

into confidence and let us know whether they want to change their industrial policy or not.

SHRI KRISHAN KANT (Har-yana) : Sir, they have raised an issue which is not an issue concerning the States only. It is a national issue. (*Interruptions.*)

MR. DEPUTY CHAIRMAN : A few hon. Members went to the Chairman for mentioning this memorandum and now you cannot make it a discussion.

SHRI KRISHAN KANT : I do not want to make it a discussion...

SHRI A. G. KULKARNI (Maharashtra) : It is a problem for all of us. (*Interruptions.*)

MR. DEPUTY CHAIRMAN : I am not permitting it.

SHRI BHUPESH GUPTA : Let me read it out... (*Interruptions.*)

MR. DEPUTY CHAIRMAN : No, Mr. Bhupesh Gupta, you cannot quote it.

SHRI N. G. GORAY : We want the Parliament to discuss it.

SHRI KRISHAN KANT : Well, if I could not go to the Chairman, I am requesting you to give me one minute.

MR. DEPUTY CHAIRMAN : No, no... (*Interruptions.*) Mr. Bhupesh Gupta, you cannot quote from this memorandum. You went to the Chairman and the Chairman said that you could mention it in the House. He had not permitted it to be laid on the Table of the House.

SHRI BHUPESH GUPTA : All right, let me mention it.

MR. DEPUTY CHAIRMAN : It shall not be permitted to be laid on the Table of the House.

SHRI BHUPESH GUPTA : All right, you should allow me to mention it.

MR. DEPUTY CHAIRMAN : No, no. Yes, Mr. Minister.

THE TAXATION LAWS (AMENDMENT) BILL, 1972

THE MINISTER OF FINANCE (**SHRI Y. B. CHAVAN**) : Sir, I beg to move :—

“That the Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Gift-tax Act, 1958, as passed by the Lok Sabha be taken into consideration.”

Sir, this Bill was introduced in the other House on the 12th August, 1971 and was referred to a Select Committee of that House on the 17th November, 1971. The Report of the Select Committee was presented to the Lok Sabha on the 10th May, 1972. The Select Committee made several modifications in the Bill. These modifications constitute a distinct improvement over the provisions in the Bill as originally introduced. The Bill has been passed by the Lok Sabha without any further modification and is now before this House for consideration. The Bill has aroused considerable interest in the country and I am sure the hon. Members would also have examined its provisions in detail. I will not, therefore, tire the House by going into details but will content myself by briefly explaining the rationale behind the provisions in the Bill and some of its important features.

As hon. Members are aware, the practice of understating the sale price of immovable properties in sale deeds has assumed alarming proportions in recent years. The consideration declared in the sale deed is paid in ‘white’ while the unrecorded part of the consideration, which in many cases

[Y. B. Chavan]

is substantial, is paid in 'black'. Through this device, the vendor is able to avoid his liability towards capital gains tax. He also obtains untaxed funds for financing business or investments outside the books of account or for purposes of lavish personal expenditure. The vendee, apart from avoiding stamp duty, is able to utilise his untaxed income, this converting his 'black' money into 'white'. The understatement of the sale price of immovable properties in sale deeds thus operated as a convenient device for tax evasion. One of the main objects of this Bill is to curb the use of this device for evasion of taxes and circulation of black money.

The Bill seeks to insert a new Chapter XX in the Income-tax Act with a view to empowering the Central Government to acquire any immovable property, including agricultural land, having a fair market value exceeding Rs. 25,000 in cases where the consideration declared in the transfer deed is less than the fair market value of the property. This power will be available only in cases where there is reason to believe that the consideration as agreed to between the parties has not been truly stated in the transfer deed with a view to facilitating tax evasion by the transferor or the transferee. It will, however, not be permissible to initiate proceedings for acquisition of any property unless its fair market value exceeds the declared consideration by more than 15% of such consideration.

The power to initiate proceedings for acquisition will be vested in the Assistant Commissioner of Income-tax who, for this purpose, will be designated as the "competent authority". The proceedings for acquisition will have to be initiated by the "competent authority" before the expiry of a period of six months from the end of the month in which the instrument of

transfer in respect of the property is registered under the Registration Act, 1908. The transferor or the transferee of the property or any person interested in it will be entitled to file objections against the proposed acquisition before the competent authority. If after considering the objections, the competent authority is satisfied that the immovable property in question is of a fair market value exceeding Rs. 25,000; that the fair market value of the property exceeds the consideration declared in the transfer deed by more than 15% of such consideration; and that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with the object of facilitating tax evasion by the transferor or the transferee, the competent authority will have the power to order the acquisition of the property. He will, however, be required to obtain the prior approval of the Commissioner of Income-tax before passing such an order.

Under a special rule of evidence, it is being provided that when the property is transferred for an apparent consideration which is less than its fair market value, it shall be presumed, unless the contrary is proved that the consideration for such transfer as agreed to between the parties has not been truly stated with the object of facilitating tax evasion by the parties. In order to ensure the effective operation of the provisions in the Bill, it is being further provided that the fact that the fair market value of any property exceeds the apparent consideration by more than 25% of such consideration, shall be conclusive proof of the fact that the consideration for the property had not been truly stated in the instrument of transfer. An appeal from the order of acquisition will lie to the Income-tax Appellate Tribunal. While the decision of the Income-tax Appellate Tribunal will be final in regard to questions of fact, the parties concerned will have the right

to file an appeal to the High Court on any question of law arising from the order of the Appellate Tribunal.

The compensation for the property acquired under the Bill will be a sum equal to the consideration stated in the transfer deed *plus* 15% of such consideration. As the amount of compensation payable under the Bill will be less than the compensation which would have been payable if the property had been acquired under the Land Acquisition Act, 1894, it is being specifically provided that the shortfall would be deemed to have been realised by the Central Government as penalty from the transferee for being a party to the transfer which has, as its object, the facilitation of tax evasion by the transferor or the transferee.

Further, no penalty will be levied under the Income-tax Act on the transferee for concealing his income which is utilised by him for paying any amount in excess of the apparent consideration even though such amount may be assessed to tax as his income. Similarly, no penalty will be levied on the transferee under the Wealth-tax Act for concealing any assets which are utilised by him for paying any excess consideration even though such assets may be assessed to Wealth-tax in his hands.

