन के पास हो जाने के बाद भी राज्यों के सामने साधन का प्रश्न ज्यों का त्यों बना रहेगा लेकिन फिर भी मैं समझता हूँ इससे उनकी आमदनी बढ़ेगी । अतः मैं इस बिल का स्वागत करता हूँ । एक तरफ तो इस बिल में राज्यों की आमदनी बढ़ाने का प्रयास किया गया है और दूसरी तरफ इस बात का काफी दिनों से प्रयास है कि सेल्स टैक्स की एक छोट के

रूप में समाप्त कर दिया जाए। 1957 से ही इस दिशा में सरकार की ओर से प्रयास हो रहा है कि सेल्स टैक्स के स्थान पर एडीशनल एक्साइज ड्यूटी लगाने का प्रयास सरकार की तरफ से हुआ। 1957 में मुख्य मंत्रियों की मीटिंग हुई और उस मुख्य मंत्रियों की मीटिंग के दरमियान यह निर्णय हुआ कि कुछ चीजों के ऊपर से ही सेल्स टैक्स को उठा दिया जाए। इस एग्रीमेंट के मुताबिक चीनी, तम्बाकू, सूत, रेयन, आर्टी-फिशियल सिल्क और दूसरी चीजों पर से सेल्स टैक्स उठा दिया गया। इधर त्रिपाठी जी की जो कमेटी बनी हुई है वह कमेटी भी राज्यों से इस बारे में जानकारी ले रही है कि कौन-कौन सी चीजों पर सेल्स टैक्स को उठा दिया जाए। जैसा कि अभी तक हमको जानकारी है कि इन चीजों पर से सेल्स टैक्स उठा कर एडीशनल एक्साइज ड्यूटी जो लगाई गई उससे राज्यों की आमदनी घट गई है। जहां पहले उनको 100 रुपया मिलता था अब वहां उसके स्थान पर 12 या 16 रुपये ही उनको मिलता है। इस तरह से उनकी आमदनी में बड़ी भारी कटौती हुई है। अगर दूसरी चीजों को भी एडीशनल एक्साइज ड्यूटी के दायरे के अन्दर ला दिया जायेगा तो राज्यों की आमदनी बढ़ने के बजाय और घट जायेगी। अभी कुछ देर पहले बी० जे० पी० के नेता ने कांग्रेस (आई) का मनीफेस्टो पढ़ कर सुनाया। उसमें कांग्रेस (आई) की तरफ से इस बात का प्रयास है कि सेल्स टैक्स के स्थान पर कोई दूसरा टैक्स लगा दिया जाए क्योंकि सेल्स टैक्स एक करप्लान का जरिया है। छोटे-छोटे जो व्यापारी हैं, उद्योग करने वाले हैं वे उससे तंग और तबाह होते हैं। इस लिए कोई दूसरी चीज इसके स्थान पर लाई जाय। मैं यह कहना चाहता हूँ कि सेल्स टैक्स राज्यों का

एक ऐसी आमदनी का जरिया है जो लगा-तार बढ़ता हुआ इलास्टिक आमदनी का जरिया है। राज्यों के दूसरे आमदनी के जरिये इनइलास्टिक हैं। ऐसी स्थिति में अगर सेल्स टैक्स के स्थान पर एडीशनल एक्साइज ड्यूटी लगाई जाएगी तो राज्यों की जो आमदनी है उसमें बहुत भारी कटौती हो जायेगी। इसलिए अभी जो इसका दायरा बढ़ाने का प्रयास केन्द्रीय सरकार की तरफ से हो रहा है और त्रिपाठी जी की अध्यक्षता में जो कमेटी बनी है और जो इसका अध्ययन कर रही है, अगर इसके दायरे के अन्दर और चीजें लाई जायेंगी तो अभी सरकार की तरफ से जो प्रयास राज्यों की आमदनी बढ़ाने का किया जा रहा है, उस पर आघात पहुँचेगा। इस लिए हमारी समझ में बात यह है कि सरकार को इस दिशा में एक्साइज ड्यूटी सेल्स टैक्स के स्थान पर लगाने का जो प्रयास है यानी एडीशनल एक्साइज ड्यूटी लगाने का जो प्रयास है उस पर गम्भीरता से विचार करना चाहिए और इसके स्थान पर कोई दूसरी चीज या कोई बैकल्पिक व्यवस्था की जानी चाहिए ताकि राज्यों की आमदनी घटने न पाये। आप जानते हैं कि राज्यों को विकास के लिए काफी पैसे की जरूरत होती है।

दूसरी बात मैं यह कहना चाहता हूँ कि सेल्स टैक्स में विभिन्न राज्यों के बीच में समानता रहनी चाहिए। अगर सेल्स टैक्स में अन्तर होता है तो इसके चलते एक राज्य से दूसरे राज्य के बीच में तस्करी का व्यापार चलने लगता है। मैं तो बिहार राज्य की सीमा पर बसा हुआ हूँ। अगर बिहार राज्य में किसी चीज पर सेल्स टैक्स कम होता है तो यू० पी० से माल आने लगता है और अगर यू० पी० में किसी

चीज पर सेल्स टैक्स होता है तो बिहार से माल वहां जाने लगता है। इस लिए सेल्स टैक्स लगाने समय राज्यों में इस बात को भी ध्यान में रखा जाना चाहिए।

श्री जी० सी० भट्टाचार्य (उत्तर प्रदेश) : आप अपने पास भीड़ इकट्ठा कर रहे हैं... (व्यवधान)

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA) : Mr. Bhattacharya, you are always wrong. I am trying to omit as many speakers from the other side as possible.

श्री जी० सी० भट्टाचार्य : आप जल्दी-जल्दी बॉटिंग करा दीजिए।

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA) : I do not know what is wrong with you. But I am always worried about your blood pressure.

श्री सुरज प्रसाद : दूसरी बात में यह कहना चाहता हूँ कि जो छोटे-छोटे व्यापारी होते हैं उनको सेल्स टैक्स के मामलों में अधिकारी बहुत परेशान करते हैं। इसलिए छोटे-छोटे व्यापारियों को इस परेशानी से बचाने के लिए सेल्स टैक्स की सीमा बढ़ाई जानी चाहिए। इन शब्दों के साथ मैं यह कहना चाहता हूँ कि इस बिल पर बहुत लोग बोल चुके हैं और मैं समझता हूँ कि इस पर अधिक बोलने की खास जरूरत नहीं है। मैं इस बिल का समर्थन करता हूँ।

SHRI SANKAR PRASAD MITRA. (West Bengal) : Mr. Vice-Chairman, Sir, I rise to support this Bill.

Article 269 of our Constitution provides for taxes levied and collected by the Union but assigned to the States. At the moment there are seven items in this list. By this

amending Bill an eighth item is being added, namely, taxes on consignment of goods in course of inter-State trade and commerce.

Our Hon. friend here was casting some doubts on the validity of this clause. He advanced the argument that instead of putting it in this form, the Hon. Finance Minister should have introduced the expression "movement of goods." I may respectfully draw the Hon. Members attention to section 3(a), of the Central Sales Tax Act, 1956. Section 3(a) says:

"A sale or purchase of goods shall be deemed to take place in the course of inter-State trade or commerce if the sale or purchase—

(a) occasions movement of goods from one State or another."

Therefore, Sir, I believe his apprehension ought to met by clause 3(a) of the Central Sales Tax Act.

Sales tax is the primary source of revenue of the States. Some Hon. Members have made suggestions about alternatives. But they have spoken of consensus, consensus amongst the Chief Ministers, consensus among different States. As far as I can see, there is little possibility of such consensus in the near future and as such, sales tax has to remain on the statute-book, both of the States and of the Centre. Any expansion of this source which augments the resources of the States is always welcome. So far as article 286 is concerned, you know, Sir, that the expression "inter-State trade and commerce" was the subject-matter of a well-known litigation. The majority judgment of the Supreme Court in the State of Bombay v. United Motors reported in A.I.R.....

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA) : Try to be

brief. I would not like to disturb you. I am only giving you a little caution.

SHRI SANKAR PRASAD MITRA : I was only trying to meet the legal objections that have been raised by different speakers. If you want me to sit down _____ ...

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA) : No, no. I just want you to be brief.

SHRI SANKAR PRASAD MITRA : I am trying to be as brief as possible. I was only trying to meet the legal points. If you want me to sit down

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA) : No, no. Please proceed.

SHRI SANKAR PRASAD MITRA; The majority view of the Supreme Court in the State of Bombay v. United Motors, A. I. R. 1953, Supreme Court 252, which was the decision of a five-judge bench was reversed by the majority decision of a seven-judge bench of the Supreme Court in Bengal Immunity Company Limited v. State of Bihar, reported in A. I. R. 1955, Supreme Court 661. The result was disastrous. Taxes already levied and collected became invalid and an Ordinance had to be promulgated to validate them. The Ordinance was replaced by an Act and the Act was upheld by the Supreme Court in Sundararamier's case reported in 9 Sales Tax Cases 298, S.C.

Then came the Constitution (6th Amendment) Act, 1956 and new sub-articles (2) and (3) of article 286 were inserted. But that did not solve the difficulty. The Supreme Court has consistently taken a particular view. Mr. Bhaddare has referred to certain decisions of the Supreme Court. But the original decision was of the Federal Court. Sir Maurice Gwyor, Chief Justice, *aid in Province of Madras v.

Boddu Paidama and Sons, A. I. R. 1942, Federal Court 33, at page 35,

"The tax is on sale of goods. It is a tax levied on the occasion of sale of goods."

The Supreme Court, repeatedly upheld this view. The Supreme Court, for instance, said in Sales Tax Officer, Pilibhit v. Budh Prakash A. I. R. 1954, Supreme Court 459, at page 461:

"The power conferred under Entry 48 to impose a tax on sale of goods can, therefore, be exercised only when there is a sale under which there is transfer of property in the goods and not when there is a mere agreement to sell. The State Legislature cannot, by enlarging the definition of "sale" as including forward contracts, arrogate to itself a power which is not conferred upon it by the Constitution Act."

Now, sir, in view of the amendments now proposed in clauses (2, 3 and 4) of this Bill, the concept of 'sale' has been widened to a very great extent and the laws that were declared by the Supreme Court previously would have to be modified in the light of these new amendments. But I must warn the Hon. Finance Minister that although he has made all possible attempts to plug all loopholes and lacunae for evasion of sales tax, human ingenuity, particularly lawyers' ingenuity is inexhaustible and the necessity of further amendments to the Constitution cannot be ruled out.

Mr. Dhabe has raised objection to clause 6 of the Bill. As I read clause 6, it seems to me that provision has been made in clause 6 to validate with retrospective effect taxes already imposed under various legislations already in force consistent with the provisions of this Bill, but declared by law particularly, by law laid down by the Supreme Court to be invalid. This is the

retrospective operation that is being sought to be given by clause 6 of the Bill. This kind of procedure has already been followed by this Parliament with regard to the land reform Bills, by means of Article 31B and the Ninth Schedule to the Constitution.

From all these points of view, it seems that since this is a Bill for augmenting the resources of the States we should welcome it and we should all support it. And I consider it to be a most important amendment to our constitution.

DR. MALCOLM SADISESHIAH (Nominated) : Mr. Vice-Chairman, I rise to offer some comments on the Bill and to put a few questions.

My first comment is with regard to the importance of sales tax as a means of financing the activities of the States. My colleague, Mr. Ramakrishnan, referred to its origin which was in my State, namely Tamil Nadu. But between those days when it originated to offset the loss in alcohol excise duty, and today there is tremendous difference. In Tamil Nadu the alcohol excise today is Rs. 100 crores whereas the sales tax revenue of the State is Rs. 630 crores so that we can no longer go to the days of its origin though it is the main source of State's activities. Mr. Advani also referred to this fact. Today we are dealing with an issue which refers to 60 per cent of the total revenues of the State. The Central sales tax collection amounts to one-fifth of the total. In this evolution of sales tax we have had the Central Sales Tax Act of 1956 which levied taxes on 13 goods and then the Central Sales Tax Act of 1957 on additional excise duty on sugar, tobacco and textile. And it is being considered now and consideration is being given by the Tripathi Committee to levying additional excise duty on five other goods namely vanaspati, drugs and

medicines, cement, paper and paper boards and Petroleum products.

[MR. DEPUTY CHAIRMAN *in the Chair*]

My questions to the honourable Minister are as follows : My first point is that the sales tax does not have the same base as the excise duty. The sales tax is a tax on the value added after the excise duty is paid, that is, after the goods leave the factory, as a result of the value added by the transport to the consuming point, the distributor's value added, the wholesaler's value added and the retailer's value is added and one computation is that something like a sum of Rs. 500 crores is involved in this. Now this question does not directly apply to this Bill. But what has puzzled me is whether the additional excise tax that we are going in for now will touch this base of the sales tax which is different from the base of the excise duty.

My second question to the honourable Minister is whether, in adding to the 7th Schedule of the Constitution and the Union List, item 92 (b), I take it that this would not preclude a future Government from bringing in, under the Central Sales Tax Act, and the restriction under Section 5 of the 1956 Act which you are not doing now, the effect of this addition to the Union List. I take it that the future Government may do it and I must say that this is the main reason why I have a certain amount of nervousness about this Act because it can lead to a reduction in the revenues of the States if this addition to the Union List leads to a Central Sales Tax legislation and the restrictions invalid in the future.

My third question relates to what Mr. Matto has said. If there is really a problem in making the consignments the base for the sales tax, I think there is a difference between

consignment and sales and my question to the Minister is what his reaction is to what Mr. Matto has recommended. It is really when sales take place on consignments which are sent that the tax should be levied.

Then, I come to my fourth question. Mr. Advani also referred to it and that is relating to the amendment to article 286. The word 'use' therein really widens the sales tax provisions beyond, I believe, anything that was envisaged at any time either by the Centre or the States and I think it applies more to the film industry—Mr. Advani referred to the film industry as one of the industries—than anything else. Now, the term 'use' is contained in the amendment to article 286 and it does need some clarification because it really widens the whole area and could be, to some extent, an obstacle to it.

Then, Sir, I come to my last question. I believe, Mr. Deputy Chairman, of all the taxes, sales tax is the easiest tax to be evaded and practically every week I am being offered by my people in Madras with regard to this saying: "If you don't ask for a bill you can have the goods for ten per cent or twenty per cent less. *' I feel that more than anything else, it is this area where the evasion is the easiest and the most and it is this evasion area which is not covered at all by this bill. I regret it very much. I think that this is one of the reasons why there is a request for a model law and I hope very much that the Minister will attend to this request for a model law rather than going in for additional excise taxes and for widening the scope of the sales tax in order to get more revenue. What is really required by the States the Chief Ministers have asked for it—and what we really require is a model sales tax law. Which could introduce a kind of uniformity or regularity in Sales-tax in the 22 States and the

Union Territories without impinging on the powers of the States.

SHRI GHULAM RASOOL MATTO : On a point of explanation. As Justice Mitra has said, I have not said in lieu of trade or commerce..... *{Interruptions}* I have said, "Trade or commerce or movement of goods."

SHRI PRANAB MUKHERJEE : Mr. Deputy Chairman, Sir, at the outset, let me express my gratitude and appreciation to all the Hon. Members who have participated and made their contribution. Sir, I would like to take the opportunity of congratulating two of our colleagues who have made their maiden contribution, Mr. Babul Reddy and Mr. Bhuvnesh Chaturvedi. Though it was their maiden contribution, I would say that it was a very effective contribution. I have no doubt that the House will join me in expressing our appreciation to both these colleagues of ours.

Sir, the Bill has received wide support from every section of the House and the Hon. Members have appreciated the perspective in which this amending Bill has been placed before the House. It is true that we could have brought this Bill a little earlier. In fact in 1979, the same Bill was introduced and the other day I jokingly told the other House that I have made only yonn change in the Bill, that is I have simply replaced the name of my good colleague Mr. Satish Agia-wal by Mr. R. Venkatraman. Beside changing the name of the mover of the Bill, nothing' has been changed. The same Bill was introduced in 1979. But it could not be taken up because the House was dissolved. We have now taken it up. Before that, as has been pointed out by a number of Members, we tried to raise the whole issue of Sales-Tax in the Conference of State Chief Minister on 16th and 17th of September, 1980. As has

been pointed out. we are committed to replace the Sales-Tax by some other method of taxation which will take care of the States' revenue position, on the one hand and at the same time will remove the irritation which is caused to the traders. As our colleagues in the earlier Government faced difficulties, similarly we also faced difficulties to convince our colleagues in the States. I would just like to give one instance as to how the Sales Tax has increased from 1972. In 1972-73, all the States taken together, the quantum of Sales Tax was 965 crores out of a total States' revenue of 1926 crores. In respect of percentage, it is almost 50 per cent. In 1981-82, the budget estimate indicates that from 965 crores, the quantum of Sales Tax has increased to 4205 crores and in terms of percentage it has increased from 50 per cent to 57 per cent. I am just mentioning these instances to impress upon the Hon. Members that the problem is not simple. Unless the States are assured of this large revenue, it is not possible for them to agree to any formulations which would be placed before them. Secondly, I would like to impress upon the State Chief Ministers that we would not only take care of the existing level of revenue, but we will try to see that the projected growth which was at 8 per cent or 9 per cent which the State Governments are projecting in their budgets, will also be taken care of in the excise duty. But, somehow, it was not possible for them to agree to it. And in conclusion it was decided upon that certain items which are of importance from a national economic point of view should be considered by an expert committee. And when they will make recommendations, like on some other items which were decided upon earlier, whether we can replace sales tax by additional excise duty. Presently, the Committee headed by Pandit Kamalapati Tripathi is looking into those items, and we have extended the time for submitting the report of the Committee by 30th

September, and I do hope that it will be possible for us to get their advice.

Secondly, Sir, while making observations some Members have expressed their doubts that as it stands and by expanding the definition, whether the scope of the tax will be widened. Theoretically, Sir, I feel that their contention is correct. But at the same time they will have to take into account that after all these provisions are to be translated into regular legislation by the States, and they are subject to the influence of the people's representatives on the floor of their State Assemblies. Therefore, theoretically it may be possible to impose some atrocious taxes but in practice a Government which is responsible and responsive to the public opinion would not dare to have such a type of atrocious tax proposal. Sir, in regard to certain points which have been mentioned, Hon. Mr. Matto has put in two amendments also. In regard to one amendment, I can suggest to him that this is an enabling provision in the Constitution. This enabling provision is to be followed by follow up legislation. The point which you were trying to emphasise upon is that actually when the sale takes place, after that the sales tax should be realised. It will not come at this stage. It will come at the stage when we are going to formulate the follow up legislation— what would be the mode of transaction, at what point of time tax should be imposed, what should be the rate of tax. Sir, the second doubt which was expressed was whether we can, and in fact, in the front of his amendment, Mr. Matto has suggested that after the word 'commerce' whether we can place the word 'movement' which has been explained by Justice Mitra very correctly. After all, the whole object is to impose duty on the sale, not on the movement of the goods. Therefore, if I accept your contention, then every movement of the goods, inter-State movement, will be subjected to taxes

which is not the intention. On the one hand we want to plug the loop-hole that in the name of consignee transfer, the evasion and avoidance of taxes are taking place. The judgement which has come from the Supreme Court created a situation in which you cannot impose any tax on consignment transfer, on works contract, on hire purchase. And with the modern economy, you have seen that large number of transactions took place through these modalities. And if we say that the State Government should be precluded from imposing taxes on these items, Sir, it would not be fair to the State Governments because their revenues and their resources will be extremely restricted. And when I indicated and when the figures indicate that the quantum of revenue is so large, on the other hand we are asking days in and days out that they will have to mop up the additional resources to augment their Plan size. And their commitments have also increased considerably. Therefore, taking all these factors into account, we find that it would be desirable to widen the area and to remove obstacles which have been created by the judgement of the Supreme Court. Keeping that in view, this piece of legislation has been brought. In regard to the doubt which has been expressed whether we are trying to restrict by having this power at the Parliament to determine the rates.