Where any improvements are made to the property between the date of transfer of the property and the date of publication of the notice of acquisition in the Official Gazette, the amount of the compensation will be increased by an appropriate sum to cover such improvements. Conversely if after the transfer of the property to the transferee and before the vesting of the property in the Central Government the property is damaged otherwise than as a result of normal wear and tear, the compensation payable will be reduced by an appropriate amount. In case of dispute

regarding the cost of improvements or the cost of restoring the damaged property to its original condition, the competent authority will have to refer the matter for determination by the Civil Court.

The Bill also contains provisions for improving the existing arrangements for valuation of buildings, lands and other assets for purposes of income-tax, wealth-tax, and gift-tax. It is proposed to augment the administrative set-up of the official valuation machinery and to confer adequate powers on it, as also to bring about better regulation and discipline over non-official valuers.

Finally, in order to discourage *benami* holding of property with a view to tax evasion, the Bill seeks to make a provision in the Income-tax Act debarring a person from enforcing his claim in a court of law to any property held for him *benami* by another person, unless the claimant has disclosed the income from the property in a return of income, or the property itself in a return of net wealth furnished by him. If he has done neither, he may give notice to the Income-tax Officer of his claim to the property, and thereupon the proposed restriction will cease to operate. These provisions will, however, not apply to any suit of a value not exceeding Rs. 2,000 which is to be tried by a Court of Small Causes or other similar courts.

As hon. Members will observe, the main purpose of the Bill is to curb tax evasion. The evil of tax evasion has assumed large and menacing dimensions and I feel that radical measures are needed for its eradication. While I do not claim that this Bill will put an end to tax evasion, I am sure it will constitute a significant step forward in combating this evil. The objects of the Bill are laudable and I am confident that it will receive the unanimous support of the House.

[Shri Y. B. Chavan]

With these observation, Sir, I move.

The question was proposed.

SHRI T. N. SINGH (Uttar Pradesh): Sir, I welcome the objects which the mover has in mind in regard to this Bill. But the question is whether the provisions made in the Bill would meet the situation that has arisen in this country in this context. It is intended to amend the Income-tax Act, the Wealth-tax Act and the Gift-tax Act with a view to preventing transfers at unreasonably low prices which is a mode of transferring black money and evading tax. The Bill also seeks to prevent *benami* transactions. Now Sir, I have gone through the provisions of this Bill and I have a feeling, rather I am confirmed in my feeling that the provisions of this Bill will not serve the purpose which the hon. Minister has in mind. Black money has been created and more black money is coming into circulation not merely because there is some lacuna in the Income-tax Act, there are several other reasons for it. More black money is today being circulated freely and the simple explanation is that we, the political parties, are taking money, black money, for running our elections. It then becomes white money.

This Bill seems to give an impression as if you are going to prevent the circulation of black money. We should not be misled. I feel very strongly about any attempt which is of a hypocritical nature, that is what seems to do a certain thing but really does not achieve the object in view, is more harmful than anything else. My contention is that the benefit of the best legal advice will continue to convert the holders black money into white and these *Benami* transactions which we want to prevent will also continue in one form or another. What about hypothecation? That is not a transfer. Hypothecation can take place at any

price and for any consideration. The enjoyment of the property can be vested in the man to whom it has been hypothecated for a particular consideration. I am not a lawyer, but this likely mode of evading the Bill has occurred to me. There must be several methods by which the provisions of this Bill can be evaded. I am sure the day when the Bill was published, the best legal brains in the country were working to circumvent the provisions of this Bill. This is happening and I am sorry to say that the legal brains at the disposal of the Government are far inferior to the legal brains available to the capitalists. Our law department has many a time erred. I remember very well we were given very firm advice when the Constitution was being amended with regard to the Zamindari Acts which had been held invalid by the courts. They said that the amendment was all right and it would not be questioned. But it was questioned with success. We had to incorporate each State Act as it was passed by various Legislatures in the States in the Schedule to the Constitution. This is what has been happening. I am not convinced that this measure is going to prevent black money coming into circulation or that it is going to prevent evasion of taxes, whether income-tax, gift-tax or wealth-tax. Evasion will go on merrily, take it from me, Mr. Finance Minister, whatever you do. Then, the second thing. . .

SHRI Y. B. CHAVAN : So, nothing is to be done. . .

SHRI T. N. SINGH : Have patience, have patience.

SHRI Y. B. CHAVAN : I have patience.

SHRI T. N. SINGH : I have enormous patience. What I feel is that your administration is rotten to the core. It is dishonest. It is inefficient and it is not reliable at all. As a

member of the ARC—Administrative Reforms Commission—I had occasion to look at close quarters the administrative machinery of the Government of India as well as of the States and I am really pained to admit that the State of administration is really very deplorable.

They will be the implementing agencies of the provisions of this Bill when it becomes an Act. The Valuation Officer can value it as he thinks fit. It will have to be accepted. Many are involved in charges of maladministration, and this administrative machinery that you are depending upon will not honestly implement it. I think Mr. Chavan may be a good physician for financial ailments but the point is, has he really diagnosed the disease correctly?

SHRI BHUPESH GUPTA (West Bengal) : Good physician for what?

SHRI T. N. SINGH : For financial ailments.

SHRI BHUPESH GUPTA : But the patient is dying.

SHRI T. N. SINGH : That is the unfortunate part of it. This is the position. Our administration is incapable of functioning honestly and efficiently.

SHRI BHUPESH GUPTA : Mr. Chavan claims to be a good physician for financial ailments, Mr. Ganesh is regarded as a good house surgeon. Mrs. Rohatgi is a good nurse, but the patient is dying all the same.

SHRI T. N. SINGH : Anyway I think the Government does not need your assistance for putting out an explanation or defence of the criticism that I may make. Even if you assume that they have got certain incapacities at present which compel them to allow these irregularities or inefficiencies to continue, that does not help the poor people, the masses and the country. I have been amazed at the manner in which black money is multiplying. We

have been trying to remedy it for long. The interim report which suggested demonetisation of currency notes has been suppressed by the Government. I want to know whether Government is really serious about suppressing black money. If it is serious, at least the interim report of the Wanchoo Committee should have seen the light of day. Give us an opportunity to apply our mind. Why should you come to a judgment on the recommendations of the interim report yourself, unilaterally and not permit expression of other political opinion?

SHRI BHUPESH GUPTA : The report has seen the light of day in the same way as money entered the election fund.

SHRI T. N. SINGH : That may be . . .

SHRI MAHAVIR TYAGI (Uttar Pradesh) : Does the report mention about election fund?

SHRI T. N. SINGH : That may be the enterprise of certain individuals outside the Government.

SHRI BHUPESH GUPTA : It is not officially submitted by the Government.

SHRI T. N. SINGH : That is what I was saying, that Government has not seen it proper to take us into confidence. Someone else may have got a copy of the report surreptitiously and published it, that is a different matter altogether. I should not be deflected from my charge by these interlocutions : the fact remains that the Government has suppressed it, and that must be condemned ; I expect you to support me in this demand and not deflect us from the main criticism.

I suggest that you have to take many more drastic measures. This Bill is a fleabite. This will not affect the position regarding black money and tax evasion. The main change that is being made, that is amendment to section 281, new section 281A, seeks to curb the

[Shri T. N. Singh]

widespread practice of *benami* holding of shares and property with a view to tax evasion by debarring the owner from enforcing his claim to such property in a court of law unless he has declared the income from such property, has disclosed such property in the return under the Wealth-tax Act, and has given notice of claim in respect of the property to the income-tax authority. And this is intended to be achieved by the new section 281-A. I was saying that according to me the *benami* transactions will continue despite this amendment. They are not going to be affected. This is quite inadequate for the purpose.

SHRI MAHAVIR TYAGI : It might be helpful in the sense that the person in whose name the *benami* transaction is registered, if he claims it as his property, the real owner could not come in the way.

SHRI T. N. SINGH : But it helps up to a point only. I agree. But *benami* transactions are taking place and will take place.

SHRI BHUPESH GUPTA : Why are they permitted?

SHRI T. N. SINGH : That is the point. Even now, *benami* transactions are not debarred by law. A very drastic remedy is needed. That is the point that I am making. Merely saying that he will suffer in a certain way and that the amendment will be discouraging the *benami* transactions is not enough. All *benami* transactions should be debarred under the law. And I want to know why it has not been done. Why do you want to encourage *benami* transactions indirectly by a supposed penalty or by saying that the party may suffer because he has done that. Why not debar it completely. We have been witnessing—the forward contracts continuing despite the law. The laws

do not help us. When the Forward Contracts Bill was brought forward for enactment, we thought that it was going to prevent forward contract. Nothing of that sort has happened; nothing of the sort is going to happen hereafter in regard to this Bill also. You may not agree with me and I am sure while replying, you will not agree with me. You will say that this is the advice of such and such a legal luminary or that the point or the suspicion raised is not *bona fide* and that the Member is prone to suspicions.

SHRI MAHAVIR TYAGI : That will be an efficient remark.

SHRI T. N. SINGH : I want to say that for privately, he might talk differently. That I concede. I am sure he will trot out such arguments here. I want an end for this thing. I believe myself to be one of those who want socialism to come into this country. I want these inequalities to go. But I also want one thing more. Whereas 'Garibi hatao' maybe a good slogan—it has worked well—what about 'Amiri hatao'? Why do we allow all kinds of perquisites and other things—all this luxury? Why not 'Amiri Hatao' first. Under the income-tax law various perquisites are permitted. I was once a Minister, you are a Minister—a long-duration Minister. But we were enjoying perquisites which were free from income-tax. There are several benefits which are exempted under the existing law. They permit evasion of tax. Entertainments are given on a large-scale and the companies escape tax. And who attend these entertainments? I say, the members on the Treasury Benches attend these entertainments which are exempted from income-tax. Thousands of crores are spent all over the country. So, if we really want socialism, we have to be more direct, more purposeful in whatever laws we enact or amendments we make. My regret is that we go on tinkering with the laws not to much purpose and not

because we think they are going to solve the problem. These amendments will not lead you to the goal which you have in mind.

1 P.M.

MR. DEPUTY CHAIRMAN : Mr. Singh, how much time will you take ?

SHRI T. N. SINGH : I will not take more than two minutes. I do not want to take the time of the House unnecessarily. I think this Bill will need to be drastically amended. I do not know what to do at this stage. This has come from the lower House. We cannot do anything here. The Government will resist all attempts at any change here because it will delay the Bill. That will be used as an argument. But to delay what Bill ? We are going to delay a Bill which will not serve the purpose which we have in mind. That is what I am saying. Therefore, I would like the Government to apply its mind a second time. All such measures have to be a little more drastic and unless you give up this air-conditioned thinking, real socialism will not come, I can tell you.

Sir, I would not take up any more time of the House and I conclude.

MR. DEPUTY CHAIRMAN : The House stands adjourned till 2.00 P.M.

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

The House reassembled after lunch at half-past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

SHRI A. G. KULKARNI (Maharashtra) : Sir, I rise to support this Taxation Laws (Amendment) Bill, 1972 which has been moved by the Minister of Finance. We are all aware about the scourge of black money, particularly its dangerous effects in making the life of

the community unbearable and raising inflationary tendencies which become ultimately unbearable and disturb the national economy. The Wanchoo Committee has lately given certain suggestions. Based on these recommendations the Government has brought forward this Bill, particularly with a view to plugging the loopholes of *benami* transactions in properties in urban areas.

I do not ascribe to the Government any intention of not plugging the loopholes but the point is that the measures indicated here are totally inadequate. The gamut of the black money prevailing in the Indian economy has reached a fantastic stage. Leaving aside whether the extent of black money is Rs. 7,000 crores or Rs. 13,000 crores since I do not want to go into the statistical aspect, the point we must address ourselves to is what is the solution for all this. What we, the Members of Parliament, should suggest is how the black money sources get dried up whereby the real production targets commensurate with the investments will be achieved in the shortest period. Sir, am I having 15 minutes?

MR. DEPUTY CHAIRMAN : No. Ten minutes.

SHRI A. G. KULKARNI : Nothing can be said in ten minutes.

MR. DEPUTY CHAIRMAN : We have got 2½ hours and there are 12 speakers.