4-00 P.M.

Sir, it would be necessary. On the one hand, we would not like to reduce the area of taxation so far as the States are concerned. On the other hand, if there are serious distortions, Parliament should have the control to regulate the rate and to determine the areas of restrictions which may be termed as reasonable restrictions from the national economy point of view. That is why we have taken that power in the Amending Bill. Merely by inserting entry

92B in the Union List it is not going to erode the resource base of the States as has been apprehended by Dr. Adiseshiah. That I can assure him. That is the definition. You know 92A in the Union List of the Seventh Schedule is the definition. So, we also wanted to have that on the inter-State transfer and consignee transfer that should come under that. But that does not automatically lead to the conclusion that we are going to erode the revenue base or resource base of the States.

In regard to clause 6, Mr. Dhabe, raised the question whether it was necessary to have it and to incorporate it in the Constitution Amendment Bill. Sir, it is necessary. If we do not incorporate it in the Constitution Amendment Bill itself then it would not be possible to give the legal sanction to the action which has already taken place and this is the normal mode of the legislation. When we are to amend the Constitution as a result of the judgment of the Supreme Court certain action which has taken place as a result of the State laws, we ought to validate that action. It happened when the Constitution Amendment was necessary as a result of the judgment on land reforms. If I understand correctly, it was section 29(2) of the Seventh Amendment of the Constitution in 1956. Therefore, this is the normal way of legislation. It is not the part of the Constitution Amendment itself. But clause 6 is necessary to validate the action. Otherwise, in the Statement of Objects I have explained the situation which will arise. There will be two types of situations. One type of situation will be where the State Government will have to pay huge amounts to the dealers and traders because the duties which they have realised from them, according to the Supreme Court judgment that duty is not levied legally. The second type of situation may come where duties

may have been realised from the consumers but they would not have been deposited with the appropriate authority and the dealers and traders will have some unintended benefit, - which is not the intention of the Supreme Court of the intention of the law-makers. Therefore, if this type of situation happens, to take care of that this validation provision is necessary.

Sir, I would not like to prolong my observations because most of the Members, I should say that almost every Member who has participated in the debate has welcomed the Bill and I do hope that it will receive the support of every one present here. Thank you, Sir.

MR. DEPUTY CHAIRMAN :
The question is :

"That the Bill further to amend the Constitution of India, as passed by the Lok Sabha, be taken into consideration."

The House divided. Mr.

Deputy Chairman :

Ayes 155

Noes ... Nil

AYES 155

Adiseshiah, Dr. Malcolm S.
Adivarekar, Shrimati Sushila Shankar
Advani, Shri Lai K.
Akarte, Shri Jagannath Sitaram
Ali, Shri Syed Rahmat
Allahabadi, Shri Hashim Raza Abidi
Amarjit Kaur, Shrimati
Arif, Shri Mohammed Usman
Bagaitkar, Shri Sadashiv
Banamali Babu, Shri
Barman, Shri Debendra Nath
Basavaraju, Shri M.
Bhamidiputi, Shri Krishna Mohan
Bhandare, Shri Murlidhar Chandrakant

Bhardwaj, Shri Hansraj
Bhatt. Shri Nand Kishore
Bhattacharjee, Shri Nepaldev
Bhim Raj, Shri
Bhuyan, Shri Gaya Chand
Chatterjee, Prof. (Mrs.) Asima
Chatterjee, Shri Nirmal
Chaturvedi, Shri Bhuvnesh
Chavan, Shrimati Premilabai Dajisaheb
Chowdhari, Shri A. S.
Das, Shrimati Monika
Dhabe, Shri Shridhar Wasudeo
Dharm Chander, Shri
D'Souza, Dr. Joseph Leon
Ganesan, Shri V. C.
Ghosh, Shri Arabinda
Ghosh, Shri Dipen
Goswami, Shri Biswa
Handique, Shri Bijoy Krishna
Hanumanthappa, Shri H.
Haq, Shri (Molana) Asrarul
Heerachand, Shri D.
Heptulla, Dr. (Shrimati) Najma
Ibrahim, Shri B.
Jadhav, Shri Vithalrao Madhavrao
Jain. Shri J. K.
Janardhanam, Shri A. P.
Jaswant Singh, Shri
Jha, Shri Shiva Chandra
Joseph, Shri O. J.
Joshi, Shri Jagannathrao
Joshi, Shri Krishna Nand
Joshi, Shrimati Kumudben Manishankar
Kalaniya, Shri Ibrahim
Kaul, Shrimati Krishna
Khan, Shri Khurshed Alam
Khan, Shri Maqsood Ali
Khandelwal, Shri Pyarelal
Khaparde, Shrimati Saroj
Khobragade, Shri B. D.
Krishnan, Shri U. R.

Kureel, Shri Piare Lall Urf Piare Lall Talib Unnavi	Patel, Shri Vithalbhai Motiram
Kushawaha, Shri Ram Naresh	Patil, Shri Dinakarrao Govindrao
Kushnoor, Shri Veershetty Moglappa	Pattanayak, Shri B.C.
Lepcha, Shri Sangdopal	Prajapati, Shri Pravin Kumar
Lokesh Chandra, Dr.	Prasad, Shri K.L.N.
Maddanna, Shri M.	Rafique Alam, Shri
Madni, Shri Asad	Rai, Shri Kalpnath
Mahida, Shri Harisinh Bhagubava	Rajagopal, Shri M.
Makwana, Shri Yogendra	Ramachandran, Shri M.S.
Malviya, Shri Radha'rishan	Ramakrishnan, Shri R.
Malhotra, Shrimati Usha	Ramamurti, Shri P.
Manhar, Shri Bhagatram	Ramesh Babu, Shri S.B.
Master, Shri K. Chathunni	Ram Sewak Chaudhary
Matto, Shri Ghulam Rasool	Rao, Shri B. Ramachandra
Maurya, Shri Buddha Priya	Rao, Shri K.V.R.S. Bala Subba
Mcena, Shri Dhuleshwar	Rao, Shri Rayapati Samba Siva
Mehta, Shri Kishor	Rao, Shri V.C. Kesava
Mistry, Shrimati Roda	Ratan Kumari, Shrimati
Mitra, Shri Sankar Prasad	Rathvakoli, Shri Ramsingbhai Patali- yabhai
Mitra, Shri Santosh	Razi, Shri Syed Sibtey
Mittal, Shri Sat Paul	Reddy, Shri Adinarayana
Mohanan, Shri K.	Reddy, Shri P. Babul
Mohananrangam, Shri R.	Reddy, Shri T. Chandrasekra
Mohanty, Shri Surendra	Roshan Lai, Shri
Mohapatra, Shri Shyam Sundar	Roy, Shri Kalyan
Moopnar, Shri G.K.	Sahaya, Shri Dayanand
Morarka, Shri R.R.	Sahu, Shri Santosh Kumar
Mukherjee, Shrimati Kanak	Salve, Shri N.K.P.
Mukherjee, Shri Pranab	Sankata Prasad Dr.
Muthu, Dr. (Shrimati) Sathiavani	Saring, Shri Leonard Soloman
Naidu, Shri N.P. Chengalraya	Satchidananda, Shri
Naik, Shri G. Swamy	Sen, Shri Sukomal
Nalwa, Shri Hari Singh	Sezhiyan, Shri Era
Narendra Singh, Shri	Shahabuddin, Shri Syed
Nigam, Shri Ladli Mohan	Sharma, Shri A.P.
Panda, Shri Akshay	Shawal, Shri Gulam Mohi-ud-din
Pande, Shri Bishambhar Nath	Sheikh, Shri Ghouse Mohiuddin
Pandey, Shrimati Manorama	Shukla, Shri Keshavprasad
Pandey, Shri Sudhakar	Siddhu, Dr. M.M.S.
Patel, Shri Manubhai	Singh, Shri Bhishma Narain
Patel, Shri Ram Pujam	Singh, Shri Ghan Shyam
Patel, Dr. Shanti G.	Singh, Shri J.K.P.N.
	Singh, Shri Natha

Singh, Shri Ng. Tompok
 Singh, Shrimati Pratibha
 Singh, Dr. Rudra Pratap
 Singh, Shri Vishvajit Prithvijit
 Sukhdeo Prasad, Shri
 Sukul, Shri P.N.
 Sultan, Shrimati Maimoona
 Sultan Singh, Shri
 Suraj Prasad, Shri
 Surjeet, Shri Harkishan Singh
 Swu, Shri Scato
 Tyagi, Shri Shanti
 Verma, Shrikant
 Yadav, Shri Ramanand
 Zakaria, Dr. Rafiq

NOES - Nil

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting'.

MR. DEPUTY CHAIRMAN :
 We shall now take up clause by clause consideration of the Bill.

Clause 2 (Amendment of article 269)

SHRI GHULAM RASOOL MATIO (Jammu & Kashmir): Mr. Deputy Chairman, Sir, I do not want to move the amendments, but I would like to say a few words on them. So far as the first amendment is concerned, I am satisfied with the explanation offered by the Hon. Finance Minister that with regard to the follow-up action when the general Central Sales Tax Act amending Bill will come which will incorporate the provisions of this constitutional amendment, this point will be taken into consideration. About my second amendment I am not little satisfied because as Mr. Mitra also said that sale or purchase which will come into the Central Sales Tax Act is with regard to the movement of goods, but it should

be with regard to the consignment, which will neither be sale nor purchase. I would request the Hon. Minister that while framing the follow-up action with regard to the Central Sales Tax Act this point should also be taken into consideration. With these words, Sir, I do not move the amendments.

MR. DEPUTY CHAIRMAN:
 The question is :

"That clause 2 stand part of the Bill."

The House divided

AYES 159

NOES Nil

AYES 159

Adisesiah, Dr. Malcolm S.
 Adivarekar, Shrimati Sushila Shankar
 Advani, Shri Lai K.
 Akarte, Shri Jagannath Sitaram
 Ali Shri Syed Rahmat
 Allahabad i, Shri Hashim Raza Abidi
 Amajit Kaur, Shrimati
 Arif, Shri Mohammad Usman
 Bagaitkar, Shri Sadashiv
 Banamali Babu, Shri
 Barman, Shri Debendra Nath
 Basavaraju, Shri M.
 Bhabhra, Shri Hari Shankar
 Bhamidipati. Shri Krishna Mohan
 Bhandare, Shri Murlidhar Chandrakant
 Bharadwaj, Shri Ramchandra
 Bhardwaj, Shri Hansraj
 Bhatt, Shri Nand Kishore
 Bhattacharjee, Shri Nepaldev
 Bhim Raj, Shri
 Bhuyan, Shri Gaya Chand
 Chatterjee, Prof. (Mrs.) Asima
 Chatterjee, Shri Nirmal
 ! Chaturvedi, Shri Bhuvnesh

Chavan, Shrimati Premilabai Dajisaheb	Madni, Shri Asad
Chowdhari, Shri A. S.	Mahida, Shri Harisinh Bhagubava
Das, Shrimati Monika	Makwana, Shri. Yogendra
Dharmavir, Shri	Malaviya, Shri Radhakishan
Dharm Chander, Shri	Malhotra, Shrimati Usha
D'Souza, Dr. Joseph Leon	Manhar, Shri Bhagatram
Ganesan, Shri V. C.	Mathur, Shri Jagdish Prasad
Ghosh, Shri Arabinda	Matto, Shri Ghulam Rasool
Ghosh, Shri Dipen	Maurya, Shri Buddha Priya
Goswami, Shri Biswa	Meena, Shri Dhuleshwar
Handique, Shri Bijoy Krishna	Mehta, Shri Kishor
Hanumanthappa, Shri H.	Mistry, Shrimati Roda
Haq, Shri (Molana) Asrarul	Mitra, Shri Sankar Prasad
Heerachand, Shri D.	Mitra, Shri Santosh
Heptulla, Dr, (Shrimati) Najma	Mittal, Shri Sat Paul
Ibrahim, Shri B.	Mody, Shri PiJoo
Jadhav, Shri Vithalrao Madhavrao	Mohanan, Shri K.
Jain, Shri J. K.	Mohananrangam, Shri R.
Janardhanam, Shri A. P.	Mohanty, Shri Surendra
Jaswant Singh, Shri	Mohapatra, Shri Shyam Sundar
Jha Shri Shiva Chandra	Moopanar, Shri G. K. •
Joseph, Shri O. J.	Morarka, Shri R. R.
Josh', Shri Jagannathrao	Mukherjee, Shrimati Kanak
Joshi, Shri Krishna Nand	Mukherjee, Shri Pranab
Joshi, Shrimati Kumudben Manishankar	Muthu, Dr. (Shrimati) Sathiavani
Kalaniya, Shri Ibrahim	Naidu, Shri N. P. Chengalraya
Kaul, Shrimati Krishna	Naik, Shri G. Swamy
Khan, Shri F. M.	Nalwa, Shri Kari Singh
Khan, Shri Khurshed Alam	Narendra Singh, Shri
Khan, Shri Maqsood Ali	Nigam, Shri Ladli Mohan
Khandelwal, Shri Pyarelal	Panda, Shri Akshay
Khaparde; Shrimati Saroj	Pande, Shri Bishambhar Nath
Khobragade, Shri B.D.	Pandey, Shrimati Manorama
Krishnan, Shri U. R.	Pandey, Shri Sudhakar
Kulkarni, Shri A. G.	Patel, Shri Manubhai
Kureel, Shri Piare Lall Urf Piare Lall Talib Unnavi	Patel, Shri Ram Pujan
Kushawaha, Shri Ram Naresh	Patel, Dr, Shanti G.
Kushnoor, Shri Veershetty Moglappa	Patel, Shri Viththalbhai Motiram
Lepcha, Shri Sangdopal	Patil, Shri Dinakarrao Govindrao
Lokesh Chandra, Dr.	Pattanayak, Shri B. C.
Maddanna, Shri M.	Prajapati, Shri Pravin Kumar
	Prasad, Shri K. L. N.
	Rafique Alam, Shri

Rai, Shri Kalpnafh
 Rajagopal, Shri M.
 Ramachandran, Shri M.S.
 Ramakrishnan, Shri R.
 Ramamurti, Shri P.
 Ramesh Babu, Shri S. B.
 Ram Sewak Chaudhary
 Rao, Shri B. Ramachandra
 Rao, Shri K. V. R. S. Bala Subba
 Rao, Shri Rayapati Samba Siva
 Rao, Shri V. C. Kesava
 Ratan Kumari, Shrimati
 Rathvakoli, Shri Ramsingbhai
 Pataliyabhai
 Razi, Shri Syed Sibtey
 Redely, Shri Adinarayana
 Reddy, Shri P. Babul
 Redely, Shri T. Chandrasekara
 Roshan Lai, Shri
 Roy, Shri Kalyan
 Sahaya, Shri Dayanand
 Sahu, Shri Santosh Kumar
 Salve, Shri N. K. P.
 Sankata Prasad, Dr.
 Saring, Shri Leonard Soloman
 Satchidananda, Shri
 Sen, Shri Sukomal
 Sezhiyan, Shri Era
 Shahabuddin, Shri Syed
 Shahedullah, Shri Syed
 Sharma, Shri A.P.
 Shawl, Shri Gulam Mohi-ud-din
 Sheikh, Shri Ghouse Mohiuddin
 Shukla, Shri Keshavprasad
 Siddhu, Dr. M.M.S.
 Singh, Shri Bhishma Narain
 Singh, Shri Ghan Shyam
 Singh, Shri J.K. P.N.
 Singh, Shri Natha
 Singh Shri Ng. Tompok
 Singh, Shrimati Pratibha
 Singh, Dr. Rudra Pratap
 Singh, Shri Vishvajit Prithvijit

Sukhdeo Prasad, Shri
 Sukul, Shri P. N.
 Sultan, Shiimati Maimoona
 Sultan, Singh Shri
 Suraj Prasad, Shri
 Surjeet, Shri Harkishan Singh
 Swu, Shri Scato
 Tyagi, Shri Shanti
 Verma, Shri Shrikant
 Yadav, Shri Ramanand
 Zakaria, Dr. Rafiq

NOES-NIL

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

Clause 2 was added to the Bill.

Clause 3—Amendment of article 286.

MR. DEPUTY CHAIRMAN :
 Now we shall take up clause 3 of Bill. There are no amendments. The question is :

"That clause 3 stand part of the Bill."

The House divided

AYES ... 159

NOES Nil

AYES 159

Adishesiah, Dr. Malcolm S.
 Adivarekar, Shrimati Sushila
 Shankar
 Advani, Shri Lai K. Akarte, Shri
 Jagannath Sitaram Ali, Shri Syed
 Rahmat

Allahabadi, Shri Hashim Raza Abidi
 Amarjit Kaur, Shrimati
 Arif, Shri Mohammed Usman
 Banamali Babu, Shri
 Barman, Shri Debendra Nath
 Basavaraju, Shri M.
 Bhabhra, Shri Hari Shankar
 Bhamidipati, Shri Krishna Mohan
 Bhandare, Shri Murlidhar Chandra-
 kant
 Bharadwaj, Shri Ramchandra
 Bhardwaj, Shri Hansraj
 Bhatt. Shri Nand Kishore
 Bhattacharjee, Shri Nepaldev
 Bhim Raj, Shri
 Bhuyan, Shri Gaya Chand
 Chatterjee, Prof. (Mrs.) Asima
 Chatterjee, Shri Nirmal
 Chaturvedi, Shri Bhuvnesh
 Chavan, Shrimati Premilabai Daji-
 saheb
 Chowdhari, Shri A. S.
 Das, Shrimati Monika
 Dhabe, Shri Shridhar Wasudeo
 Dharmavir, Shri
 Dharm Cbander, Shri
 D'Souza, Dr. Joseph Leon
 Ganesan. Shri V. C.
 Ghosh, Shri Arabinda
 Ghosh, Shri Dipen
 Goswami, Shri Biswa
 Handique, Shri Bijoy Krishna
 Hanumanthappa, Shri H.
 Haq, Shri (Molana) Asrarul
 Heerachand, Shri D.
 Heplulla, Dr. (Shrimati) Najma
 Ibrahim, Shri B.
 Jadhav, Shri Vithalrao Madhavrao
 Jain, Shri J.K.
 Janardhanam, Shri A. P.
 Jaswant Singh, Shri
 Jha, Shri Shiva Chandra
 Joseph, Shri O. J.
 Joshi, Shri Jagannathrao

Joshi, Shri Krishna Nand
 Joshi, Shrimati Kumudben Mani-
 shankar
 Kalaniya, Shri Ibrahim
 Kaul, Shrimati Krishna
 Khan Shri F. M.
 Khan, Shri Khurshed Alam
 Khan, Shri Maqsood Ali
 Khandeiwal, Shri Pyarelal
 Khaparde, Shrimati Saroj
 Khobragade, Shri B. D.
 Krishnan, Shri U. R.
 Kulkarni Shri A. G.
 Kureel, Shri Piare Lall Urf Piare
 Lall Talib Unnavi
 Kushawaha, Shri Ram Naresh
 Kushnoor, Shri Veershetty Moglappa
 Lepcha, Shri Sangdopal
 Lokesh Chandra, Dr.
 Maddanna, Shri M.
 Madni, Shri Asad
 Mahida, Shri Harisinh Bhagubava
 Makwana, Shri Yogendra
 Malaviya, Shri Radhakishan
 Malhotra, Shrimati Usha
 Manhar, Shri Bhagatram
 Matto, Shri Ghulam Rasool
 Maurya, Shri Buddha Priya
 Meena, Shri Dhuleshwar
 Mehta, Shri Kishor
 Mistry, Shrimati Roda
 Mitra, Shri Sankar Prasad
 Mitra, Shri Santosh
 Mittal, Shri Sat Paul
 Mohanan, Shri K.
 Mohanarangam, Shri R.
 Mohanty, Shri Surendra
 Mohapatra, Shri Shyam Sunder
 Moopanan, Shri G. K.
 Morarka, Shri R. R.
 Mukherjee, Shrimati Kanak
 Mukherjee, Shri Pranab
 Muthu, Dr. (Shrimati) Sathiavani