SHRI A. G. KULKARNI : I will take another 15 minutes. According to the estimate made by certain economists out of every ten rupees in circulation, Re. 1 goes into the black market. That is, out of every ten rupees generated, rupee one is black money. Therefore, the application of controls at the various stages has to be encouraged practically and ruthlessly implemented, otherwise this type of activities will accelerate itself. And it is not in buildings only, as the Government has stated; it

[Shri A. G. Kulkarni]

is in raw materials and industrial commodities also, e.g. steel. What is the fantastic price for steel in the black-market? It is double, sometimes it is treble, but the minimum is $1\frac{1}{2}$ times what you call the second column rate. Some time back we were discussing about the fantastic profits of the STC in stainless steel. The imported stainless steel is round about Rs. 16,000 while it is sold at Rs. 40,000 at the distribution stage, leave aside its price in the black-market. So these speculative items like groundnut oil or sensitive items like sugar are being funded by black money at certain stages. Therefore, the Government has to be very vigilant and steps to unearth transactions of this type should be taken.

Sir, another way is income-tax avoidance. We were told that Prof. Kaldor had made certain observations on the income-tax system and now the Wanchoo Committee has also given a report. I have read—I do not know whether it was said by Kaldor or by some other authority—that about Rs. 800 to Rs. 1,000 crores of income-tax is avoided per year legally or illegally. The whole set-up, the bureaucratic set-up, is such that income-tax to the tune of Rs. 1,000 crores is avoided and the bureaucracy abets this crime. We know that there are only about 1,500 to 1,700 families who are defaulters in income-tax or wealth-tax or whatever it is. Their names are there. So, what I am suggesting is that the whole machinery should be re-fashioned and the tax-dodgers or the black-marketeers must be socially boycotted, and we must not treat them with any leniency whatsoever.

In this connection, Sir, I want to mention here two or three items particularly about black money, and this is apart from buildings. Here I have got a memorandum sent by a journalist from Bombay and some trade union

leaders to the Government of India on the house of Kapadias. Sir, the house of Kapadias have fraudulently, with a meagre capital of Rs. 10 to Rs. 15 lakhs, acquired assets worth about Rs. 50 crores. How could they do it? This memorandum to the Government was given in 1971. I myself put a question to the Company Law Department last year regarding the Kapadia house which had fraudulently acquired so much interest in National Rayon, Killick Industries and a host of other industries—I have the list, but for want of time, I cannot give the names of those industries. There are about 17 industries, and with a capital of Rs. 16 lakhs, they have acquired assets worth Rs. 51 crores. And it is not only one type of business that they are doing. It is stated—and I want to draw the attention of the Minister to this—that they have purchased a land in Wapi where their own aircraft come from Dubai and smuggling of silver and gold is taking place, under the very nose of the Government officers.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI K. R. GANESH): What is that place?

SHRI A. G. KULKARNI: Wapi—between Bombay and Surat there is a place called Wapi. Mr. Ganesh, this memorandum is with the Government. This is what surprises me. This was given on September 14, 1971. Now we are almost in September, 1972, and no worthwhile action has been taken so far. From the same Kapadias, the annual report of the Kohinoor Mills shows that in 1970, when Kapadia was controlling, the mills made a profit of Rs. 68.90 lakhs. And today, since Kapadia took over in 1971, they have made a profit of Rs. 27,000 only. And the auditors say that the valuation of all the goods has been overvalued to show at least this profit of Rs. 27,000. This is the stage where the industrial house is going. And you are now trying to meet this problem by bringing this Income-Tax Amendment Bill. It is only going

to touch the fringe of the problem. We know instances where palaces are sold or bought with balckmoney. I do not want to take the names of those persons here. In Bombay I know a palace—the Gwalior Palace—has been sold for Rs. 60 lakhs and the amount might have been shown as Rs. 8 or Rs. 9 lakhs. What have you done about this? What have you done for making structural changes? The Government comes with this type of measure. Unless stringent measures are brought, this cannot be achieved. Why I say is it was stated in the Lok Sabha that Rs. 1.87 crores are unearthed in blackmoney in the last year, 1970-71. Is this the only amount? It is reported that goods worth about Rs. 600 crores are smuggled into this country and so much also must have gone abroad in terms of underinvoicing or overinvoicing. So I think the entire approach of the Government must be to restructure the economic relations in the society; otherwise, you are not going to meet this problem. Yesterday I was reading the annual number of the "Commerce". It is stated there the industrial houses, capitalists, and other people say, let us produce more, make the cake bigger so that we can share. It is a wrong notion altogether. The point is in China there is no cake, no bigger cake, at all. At least they are sharing the poverty equally. What are we doing here? Some 5 per cent or 6 per cent or 10 per cent people are having all the luxuries of life. Leave aside all those what you call industrial houses, big capitalists, doctors, pleaders, who are indulging in such black money; however, luxurious living by Young Turks, the socialist-forumwallahs is obnoxious. Some has got an airconditioner in his room. How can one afford? I see the same thing with the other Members also. I know the Communist Members have got this television, airconditioner, etc. in their houses. And we talk of radical views, all slogans that blackmoney must be curbed. Who will curb it unless

the political parties take courage in their hands and make some effort to set an example of an ideal living. Somebody becomes a Minister and says, no I will not use the carpet, I will not use that car, this and that. But the State Trading Corporation goes on selling imported cars for Rs. 1 lakh or Rs. 2 lakhs and so on. Why are you allowing it to sell them to private individuals? I can understand their selling imported cars to hotels, tourism departments of the Government, etc. which might be requiring them for foreign visitors. What I am saying is you are yourself perpetuating through your own system the use of luxurious things. Then there is no use of talking and saying that nobody should have an ostentatious living, there should be no luxurious living and all that. Here there is no political support. Unless this political support comes, you are not going to meet this problem. I only want to give two or three suggestions to the honourable Minister and let him be fair to these suggestions. You cannot tackle the problem of tax avoidance with the present bureaucratic set-up. I have just now said there are about 1700 people who are defaulters in income-tax. Why cannot you rope them in? Why cannot you bring some stringent measures to damage their social prestige in their community? There is no other way than this more practical way will be introduction of value-added tax which will allow you more revenue for the same property from the same person. All the Western countries have introduced this value-added tax. We are still having the same conservative thinking. Leave aside demonetisation. I only want to make one suggestion. I do not want to talk about demonetisation because we know the difficulties or defects of demonetisation. Various economists have suggested demonetisation. By demonetisation you will not achieve the results. You will only create more difficulties in the community's living.