Naidu, Shri N. P. Chengalraya
 Naik, Shri G. Swamy
 Nalwa, Shri Had Singh
 Narendra Singh, Shri
 Nigam, Shri Ladli Mohan
 Panda, Shri Akshay
 Pande, Shri Bishambhar Nath
 Pandey, Shrimati Manorama
 Pandey, Shri Sudhakar
 Patel, Shri Manubhai
 Patel, Shri Ram Pujan
 Patel, Dr. Shanti G.
 Patel, Shri Viththalbhai Motiram
 Patil, Shri Dinakarrao Govindrao
 Pattanayak, Shri B. C.
 Prajapati, Shri Pravin Kumar
 Prasad, Shri K. L. N.
 Rafique Alam, Shri
 Rai, Shri Kalpnath
 Rajagopal, Shri M.
 Ramachandran, Shri M. S.
 Ramakrishnan, Shri R.
 Ramamurti, Shri P.
 Ramesh Babu, Shri S. B.
 Ram Sewak Chaudhary
 Rao, Shri B. Ramachandra
 Rao, Shri K. V. R. S. Bala Subha
 Rao, Shri Rayapati Samba Siva
 Rao, Shri V. C. Kesava
 Ratan Kumari, Shrimati
 Rathvakoli, Shri Ramsingbhai
 Pataliyabhai
 Razi, Shri Syed Sibtey
 Reddy, Shri Adinarayana
 Reddy, Shri P. Babul
 Reddy, Shri T. Chandrasekara
 Roshan Lai, Shri
 Roy, Shri Kalyan
 Sahaya, Shri Dayanand
 Sahu, Shri Santosh Kumar
 Salve, Shri N. K. P.
 Sankata Prasad, Dr.
 Sariag, Shri Leonard Soloman

Samp Singh, Dr.
 Satchidananda, Shri
 Sen, Shri Sukomal
 Sezhiyan, Shri Era
 Shahabuddin, Shri Syed
 Shahedullah, Shri Syed
 Sharma, Shri A. P.
 Shawl, Shri Gulam Mohi-ud-din
 Sheikh, Shri Ghouse Mohiuddin
 Shukla, Shri Keshivprasad
 Siddhu, Dr. M. M. S.
 Singh, Shri Bhishma Narain
 Singh, Shri Ghan Shyam
 Singh, Shri J. K. P. N.
 Singh, Shri Natha
 Singh, Shri Ng. Tompok
 Singh, Shrimati Pratibha
 Singh, Dr. Rudra Pratap
 Singh, Shri Vishvajit Prithvijit
 Sukhdeo Prasad, Shri
 Sukul, Shri P. N.
 Sultan, Shrimati Maimoona
 Sultan Singh, Shri
 Suraj Prasad, Shri
 Surjeet, Shri Harkishan Singh
 Swu, Shri Scato
 Tyagi Shri Shanti
 Verma, Shri Shrikant
 Yadav, Shri Ramanand
 Zakaria Dr. Rafiq

NOES—Nil

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

Clause 3 was added to the Bill.

Clause 4—Amendment to article 3⁵⁶.

MR. DEPUTY CHAIRMAN;
 Now we take up clause 4.

SHRI LAL K. ADVANI : On clause 4, I would like to request the Government once again to consider the implications of sub-section (d) of clause (29A) and to give some reassurance to the House that they will provide for some devices to ensure that it is not misused. This clause says :

"tax on the sale or purchase of goods" includes—

'(d) a tax on the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;'

As several Members of the House have pointed out, even a lending library, because it gives me the use of a book for a fee, becomes susceptible and subject to sales tax. At least the wording of it is so wide that I find myself unable to agree to it. It seems that we, in the process of plugging the loopholes, have created newer loopholes, and virtually opened the flood-gates for abuse.

SHRI SHRIDHAR WASUDEO DHABE: I support the guidelines to be issued by the Ministry.

SHRI PRANAB MUKHERJEE : As I mentioned in my reply to the debate, this wording has to be drafted in consultation with the Law Ministry. I can give you the typical example of the film industry. Films are never being sold. Those are only exploited through lease. Therefore, it was thought, even though use is the primary consideration, what is the consideration? That is why I mentioned that while the States will formulate the legislation, they will take care of certain areas which will not be atrocious. But the legal language, which has been drafted in consultation with the Law

Ministry. I am afraid, we cannot change. What you say is theoretical. That is why I mentioned that theoretically that position may come but in practice it will never come because, after all, this legislation has to be approved by the people's representatives. So, they will have to take care of it. I therefore, let us leave it as that.

SHRI LAL K. ADVANI: At least there should be an assurance of a model law or something like that. After all, in spite of the people's representatives, the Bihar press law is being passed, atrocious laws are being passed.... (*Interruptions*)....!^ would request that clause (d) be put to vote separately.

MR. DEPUTY CHAIRMAN: No, no.

SHRI PRANAB MUKHERJEE ; You cannot have it. There is no amendment to clause (d). Please don't be technical. As this stage you cannot demand that it should be put to vote separately.

MR. DEPUTY CHAIRMAN : The question is :

"That clause 4 stand part of the Bill."

The House divided.

MR. DEPUTY CHAIRMAN:

Ayes	150
Noes	Nil

AYES—150

Adishesiah, Dr. Malcolm S.
Adivarekar, Shrimati Sushila Shankar
Akarte, Shri Jagannath Sitaram Ali,
Shri Syed Rahmat Allahabadi, Shri -
Hashim Raza Abidi Amarjit Kaur,
Shrimati Arif, Shri Mohammed
Usman

Banamali Babu, Shri
 Barman, Shri Debendra Nath
 Basavaraju, Shri M.
 Bhamidipati, Shri Krishna Mohan
 Bhandare, Shri Murlidhar Chandra-
 kant
 Bharadwaj, Shri Ramchandra
 Bhardwaj, Shri Hansraj
 Bhatt, Shri Nand Kishore
 Bhattacharjee, Shri Nepaldev
 Bhim Raj, Shri
 Bhuyan, Shri Gaya Chand
 Chatterjee, Prof. (Mrs.) Asima
 Chatterjee, Shri Nirmal
 Chaturvedi, Shri Bhuvnesh
 Chavan, Shrimati Premilabai
 Dajisaheb
 Chowdhari, Shri A. S.
 Das, Shrimati Monika
 Dharmavir, Shri
 Dharm Chander, Shri
 D'Souza, Dr. Joseph Leon
 Ganesan, Shri V. C.
 Ghosh, Shri Arabinda
 Ghosh, Shri Dipen
 Handique, Shri Bijoy Krishna
 Hanumanthappa, Shri H.
 Haq, Shri (Molana) Asrarul
 Heerachand, Shri D.
 Heptulla, Dr. (Shrimati) Najma
 Ibrahim, Shri B.
 Jadhav, Shri Vithalrao Madhavrao
 Jain, Shri J. K.
 Janardhanam, Shri A. P.
 Jha, Shri Shiva Chandra
 Joseph, Shri O. J.
 Joshi, Shri Krishna Nand
 Joshi, Shrimati Kumudben Mani-
 shankar
 Kalaniya, Shri Ibrahim
 Kaul, Shrimati Krishna
 Khan, Shri F. M.
 Khan, Shri Khurshed A lam

Khan, Shri Maqsood Ali
 Khaparde, Shrimati Saroj
 Khobragade, Shri B. D.
 Krishnan, Shri U. R.
 Kulkarni, Shri A. G.
 Kureel, Shri Piare Lall Urf Piare
 Lall Talib Unnavi
 Kushawaha, Shri Ram Naresh
 Kushnoor, Shri VeershettyMoglappa
 Lepcha, Shri Sangdopal
 Lokesh Chandra, Dr.
 Maddanna, Shri M.
 Madni, Shri Asad
 Mahida, Shri Harisinh Bhagubava
 Makwana, Shri Yogendra
 Malaviya, Shri Radhakishan
 Malhotra, Shrimati Usha
 Manhar, Shri Bhagatram
 Mat(o, Shri Ghulam Rasool
 Maurya, Shri Buddha Priya
 Meena, Shri Dhuleshwar
 Mehta, Shri Kishor
 Mistry, Shrimati Roda
 Mitra, Shri Shankar Prasad
 Mitra, Shri Santosh
 Mittal, Shri Sat Paul
 Mohanan, Shri K.
 Mohanarangam, Shri R.
 Mohanty, Shri Surendra
 Mohapatra, Shri Shyam Sundar
 Moopnar, Shri G. K.
 Morarka, Shri R. R.
 Mukherjee, Shrimati Kanak
 Mukherjee, Shri Pranab
 Muthu, Dr. (Shrimati) Sathiavani
 Naidu, Shri N. P. Chengalraya
 Naik, Shri G. Swamy
 Nalwa, Shri Hari Singh
 Narendra Singh, Shri
 Panda, Shri Akshay
 Pande, Shri Bishambhar Nath
 Pandey, Shrimati Manorama
 Pandey, Shri Sudhakar

Patel, Shri Manubhai
 Patel, Shri Ram Pujan
 Patel, Dr. Shanti G.
 Patel, Shri Viththalbhai Motiram
 Patil, Shri Dinakarrao Govindrao
 Pattanayak, Shri B. C.
 Prajapati, Shri Pravin, Kumar
 Prasad, Shri K. L. N.
 Rafique Alam, Shri
 Rai, Shri Kalpnath
 Rajagopal, Shri M.
 Ramachandram, Shri M. S.
 Ramakrishnan, Shri R.
 Ramamurti, Shri P.
 Ramesh Babu, Shri S. B.
 Ram Sewak Chaudhary
 Rao, Shri B. Ramchandra
 Rao, Shri K.V.R.S. Bala Subba
 Rao, Shri Rayapati Samba Siva
 Rao, Shri V.C. Kesava
 Ratan Kumari, Shrimati
 Rathvakoli, Shri Ramsingbhai
 Pataliyabhai
 Razi, Shri Syed Sibtey
 Reddy, Shri Adinarayana
 Reddy, Shri P. Babul
 Reddy Shri T. Chandrasekara
 Roshan Lall, Shri
 Roy, Shri Kalyan
 Sahaya, Shri Dayanand
 Sahu, Shri Santosh Kumar
 Salve, Shri N.K.P.
 Sankata Prasad, Dr.
 Saring, Shri Leonard Soloman
 Satchidananda, Shri
 Sen, Shri Sukomal
 Shahabuddin, Shri Syed
 Shahedullah, Shri Syed
 Sharma, Shri A.P.
 Shawl, Shri Gulam Mohi-ud-din
 Sheikh, Shri Ghouse Mohiuddin
 Shukla, Shri Keshavprasad
 Siddhu, Dr. M. M. S.
 R'ah, Shri Bhishma Narain

Singh, Shri Ghan Shyam
 Singh, Shri J. K. P. N.
 Singh, Shri Natha
 Singh, Shri Ng. Tompok
 Singh, Shrimati Pratibha
 Singh, Dr. Rudra Pratap
 Singh, Shri Vishvajit Prithvijit
 Sukhdeo Prasad, Shri
 Sukul Shri P.N.
 Sultan Shrimati Maimoona
 Sultan Singh, Shri
 Suraj Prashad, Shri
 Surjeet, Shri Harkishan Singh
 Swu. Shri Scato
 Tyagi, Shri Shanti
 Verma, Shri Shrikant
 Yadav, Shri Ramanand
 Zakaria Dr. Rafiq

NOES—Nil

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting

Clause 4 was added to the Bill.

Clause 5—Amendment of Seventh Schedule.

MR. DEPUTY CHAIRMAN : 1 be question is :

"That clause 5 stand part of the Bill."

The House divided.

MR. DEPUTY CHAIRMAN :

Ayes..... 157

Noes..... Nil

AYES—157

Adivarekar, Shrimati Sushila Shankar
 Advani, Shri Lai K. Akarte, Shri Jagannath
 Sitaram I Ali, Shri Syed Rahmat

Allahabadi, Shri Hashim Raza Abidi	Josh', Shri Jagannathrao
Amarjit Kaur, Shrimati	Joshi, Shri Krishna Nand
Arif, Shri Mohammed Usman	Joshi, Shrimati Kumudben
Banamali Babu, Shri	Manishankar
Barman, Shri Debendra Nath	Kalaniya, Shri Ibrahim
Basavaraju, Shri M.	Kaul, Shrimati Krishna
Bhabhra, Shri Hari Shankar	Khan, Shri F. M.
Bhamidipati, Shri Krishna Mohan	Khan, Shri Khurshed Alam
Bhandare, Shri Murlidhar	Khan, Shri Maqsood AH
Chandrakant	Khandelwal, Shri Pyarela!
Bharadwaj, Shri Ramchandra	Khaparde, Shrimati Saroj
Bhardwaj, Shri Hansraj	Khobragade, Shri B. D.
Bhatt, Shri Nand Kishore	Krishnan, Shri U. R.
iattacharjee, Shri Nepaldev	Kulkarni, Shri A. G.
>>>.Jm Raj, Shri	Kureel, Shri Piare Lall Urf Piare
Bhuyan, Shri Gaya Chand	Lall Talib Unnavi
Chatterjee, Prof. (Mrs.) Asima	Kushawaha, Shri Ram Naresh
Chatterjee, Shri Nirmal	Kushnoor, Shri Veershetty
Chaturvedi, Shri Bhuvnesh	Moglappa
Chavan, Shrimati Premilabai	Lepcha, Shri Sangdopal
Dajisaheb	Lokesh Chandra, Dr.
Chowdhari, Shri A. S.	Maddanna, Shri M.
Das, Shrimati Monika	Madni, Shri Asad
Dhabe, Shri Shridhar Wasudeo	Mahida, Shri Harisinh Bhagubava
Dharmavir, Shri	Makwana, Shri Yogendra
Dharm Chander, Shri	Malaviya, Shri Radhakishan
D'Souza, Dr. Joseph Leon	Malhotra, Shrimati Usha
Ganesan, Shri V. C.	Manhar, Shri Bhagatram
Ghosh, Shri Arabinda	Matto, Shri Ghulam Rasool
Ghosh, Shri Dipen	Maurya, Shri Buddha Priya
Goswami, Shri Biswa	Meena, Shri Dhuleshwar
Handique, Shri Bijoy Krishna	Mehta, Shri Kishor
Hanumanthappa, Shri H.	Mistry, Shrimati Roda
Haq, Shri (Molana) Asrarul	Mitra, Shri Sankar Prasad
Heerachand, Shri D.	Mitra, Shri Santosh
Heptulla, Dr. (Shrimati) Najma	Mittal, Shri Sat Paul
Ibrahim, Shri B.	Mohanan, Shri K.
Jadhav, Shri Vithalrao Madhavrao	Mohananaragam, Shri R.
Jain, Shri J. K.	Mohanty, Shri Surendra
Janardhanam, Shri A. P.	Mohapatra, Shri Shyam Sundar
Jaswant Singh, Shri	Morarka, Shri R. R.
Jha, Shri Shiva Chandra	Mukherjee, Shrimati Kanak
Joseph, Shri O. J.	Mukherjee, Shri Pranab

Muthu, Dr. (Shrimati) Sathiavani
 Naidu, Shri N. P. Ch^Angalraya
 Naik, Shri G. Swamy
 Nalwa, Shri Hari Singh
 Narendra Singh, Shri
 Nigam, Shri Ladli Mohan
 Panda, Shri Akshay
 Pande, Shri Bishambhar Nath
 Pandey, Shrimati Manorama
 Pandey, Shri Sudhakar
 Patel, Shri Manubhai
 Patel, Shri Ram Pujan
 Patel, Dr. Shanti G.
 Patel, Shri Viththalbhai Motiram
 Patil, Shri Dinakarrao Govindrao
 Pattanayak, Shri B.C.
 Prajapati, Shri Pravin Kumar
 Prasad, Shri K .L.N.
 Rafique Alam, Shri
 Rai, Shri Kalpnath
 Rajagopal, ShriM.
 Ramachandram, Shri M.S.
 Ramakrishnan, Shri R.
 Ramamurti Shri P.
 Ramesh Babu, Shri S.B.
 Ram Sewak Chaudhary
 Rao, Shri B. Ramachandra
 Rao, Shri K.Y.R.S. Bala Subha
 Rao, Shri Rayapati Samba Siva
 Rao, Shri V.C. Kesava
 Ratan Kumari, Shrimati
 Rathvakoli, Shri Ramsingbhai
 Pataliyabhai
 Razi, Shvi Syed Sibtey
 . Reddy, Shri Adinarayana
 Reddy, Shri P. Babul
 Reddy, Shri I. Chandrasekara
 Roshan Lai, Shri
 Roy, Shri Kalyan
 Sahaya, Shri Dayanand
 Sahu, Shri Santosh Kumar
 Salve, Shri N.K.P.
 Sankata Pasad, Dr.

Saring, Shri Leonard Soloman
 Satchidananda, Shri
 Sen, Shri Sukomal
 Sezhiyan, Shri Era
 Shahabuddin, Shri Syed
 Shahedullah, Shri Syed
 Sharma, Shri A.P.
 Shawl, Shri Gulam Mohi-ud-din
 Sheikh, Shri Ghouse Mohiuddin
 Shukh, Shri Keshavprasad
 Siddhu, Dr. M.M.S.
 Singh, Shri Bhishma Narain
 Singh, Shri Ghan Shyam
 Singh, Shri J.K.P.N.
 Singh, Shri Natha
 Singh. Shri Ng. Tompok
 Singh, Shrimati Pratibha
 Singh, Dr. Rudra Pratap
 Singh, Shri Vishvajit Prithvijit
 Sukhdeo Prasad, Shri
 Sukul, Shri P.N.
 Sultan, Shrimati Maimoona
 Sultan Singh, Shri
 Suraj Prasad, Shri
 Surjeet/Shri Harkishan Singh
 Swu, Shri Scato
 Tyagi, Shri Shanti
 Verma, Shri Shrikant
 Yadav, Shri Ramanand
 Zakaria, Dr. Rafiq

NOES—Nil

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

Clause 5 was added to the Bill.

Clause 6—Validation and exemption.

MR. DEPUTY CHAIRMAN ; I
put clause 6___

SHRI SHRIDHAR WASUDEO
DHABE : I would like to know
from the Minister what is it that
clause 6 is amending.

AN HON. MEMBER : That has
been explained.

SHRI PRANAB MUKHERJEE :
You were not listening.

-"MR. DEPUTY CHAIRMAN: I
he question is :

"That clause 6 stand part of the
Bill."

The House divided.