[Shri A. G. Kulkarni]

What I want to suggest is this : Why not exchange notes? I know that the Government will not take my advice and announce a date in advance. The Government should on its own wisdom decide to exchange notes of Rs. 10 and above. Currency in Rs 10 and above represents about 45 to 50 per cent. You should announce a date for exchanging all old notes with new coloured notes. On an earlier occasion you demonetised Rs. 1000/- This is vast country. People in the rural areas do not know which is new note and which is old note. They do not in fact accept the new ten paise coins since not accustomed. Therefore, instead of demonetising, you can exchange notes and you will achieve the same result to a certain extent. The scourge of black money is not only with industrial houses. Politicians, Doctors, pleaders, teachers and what not

SHRI M. SRINIVASA REDDY (Andhra Pradesh) What about politicians?

SHRI A. G. KULKARNI. My dear friend, I mentioned politicians in the very beginning. You know very well about the raids conducted in Andhra. They may be your friends. I do not want to go into that and hurt anybody. In my language there is a proverb. I do not know how to put it in English. It says -

ऋषीचे कूळ आणि नदीचे मूळ

Like that nobody knows the source of black money. It comes from Shankara downwards. There should not be any laxity of efforts on the part of the Government also. You must create a social order and a new economic equation. Otherwise you cannot stop it.

श्री सूरज प्रसाद (बिहार) : उपसभापति महोदय, यह जो टैक्सेशन का बिल है और जैसा कि इस बिल को इंट्रोड्यूस करते हुये माननीय मंत्री जी ने कहा कि इसका उद्देश्य देश के अन्दर में जो टैक्स का इवेंज होना है उसको

रोकना है और अभी बोलते हुये माननीय सदस्य ने कहा कि देश के अन्दर जो काला धन का पहाड़ उठ खड़ा हुआ है उसको रोकने की तरफ यह बिल इशारा करता है। सचमुच में देश के अन्दर जो काला धन है जिसका हिसाब किताब जैसा कि वाचू कमिशन ने किया है उसके मुताबिक देश में सत्तर सौ करोड़ यह जमा हो गया है लेकिन कुछ लोग कहते हैं कि यह तीस सौ करोड़ ही है और बहुत से लोगों का अनुमान यह है कि देश के अन्दर जो काला धन है उसकी तादाद सत्तर सौ करोड़ रुपये तक पहुँच गई है और काला धन विभिन्न रूपों में देश के अन्दर विद्यमान है, यह गहने के रूप में है, यह सोना खरीद कर रखने के रूप में है यह प्रापटी खरीदने के रूप में है, बिल्डिंग बनाने के रूप में है, सामान खरीदने के रूप में है, जमीन खरीदने के रूप में है, विभिन्न रूपों में यह काला धन देश के अन्दर विद्यमान है और एक तरह से इस काले धन ने देश के अन्दर एक समानान्तर बाजार कायम कर दिया है जो कि देश के अर्थतन्त्र पर बहुत ही बुरा प्रभाव डाल रहा है और सरकार की जो नीति है मूल्य-नियंत्रण की उसको यह बिल्कुल चौपट करने की तरफ बढ़ता जाता है। ऐसी हालत में इस काले धन को रोकने के लिये जो कदम इस बिल के जरिये से उठाया गया है, इसमें शक नहीं कि उसको सराहना की जा सकती है लेकिन जो कदम है वह कदम बहुत ही कमजोर कदम है। मुआवजा किस बात का? जिस चीज को आप ले रहे हैं, चोरी की चीज को आप ले रहे हैं, उसके लिए मुआवजा किस बात का?

अभी हमारे मित्र श्री कुलकर्णी जी जब बोल रहे थे तो वह रहे थे कि यह जो काला धन देश में है वह बवडर मचा रहा है। इस धन के जरिए लोग तरह तरह की चीजों का ब्लैक करते हैं। वे लोग शूगर का ब्लैक करते हैं, लोहे का ब्लैक करते हैं, कपड़े का ब्लैक करते हैं, तमाम चीजों का ब्लैक करते हैं, बाहर से स्मगल करके ब्लैक करते हैं, और इस तरह से हमारे देश में काले धन ने एक भयंकर रूप धारण कर लिया है।

मैं यह कहना चाहता हूँ कि जो लोग इस तरह से कमाई करते हैं, वह ईमानदारी की कमाई नहीं है, सच्चाई की कमाई नहीं है, वह तो पाप का धन है और पाप के धन के लिए कोई भी मुआवजा देना उचित मालूम नहीं पड़ता है।

सरकार की ओर से कहा जाता है कि अगर हम मुआवजा नहीं देंगे तो सविधान हमारे रास्ते में आयेगा और इस कानून को गैर कानूनी घोषित कर देगा। अभी आपने देखा कि हमने सविधान में सशोधन किया है और अगर मान लीजिये इस बिल के सम्बन्ध में भी अगर कोई इस तरह की बात आयगी, सुप्रीम कोर्ट में जाने के बाद यह गैर कानूनी घोषित हो जायेगा, तो हम लोग फिर सविधान के अन्दर इस तरह का सशोधन कर सकते हैं कि जो मुआवजा देने का प्रावधान है वह खत्म हो जाय। इसलिए मेरा ख्याल यह है कि इस बिल के अन्दर जो मुआवजा देने का प्रावधान है, वह बिल्कुल गलत है, उसे हटा देना चाहिये और सरकार को जितना काला धन है वह अपने पास एक्कायर कर लेना चाहिये।

ये कुछ नुक्ते थे जो मुझे कहने थे इस बिल के सम्बन्ध में। जो अंतिम बात मैं कहना चाहता हूँ वह यह है कि जो काला धन इस रूप में हमारे देश के अन्दर है, जो आज भी बरकरार है, उसका खात्मा इस तरह के मामूली कदमों से नहीं हो सकता है। इस सम्बन्ध में बहुत से लोगो ने जो सुझाव दिये हैं कि इस काले धन को अगर समाप्त करना है तो सरकार को देश में डिमोनैटाइजेशन करना चाहिये। मैं समझता हूँ कि सरकार को इस सम्बन्ध में कोई कारगर कदम उठाना चाहिये। डिमोनैटाइजेशन से इस बीमारी को, काले धन की बीमारी को दूर किया जा सकता है और इससे कम कदम से यह चीज दूर होने वाली नहीं।