MR. DEPUTY CHAIRMAN :
Ayes 158
Noes ... 1

AYES-158

Adishesiah, Dr. Malcolm S.
Adivarekar, Shrimati Sushila Shankar
Advani, Shri Lai K.
Akarte, Shri Jagannath Sitaram
Ali, Shri Syed Rahmat
AUahabadi, Shri Hashim Raza Abidi
Amarjit Kaur, Shrimati
Arif, Shri Mohammed Usman
Banamali Babu, Shri
Barman, Shri Debendra Nath
Basavaraju, Shri M.
Bhabhra, Shri Hari Shankar
Bhamidipati, Shri Krishna Mohan
Bhandare, Shri Murlidhar Chandra-
kant
Bharadwaj, Shri Ramchandra

Bhardwaj, Shri Hansraj
Bhatt, Shri Nand Kishore
Bhattacharjee, Shri Nepaldev
Bhim Raj, Shri
Bhuyan, Shri Gaya Chand
Chatterjee, Prof. (Mrs.) Asima
Chatterjee, Shri Nirmal
Chaturvedi, Shri Bhuvnesh
Chavan, Shrimati Premilabai
Dajisaheb
Chowdhari, Shri A.S.
Das, Shrimati Monika
Dharmavir, Shri
Dharm Chander, Shri
D'Souza Dr. Joseph Leon
Ganesan, Shri V.C.
Ghosh, Shri Arabinda
Ghosh, Shri Dipen
Goswami, Shri Biswa
Handique, Shri Bijoy Krishna
Hanumanthappa, Shri H.
Haq, Shri (Molana) Asrarul
Heerachand, Shri D.
Heptulla, Dr. (Shrimati) Najma
Ibrahim, Shri B.
Jadhav, Shri Vithalrao Madhavrao
Jain, Shri J.K.
Janardhanam, Shri A.P.
Jaswant Singh, Shri
Jha, Shri Shiva Chandra
Joseph, Shri O.J.
Josbi, Shri Jagannathrao •
Joshi, Shri Krishna Nand
Joshi, Shrimati Ku mud ben Mani-
shankar
Kalaniya, Shri Ibrahim
Kaul, Shrimati Krishna
Khan, Shri F.M.
Khan, Shri Khurshed Alam
Khan, Shri Maqsood Ali
Khandelwal, Shri Pyarelal
Khaparde, Shrimati Saroj
Khobragade, Shri B.D.

Krishnan, Shri U.R.
 Kulkarni, Shri A.G.
 Kureel, Shri Piare Lall Urf Piare
 Lall Talib Unnavi
 Kushawaha, Shri Ram Naresh
 Kushnoor, Shri Veershetty Moglappa
 Lepcha, Shri Sangdopal
 Lokesh Chandra, Dr.
 Maddanna, Shri M.
 Madni, Shri Asad
 Mahida, Shri Harisinh Bhaguhava
 Makwana, Shri Yogendra
 Malaviya, Shri Radhakishan
 Malhotra, Shrimati Usha
 Manhar, Shri Bhagatram
 Matto, Shri Ghulam Rasool
 Maurya, Shri Buddha Priya
 Meena, Shri Dhuleshwar
 Mehta, Shri Kishor
 Mistry, Shrimati Roda
 Mitra, Shri Sankar Prasad
 Mitra, Shri Saatosh
 Mittal, Shri Sat Paul
 Mohanan, Shri K.
 Mohanarangam, Shri R.
 Mohanty, Shri Surendra
 Mohapatra, Shri Shyam Sunder
 Moopnar, Shri G. K.
 Morarka, Shri R. R.
 Mukherjee, Shrimati Kanak
 Mukherjee, Shri Pranab
 Muthu, Dr. (Shrimati) Sathiavani
 Naidu, Shri N. P. Chengalraya
 Naik, Shri G. Swamy
 Nalwa, Shri Hari Singh
 Narendra Singh, Shri
 Nigam, Shri Ladli Mohan
 Panda, Shri Akshay
 Pande, Shri Bishambhar Nath
 Pandey, Shrimati Manorama
 Pandey, Shri Sudhakar
 Patel, Shri Manubhai
 Patel, Shri Ram Pujan

Patel, Dr. Shanti G.
 Patel, Shri Vilthalbhai Motiram
 Patil, Shri Dinakarrao Govindrao
 Pattanayak, Shri B. C.
 Prajapati, Shri Pravin Kumar
 Prasad, Shri K. L. N.
 Rafique Alam, Shri
 Raj, Shri Kalpnath
 Rajagopal, Shri M.
 Ramachandran, Shri M. S.
 Ramakrishnan, Shri R.
 Ramamurti, Shri P.
 Ramesh Babu, Shri S. B.
 Ram Sewak Chaudhary
 Rao, Shri B Ramachandra
 Rao, Shri K. V. R. S. Bala Subba
 Rao, Shri Rayapati Samba Siva
 Rao, Shri V.C. Kesava
 Ratan Kumari, Shrimati
 Rathvakoli, Shri Ramsingbhai
 Pataliyabhai
 Razi, Shri Syed Sibtey
 Reddy, Shri Adinarayana
 Reddy, Shri P. Babul
 Reddy, Shri T. Chandrasekara
 Roshati Lai, Shri
 Roy, Shri Kalyan
 Sahaya, Shri Dayanand
 Sahu, Shri Santosh Kumar
 Salve, Shri N. K. P.
 Sankata Prasad, Dr.
 Sating, Shri Leonard Soloman
 Satchidananda, Shri
 Sen, Shri Sukomal
 Sezhiyan, Shri Era
 Shahabuddin, Shri Syed
 Shahedullah, Shri Syed
 Sharma, Shri A. P.
 Shawl, Shri Gulam Mohi-ud-din
 Sheikh, Shri Ghouse Mohiuddin
 i Shukla, Shri Keshavprasad
 Siddhu, Dr. M. M. S.
 i Singh, Shri Bhishma Narain

Singh, Shri Ghan Shyam
 Singh, Shri J. K. P. N.
 Singh, Shri Natha
 Singh, Shri Ng. Tompok
 Singh, Shrimati Pratibha
 Singh, Dr. Rudra Pratap
 Singh, Shri Vishvajit Prithvijit
 Sukhdeo Prasad, Shri
 Sukul, Shri P. N.
 Sultan, Shrimati Maimoona
 Sultan Singh, Shri
 Suraj Prasad, Shri
 Surjeet, Shri Harkishan Singh
 Swu, Shri Scato
 ^*gi, Shri Shanti
 Verma, Shri Shrikant
 Yadav, Shri Ramanand
 Zakaria, Dr. Rafiq

NOES—1

Dhabe, Shri Shridhar Wasudeo

The motion teas carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

Clause 6 was added to the Bill.

Clause 1, the Enacting Formula and the Title.

MR. DEPUTY CHAIRMAN :
 The question is :

"That clause 1, the Enacting Formula and the Title stand part of the Bill."

The House divided

MR: DEPUTY CHAIRMAN :

Ayes 158

Noes Nil

AYES—158

Adiseshiah, Dr. Malcolm S.
 Adivarekar, Shrimati Sushila Shankar
 Advani, Shri Lai K.
 Akarte, Shri Jagannath Sitaram
 Ali, Shri Syed Rahmat
 Allahabadi, Shri Hashim Raza
 Abidi
 Amarjit Kaur, Shrimati
 Arif, Shri Mohammad Usman
 Banamali Babu, Shri
 Barman, Shri Debendra Nath
 Dasavaraju, Shri M.
 Bhabhra, Shri Hari Shankar
 Bhamidipati, Shri Krishna Mohan
 Bhandare, Shri Murlidhar
 Chandrakant
 Bharadwaj, Shri Ramchandra
 Bhardwaj, Shri Hansraj
 Bhatt, Shri Nand Kisbore
 Bhattacharjee, Shri Nepaldev
 Bhim Raj, Shri
 Bhuyan, Shri Gaya Chand
 Chatterjec, Prof. (Mrs.) Asima
 Chatterjee, Shri Nirmal
 Chaturvedi, Shri Bhuvnesh
 Chavan, Shrimati Premilabai
 Dajisaheb
 Chowdhari, Shri A. S.
 Das, Shrimati Monika
 Dhabe, Shri Shridhar Wasudeo
 Dharmavir, Shri
 Dharm Chander, Shri
 D'Souza, Dr. Joseph Leon
 Ganesan, Shri V. C.
 Ghosh, Shri Arabinda
 Ghosh, Shri Dipen
 Goswami, Shri Biswa
 Handique, Shri Bijoy Krishna
 Hanumanthappa, Shri H.
 Haq, Shri (Molana) Asrarul
 Heerachand, Shri D.
 Hcptulla, Dr. (Shrimati) Najma,

Ibrahim, Shri B.
Jadhav, Shri Vithalrao Madhavrao
Jain, Shri J. K.
Janardhanam, Shri A. P.
Jaswant Singh, Shri
Jha, Shri Shiva Chandra
Joseph, Shri O. J.
Joshi, Shri Jagannathrao
Joshi, Shri Krishna Nand
Joshi, Shrimati Kumudben Mani-
shankar
KaJaniya, Shri Ibrahim
Kaul, Shrimati Krishna
Khan, Shri F. M.
Khan, ShriKhurshed Alam
Khan, Shri Maqsood Ali
Khandelwal, Shri Pyarelal
Khaparde, Shrimati Saroj
Khobragade, Shri B. D.
Krishnan, Shri U. R.
Kulkarni, Shri A. G.
Kureel, Shri Piare Lall Urf Piare
Lall Talib Unnavi
Kushawaha, Shri Ram Naresh
Kushnoor, Shri Veershetty Moglappa
Lepcha, Shri Sangdopal
Lokesh Chandra, Dr.
Maddanna, Shri M.
Madni, Shri A sad •
Mahida, Shri Harisinh Bhagubava
Makwana, ShriYogendra
Malaviya, Shri Radhakishan
Malhotra, Shrimati Usha
Manhar, Shri Bhagatram
Matto, Shri Ghulam Rasool
Maurya, Shri Buddha Priya
Meena, Shri Dhuleshwar
Mehta, Shri Kishor
Mistry, Shrimati Roda
Mitra, Shri Sankar Prasad
Mitra, Shri Santosh
Mittal, Shri Sat Paul
Mohnan, Shri K.