आज देश के अन्दर जो महगाई है, आज देश के अन्दर योजना के सम्बन्ध में जो खतरा पैदा हो गया है, हमारी मूल्य नियंत्रण सम्बन्धी जो

नीति है वह असफल होने जा रही है, तो अगर सरकार सचमुच में इन चीजों पर कंट्रोल करना चाहती है, सचमुच में योजना को बचाना चाहती है और मूल्यों पर नियंत्रण ठीक ढंग से लागू करना चाहती है, तो देश के अन्दर जो काला धन है, उसको हमेशा के लिए समाप्त करना होगा और इसके लिए डिमोनैटाइजेशन के अलावा और कोई दूसरा कदम नहीं है। इसलिए मैं कहना चाहता हूँ कि सरकार को इस दिशा की ओर बढ़ना चाहिये।

श्री भूपेन्द्र नारायण मण्डल (बिहार) : उप-सभापति जी, जो विधेयक सदन के सामने प्रस्तुत है, मैं उसका समर्थन करता हूँ। आज देश में जो सब से ज्यादा परेशानी है वह केवल ब्लैक मार्केट को लेकर है। यह जो काला बाजार देश में चल रहा है, उसकी वजह से ही सारी परेशानियाँ हैं और इस काले बाजार के पीछे ब्लैक मनी है।

अभी जो शासन करने वाली सरकार वह डूप्लीसिटी वाली सरकार है, दो मन रखने वाली सरकार है और दो तरह की बातें करती है। शायद सरकार आज की स्थिति को सुधार सकती थी, लेकिन एक तरफ तो पावर में रहने का हौसला है और इसके लिए जितना पैसा खर्च करने की जरूरत होती है वह करती रहती है। जब तक यह हौसला बना रहेगा तब तक हमारे देश से काला धन नहीं जा सकता है। मैंने पिछले इलैक्शन के जमाने में देखा कि उसने अपने उम्मीदवार को चुनाव लड़ने के लिए करीब दो-दो लाख रुपया दिया था। यह मेरी जानकारी है, उन लोगो से बात करने के बाद जानकारी है। करीब करीब दो-दो लाख रुपया एक-एक कैंडीडेट के ऊपर खर्च करने के लिए मिला। उस पार्लियामेंट के इलैक्शन को जीत कर शासन में कायम रहने के लिए जो पार्टी दो-दो लाख रुपया एक साधारण कैंडीडेट पर खर्च करती है, वह जो बड़े बड़े कैंडीडेट हैं उन पर कितना खर्च करती होगी उसका अन्दाजा ही लगाया जा सकता है। आखिर यह रुपया कहाँ से आता है। ओपिन मार्केट से तो, यह रुपया नहीं आता।

[श्री भूपेन्द्र नारायण मण्डल]

यह रुपया आएगा तो उसी ब्लैक मनी में से आएगा। जो गवर्नमेंट अपने चुनाव को लड़ने के लिए इस तरह का चन्दा करना चाहती है निश्चित तरीके से वह देश में चाहती है कि ब्लैक मनी कायम रहे जिससे उसका भी शासन कायम रहे। इसको रोकने का क्या उपाय होगा? इसीको रोकने के उपाय करने के सिलसिले में यह विधेयक हम लोगों के सामने लाया गया है। इस विधेयक में इस बात पर जोर दिया गया है कि जो टैक्स ईवेजेंट होता है उसकी वजह से ब्लैक मनी होता है, लेकिन ब्लैक मनी होने का जरिया टैक्स ईवेजेंट ही नहीं है, दूसरा भी जरिया है जिससे ब्लैक मनी हो सकता है, फारेन कन्ट्रीज से मनी का आना भी ब्लैक मनी है या और भी दूसरा तरीका हो सकता है जिससे ब्लैक मनी हो सकता है। यह विधेयक ऐसा विधेयक नहीं है जिससे यह बीमारी दूर होगी, लेकिन जो भी विधेयक आया है उसका हम समर्थन करते हैं। इसमें जमीन के बारे में कहा गया है कि जमीन की खरीद-बिक्री या एक्सचेंज वगैरह जो होता है उस सिलसिले में अन्डर वेल्थूएशन होता है और उसकी वजह से ब्लैक मनी उत्पन्न होता है। इसलिए उसको रोकने का प्रावधान हमने किया है। 25 हजार तक की छूट दी है। हम समझते हैं कि यह अच्छा है, यद्यपि हमसे पहले वाले दोस्त ने इसको अच्छा नहीं समझा है, लेकिन मैं समझता हूँ कि यह ठीक हुआ है। इसी तरह से 6 महीने की जो बात है 6 महीने के बदले में हम भी चाहते थे एक वर्ष कर दिया जाता तो अच्छा था क्योंकि जब कोई ट्रांजेक्शन होता है तो तुरन्त उसकी खबर सब लोगों को हो जाती हो ऐसा नहीं होता, उसमें टाइम की जरूरत पड़ती है। इसलिए उसे बढ़ा कर एक वर्ष कर दिया जाता है तो अच्छा होता।

आज जिस ढंग से ब्लैक मार्केटिंग इस देश में बढ़ी है और जिस ढंग से इस देश की इकौनोमी चली है, रुपए का मूल्य बहुत कम हो गया है। इसके बारे में हाल ही में पार्लियामेंट

में बहस हुई थी। उस सिलसिले में हम लोगों को जानने का मौका मिला कि एक रुपए का मूल्य घटकर आज 42 पैसे के करीब चला आया है। जब देश की ऐसी हालत है तो कुछ न कुछ इसके लिए करना जरूरी है। जो वांचू कमीशन बैठा था उसने भी कुछ रिपोर्ट दी है। बाजा बने तो वह रिपोर्ट हम लोगों के सामने नहीं आई है लेकिन इधर-उधर मँगजीन या अखबारों में कुछ खबर निकली है, उससे कुछ बात मालूम हुई है। उसमें तीन-चार बातों का सुझाव दिया गया है कि अगर यह सब किया जाय तो इसको रोक सकते हैं। इसमें यह भी कहा गया है कि करीब 4 हजार करोड़ से बेशी रुपया सरकार की चालू करेन्सी है लेकिन करीब 8 हजार करोड़ रुपया ब्लैक मनी है। इसलिए सरकार जब कोई काम करना चाहती है तो वह वैसे ही नहीं पाता। जैसे सरकार अनाज की खरीद के समय में क्रेडिट को कन्ट्रोल करना चाहती है तो क्रेडिट को कन्ट्रोल नहीं कर सकती है क्योंकि ब्लैक मनी वहाँ पर मौजूद है। सरकार के पास जितनी क्रेन्सी है उससे भी ज्यादा करेन्सी उन लोगों के पास है और वे अलग से खरीद करते हैं, होडिंग करते हैं, स्केयरसिटी करवाते हैं और इस तरह वे कीमत वसूल करते हैं। फसल के टाइम कम भाव में खरीद लेते हैं और बाद में बेशी भाव में बाजार में बेचते हैं। सरकार लेवी की प्राइस पर उसको खरीदती है, लेकिन क्या उसका कोई नफा इस देश को मिल सका। अभी हाल में तीन-चार बरस से लगातार अच्छी फसल होने के बावजूद जो भाव कम होने चाहिए थे, सरकार ने लेवी प्राइस पर अनाज जमा कर रखा था उसका कोई प्रभाव नहीं पड़ सका क्योंकि सरकार चाहती थी उस लेवी प्राइस के आधार पर खरीदे गए अनाज को हम रोक कर रखें, सरकार की ओर से कहा गया कि इस अनाज को अगर मार्केट में जाने देंगे तो फिर वही लोग जो ब्लैक मार्केट करने वाले हैं, जिनके पास ब्लैक मनी है वही खरीद लेंगे और वही खरीद कर बेशी भाव में बेचेंगे, इसलिए उसको रिलीज नहीं

करना चाहिये, ऐसा उस समय कहा गया था । इसका मतलब है कि आज जो हिन्दुस्तान के ऐसे पूंजीपति जो ब्लैकमार्केटिंग करते हैं या ऐसे लोग जो ब्लैकमार्केटिंग करवाते हैं उनका भी एक राज्य चल रहा है और उनका राज्य इस ढंग का चल रहा है कि उस राज्य का नतीजा यह होता है कि सरकार की मशीनरी फेल कर जाती है उसके सामने । यह हम दिल से नहीं मानते हैं कि वह फेल कर जाती है । लेकिन सरकार की जो ब्यारं-कैसी है, जो सरकार को चलाने वाले ऊपर के लोग हैं उन्हीं लोगों में ऐसे लोग हैं जो चाहते हैं कि यह सरकार इस ढंग से चले जिससे उनकी कुर्सी सब दिन के लिए कायम रहे । जनतंत्र में यदि कोई पार्टी चाहे कि हमारी गद्दी सब दिन कायम रहे, कभी जाये नहीं, तो निश्चित रूप से उसको वह रास्ता अख्तियार करना पड़ेगा जो नाजायज रास्ता है, जो जनतंत्र के खिलाफ रास्ता है । यही कारण है कि हिन्दुस्तान की वर्तमान स्थिति में जो साधारण आदमी है या मामूली आदमी है या सब से नीचे का आदमी है वह कैसे जीता है या किस की मर्जी पर जीता है, यह कहना मुश्किल है ।

SHRI M. ANANDAM (Andhra Pradesh): Mr. Deputy Chairman, Sir, I commend this Bill for the consideration of this House. This Bill, as you know, is intended to check tax dodgers. We are all aware that there is a lot of black money in circulation and in spite of the great efforts the Government has been making it has not been possible for the Government to bring to book those who evade taxes. We know that the Wanchoo Committee has submitted a report which is under the active consideration of the Government and very soon we will have a Bill to implement many of the recommendations made by the Wanchoo Committee. This is one of the recommendations made by the Wanchoo Committee in its interim property, for a value less than the market value, where the apparent consideration is less than the market value,

the difference should be treated as money that has been paid in black and it should be taxed. That, in short, is the content of this entire Bill. Sir, this is a very effective provision so far as it stands but I have my own misgivings about its implementation, especially when we see that a number of provisions in the Income-tax by which we are trying to punish the tax dodgers have been very ineffective. We have very stringent penal laws, provisions for prosecution and other things but they have not been able to achieve the results. Therefore, I have my own doubts whether this particular provision which enables the Government to acquire property at the apparent value stated in an instrument of transfer would at all achieve this purpose because as I could understand from the working of the department, they have not been able to effectively and efficiently book the tax dodgers during the past so many years.

After making these general remarks I would like to confine myself to a few provisions of the Bill which I feel are relevant for us to note. Sir, this is a case where the Government has got to take action within six months from this date of registration of a document. My feeling is that this period of six months is rather very inadequate. Firstly, there is absolutely no provision that a document which has been registered with the Registrar should be lodged with the Income Tax Department and when it cannot be lodged with the Income Tax Department it stands to reason that the department might not come to know of the transaction within six months. We all know that incometax is assessed on the basis of the income in the previous financial year. You take into consideration the income in the previous financial year and you tax it. When we have a provision like this, is it not proper and right for us at least to extend the time for purposes of initiation of these proceedings till the person submits his return, till at least six months

[Shri M. Anandam]

from the date of the submission of the return. I know that this matter has been gone into threadbare in the Select Committee, namely, whether from the time when the Income-tax Department came to know of this transaction it should be six months, or from the date of the registration it should be six months. And ultimately, I understand, the Committee decided that it should be six months from the date of registration of the transaction. When the Act prescribes for the assessment on the basis of the previous years' income as I said, I fail to understand how efficacious this provision would be if we limit the scope for the initiation of proceedings only to six months from the date of registration of the transaction. I therefore suggest, Sir, that any action for acquisition of the property must be taken after the submission of the return, that is, within six months from the date of the submission of the return. There is also another reason why I say this. This measure is intended to bring under taxation the concealed income of a person. Now, if you acquire the property, if you take to initiation of proceedings to acquire the property within six months, it means the assessee has already known that the department is aware of this transaction. Therefore, when he submits the return for the year under review—that is because it is on the previous year's basis—he takes care to see that the difference between the apparent value of the property and the real value of the property is returned in the income-tax return, and thereby he avoids the penal provisions. It was strange for me to hear the hon. Minister for Finance when he said that when once we acquire this property, the transferee is not liable to any penalties whether under the Income-tax law or under the Wealth-tax law. Probably he does not seem to have realised that the penal provisions are so drastic now that it is not merely the