Mohananaragam, Shri R.
Mohanty, Shri Surendra
Mohapatra, Shri Shyara Sundar
Moopanaar, Shri G. K.
Morarka, Shri R. R.
Mukherjee, Shrimati Kanak
Mukherjee, Shri Pranab
Muthu Dr. (Shrimati) Sathiavani
Naidu, Shri N. P. Chengalraya
Naik, Shri G. Swamy
Nalwa, Shri Hari Singh
Narendra Singh, Shri
Nigam, Shri Ladli Mohan
Panda, Shri Akshay
Pande, Shri Bishambhar Nath — ,
Pandey, Shrimati Manorama * <
Pandey, Shri Sudhakar
Patel, Shri Manubhai
Patel, Shri Ram Pujan
Patel, Dr. Shanti G.
Patel, Shri Viththalbhai Motiram
Patil, Shri Dinakarrao Govindrao
Pattanayak, Shri D. C.
Prajapati, Shri Pravin Kumar
Prasad, Shri K. L. N.
Rafique Alam, Shri
Rai, Shri Kalpnath
Rajagopal, Shri M.
Ramachandran, Shri M. S.
Ramakrishnan, Shri R.
Ramamurti, Shri P.
Ramesh Babu, Shri S. B.
Ram Sewak Chaudhary
Rao, Shri B. Ramachandra
Rao, Shri K. V. R. S. Bala Subba
Rao, Shri Rayapati Samba Siva
Rao, Shri V. C. Kesava
Ratan Kumari, Shrimati
Rathvakoli, Shri Ramsingbhai
Pataliyabhai
Razi, Shri Syed Sibtey
Reddy, Shri Adinarayana
Reddy. Shri T. Chandrasekara

Roshan Lai, Shri
 Roy, Shri Kalyan
 Sahaya, Shri Dayanand
 Sahu, Shri Santosh Kumar
 Salve, Shri N. K. P.
 Sankata Prasad Dr.
 Saring, Shri Leonard Soloman
 Satchindananda, Shri
 Sen, Shri Sukomal
 Sezhiyan, Shri Era
 Shahabuddin, Shii Syed
 Shahedullah, Shri Syed
 Sharma, Shri A. P.
 Shawl, Shri Gulam Mohi-ud-din
 Sheikh, Shri Ghouse Mohiuddin
 * Shukla, Shii Keshavprasad
 Siddhu, Dr. M. M. S.
 Singh, Shri Bhishma Narain
 Singh, Shri Ghan Shyam
 Singh, Shri J. K. P. N.
 Singh, Shri Natha
 Singh, Shri Ng. Tompok
 Singh, Shrimati Pratibha
 Singh, Dr. Rudra Pratap
 Singh, Shri Vishvajit Prithvijit
 Sukhdeo Prasad, Shri
 Sukul, Shri P. N.
 Sultan, Shrimati Maimoona
 Sultan Singh, Shri
 Suraj Prasad, Shri
 Surjeet, Shri Harkishan Singh
 Swu, Shri Scato
 Tyagi, Shri Shanti
 Verma, Shri Shrikant
 Zakaria, Dr. Rafiq

NOES—Nil

The motion was carried by a majority of the total membership of the House and by a majority of not less than a two-thirds of the Members present and voting.

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

SHRI PRANAB MUKHERJEE :
 Sir, I move :

"That the Bill be passed."

MR. DEPUTY CHAIRMAN :
 The question is :

"That the Bill be passed."

The House divided.

MR. DEPUTY CHAIRMAN :

Ayes 159

Noes Nil

AYES—159

Adishesiah, Dr. Malcolm S.
 Adivarekar, Shrimati Sushila
 Advani, Shri Lai K.
 Akarte, Shri Jagannath Sitaram
 Ali, Shri Syed Rahmat
 Allahabadi, Shri Hashim Raza Abidi
 Amarjit Kaur, Shrimati
 Arif, Shri Mohammed Usman
 Banamali Babu, Shii
 Barman, Shri Debendra Nath
 Basavaraju, Shri M.
 Bhabhra, Shri Had Shankar
 Bhamidipati, Shri Krishna Mohan
 Bhandare, Shri Murlidhar Chandrakant
 Bharadwaj, Shri Ramchandra
 Bhardwaj, Shri Hansraj
 Bhatt, Shri Nand Kishore
 Bhattacharjee, Shri Napaldev
 Bhim Raj, Shri
 Bhuyan, Shri Gaya Chand
 Chatterjee, Ptof. (Mrs.) Asima
 Chatterjee, Shri Nirmal
 Chaturvedi, Shri Bhuvnesh
 Chavan, Shrimati Premilabai Dajisaheb
 Chowdhari, Shri A. S.
 Das, Shrimati Monika
 Dhabe, Shri Shridhar Wasudeo

Dharmavir, Shri
Dharm Chander, Shri
D'Souza, Dr. Joseph Leon
Ganesan, Shri V.C.
Ghosh, Shri Arabinda
Ghosh, Shri Dipen
Goswami, Shri Biswa
Handique, Shri Bijoy Krishna
Hanumanthappa, Shri H.
Haq, Shri (Molana) Asrarul
Heerachand, Shri D.
Heptulla, Dr. (Shrimati) Najma
Ibrahim, Shri B.
Jadhav, Shri Vithalrao Madhavrao
Jain, Shri J. K.
Janardhanarn, Shri A. P.
Jaswant Singh, Shri
Jha, Shri Shiva Chandra
Joseph, Shri O. J.
Joshi, Shri Jagannathrao
Joshi, Shri Krishna Nand
Joshi, Shrimati Kumudben Mani-
shankar
Kalaniya, Shri Ibrahim
Kaul, Shrimati Krishna
Khan, Shri F. M.
Khan, Shri Khurshed Alam
Khan, Shri Maqsood Ali
Khandelwal, Shri Pyarelal
Khaparde, Shrimati Saroj
Khobragade, Shri B. D.
Krishnan, Shri U. R.
Kulkarni, Shri A. G.
Kureel, Shri Piare Lall Urf Piare Lall
Talib Unnavi
Kushawaha, Shri Ram Naresh
Kushnoor, Shri Veershetty Moglappa
Lepcha, Shri Sangdopal
Lokesh Chandra, Dr.
Maddanna, Shri M.
Madni, Shri Asad
Mahida, Shri Harisinh Bhagubava
Makwana, Shri Yogendra
Malaviya, Shri Radhakishan

Malhotra, Shrimati Usha
Manhar, Shri Bhagatram
Matto, Shri Ghulam Rasool
Maurya, Shri Buddha Priya
Meena, Shri Dhuleshwar
Mehta, Shri Kishor
Mistry, Shrimati Roda
Mitra, Shri Sankar Prasad
Mitra, Shri Santosh
Mittal, Shri Sat Paul
Mohanan, Shri K.
Mohanarangam, Shri R.
Mohanty, Shri Surendra
Mohapatra, Shri Shyam Sundar
Moopanar, Shri G.K.
Morarka, Shri R.R.
Mukherjee, Shrimati Kanak
Mukherjee, Shri Pranab
Muthu, Dr. (Shrimati) Sathiavani
Naidu, Shri N.P. Chengalraya
Naik, Shri G. Swamy
Nalwa, Shri Hari Singh
Narendra Singh, Shri
Nigam, Shri Ladli Mohan
Panda, Shri Akshay
Pande, Shri Bishambhar Nath
Pandey, Shrimati Manorama
Pandey, Shri Sudhakar
Patel, Shri Manubhai
Patel, Shri Ram Pujan
Patel, Dr. Shanti G.
Patel, Shri Viththalbhai Motiram
Patil, Shri Dinakarrao Govindrao
Pattanayak, Shri B. C.
Prajapati, Shri Pravin Kumar
Prasad, Shri K. L. N.
Rafique Alam, Shri
Rai, Shri Kalpnath
Rajagopal, Shri M.
Ramachandran, Shri M. S.
Ramakrishnan, Shri R.
Ramamurti, Shri P.
Ramesh Babu, Shri S. B.
Ram Sewak Chaudhary

Rao, Shri B. Ramachandra
Rao, Shri K. V. R. S. Bala Subba
Rao, Shri Rayapati Samba Siva
Rao, Shri V. C. Kesava
Ratan Kumari, Shrimati
R UHVAKOLI, Shri Ramsingbhai Pata-
liyabhai
Razi, Shri Syed Sibtey
Reddy, Shri Adiiiarayana
Reddy, Shri P. Babul
Reddy, Shri T. Chandrasekara
Roshan Lai, Shri
Roy, Shri Kalyan
Sahaya, Shri Dayanand
Sahu, Shri Santosh Kumar
Salve, Shri N K.P.
Sankata Prasad, Dr.
Saring, Shri Leonard Soloman
Satchidananda, Shri
Sen, Shri Sukomal
Sezhiyan, Shri Era
Shahabuddin, Shri Syed
Shahedullah, Shri Syed
Sharma, Shri A. P.
Shawl, Shri Gulam Mohi-ud-din
Sheikh, Shri Ghouse Mohiuddin
Shukla, Shri Keshavprasad
Siddhu, Dr. M.M.S.
Singh, Shri Bhishma Narain
Singh, Shri Ghan Shyam
Singh, Shri J. K. P. N.
Singh, Shri Natha
Singh, Shri Ng. Tompok
Sin.jh, Shrimati Pratibha
Sinjih, Dr. Rudra Pratap
Singh, Shri Vishvajit Prithvijit
Sukfedeo Prasad, Shri
Sukul, Shri P. N.
Sultan, Shrimati Mainioona
Sultan Singh, Shri
Suraj Prasad, Shri
Surjeet, Shri Harkishan Singh
Swu. Shri Scato

Tyagi, Shri Shanti
Verma, Shri Shrikant
Warjri, Shri Alexander
Yadav, Shri Ramanand
Zakaria, Dr. Rafiq

NOES-Nil

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

MR. DEPUY CHAIRMAN :
The Bill is passed by the required majority. We shall now take up the next Bill. M. Laskar.

**THE EAST PUNJAB URBAN
RENT RESTRICTION
(CHANDIGARH AMENDMENT)
BILL 1982**

THE MINISTER OF STATE IN
THE MINISTRY OF HOME AF-
FAIRS (SHRI NIHAR RANJAN
LASKAR) : Sir, I beg to move :

"That the Bill further to amend the East Punjab Urban Rent Restriction Act, 1949, as in force in the Union Territory of Chandigarh, as passed by the Lok Sabha, be taken into consideration."

Sir, under the East Punjab Urban Rent Restriction Act, 1949, as in force in Chandigarh, "shop-cum-flats" are treated as residential buildings. Under the Act "residential building" has been defined to mean a building which is not a non-residential building. "Non-residential" building has been defined to mean a building being used solely u,r the purpose of business or trade. In view of this definition, the shop-cum-flats do not fall within the definition of the expression "non-residential build-ing". As such, where the lease . comprises a shop-cum-flat, the whole premises would be deemed to be a