value of the property that is taken away as penalty; it is twice the value of the concealed income that is the maximum penalty under the law. That is to say, if the income concealed is Rs. 40,000 the minimum penalty is Rs. 40,000 and the maximum penalty is Rs. 80,000/-. Now here is a case where we have all known for certain that he has transferred a property clandestinely and he has underrated the document. This is a positive action on the part of the transferee that he has shown in the document only a small amount of money. But if at the time of assessment this is detected, he is liable to a penalty which is double the amount of the concealed income. But now, as the Finance Minister put it, he is penalised only to the extent of the concealed amount that has been brought into the instrument of transfer, and strange again it is that we are paying a solatium of 15%; that is to say, the penalty is reduced by another 15%. Therefore, my submission to the Finance Minister is to reconsider this attitude and to see that, where it is concealed income, the heaviest penalty it is 200% of the concealed income—is levied on the tax-dodgers. That alone will be the deterrent for people to correctly state the consideration in the instrument of transfer.

Sir, there is another point I want to make. The entire proceedings for acquisition are on the basis of a transfer made by virtue of an instrument of transfer which is registered. We all know that a number of properties belonging to the co-operative societies are transferred from member to member just by virtue of allotment letters. Especially in cities like Bombay, Calcutta, Madras and Delhi flats are transferred on an ownership basis which is on the basis of an allotment letter and a lot of black money flows into these transactions. Unfortunately there is a limit placed on the scope of this acquisition only in respect of properties

registered under an instrument of transfer and it does not embrace or it is not comprehensive enough to bring into account the other types of transfer of property made just by virtue of an allotment letter. The only answer to this could be that an acquisition could be made only after the property is registered and because this is not a property registered, there is no scope for acquisition. Again, I want to know whether it is an acquisition . . .

SHRI A. G. KULKARNI : In the case of co-operatives it is not the case.

SHRI M. ANANDAM : There are various transactions.

SHRI A. G. KULKARNI : In the case of housing co-operatives there are already restrictions.

SHRI Y. B. CHAVAN : Transfer of shares is being done.

SHRI M. ANANDAM : To the extent of the value of the property, suppose I give shares. The shares are transferable by registration and, therefore, it does not attract the provision.

SHRI A. G. KULKARNI : You are quite right.

SHRI M. ANANDAM : My point, therefore, is, where it is a property acquired from or purchased through a co-operative society for which shares are allotted, it does not come under the provisions of this Bill, and to that extent the shareholders go scot-free.

I was referring to another aspect of it. I want to know whether it has been seriously considered that this provision is within the ambit of the Constitution. Article 31 of Constitution says that property can be acquired only if it is for a public purpose. Is acquisition of property from a tax-dodger a public purpose? This is a very serious thing. It has got to be answered by the hon. Finance Minister. I understand

that Mr. Setalvad, when he gave evidence before the Select Committee, had himself said that it came under acquisition and under article 31 it could not be a public purpose. So, the very purpose of the entire Bill will be defeated if this is challenged in a court of law. Probably it should have been corrected and the Bill should provide that any acquisition made under this Bill shall be for a public purpose. Suppose something like that had been mentioned, probably we could have got over the difficulty, by way of an amendment, I hope at a future date the hon. Finance Minister will consider whether he should amend this particular provision to say that wherever it has been 'acquired' it is for a public purpose.

There is another apprehension that I have. There are a number of genuine transactions where a buyer has got to transfer his property due to certain emergent obligations. The seller has to dispose of the property due to certain obligations and finding the need of the seller, the buyer imposes some conditions. Very often in this condition the price is less than the market value. I can very well cite instances where the tax-collecting officers have evaluated the property at Rs. 10 lakhs, but they could not get a buyer even for Rs. 4 lakhs or Rs. 4½ lakhs. There is the question of the Government selling properties in auction and I have known a number of cases where they could not get even fifty per cent of the value. What will be the position of such sellers when they have to sell it at a price less than the market value? Is there any provision in the Bill to protect such people? The only way in which this could be done is to have a system of advance ruling by the income-tax department. If this person wants to sell his property at much lower than the market value, he should explain his position to the Department, take the permission of the Department and sell it, so that he may not be harassed later for having sold his

[Shri M. Anandam]

property at a price much less than the market value. I want the Minister to consider this suggestion.

I want to say one more thing before I conclude. The entire Bill seeks to punish a transferee, that is, a buyer of a property. You must also know that sellers collude with the buyers, and when black money flows into the hands of the seller, to that extent he is suppressing a capital gain. Though there is a provision under the Act for bringing into book the capital gain in this transaction, my feeling is that as the return for the capital gain by the seller is filed a year after the transaction takes place, it is always possible for him to file a correct return disclosing the black money that has come into his hands and escape penalty. Is it not necessary therefore that even when you acquire the property, when you try to punish a transferee for this, you should also see that there is a similar punishment given to the transferer by way of money penalty if not anything else? This is necessary. Otherwise there is always a protection given to the seller because when he files a return, he files a return for the capital gain including the black money that has been charged.

With these words, I commend the Bill for the consideration of this House.

डा० भाई महावीर (दिल्ली) : उपसभापति जी, प्रस्तुत विधेयक उन विक्रयों को रोकने की कोशिश में बनाया जा रहा है जिनमें कीमत घटा कर बतायी जाती है—दो कारणों से। एक कारण तो यह कि जो रजिस्ट्रेशन चार्ज या स्टैम्प ड्यूटी लगनी चाहिए वह कम दी जा और दूसरा कारण यह कि जो काला धन आज इस देश के अंदर, हमारी अर्थ व्यवस्था के अंदर फैला हुआ है, उस काले धन का इस्तेमाल उसमें किया जाए। जहां तक यह उद्देश्य है कि इस

काले धन की रोकथाम की जाए, इसमें कोई दो मत नहीं हो सकते और मैं सपष्टता हूँ कि हमारी अर्थ व्यवस्था के स्वास्थ्य को सुधारने के लिए यह बहुत जरूरी है कि काले धन की बुराई को हम रोकें और उसके कारण जो अनर्थ हो रहे हैं हमारे आर्थिक ढांचे में, उनको समाप्त करें। परन्तु महोदय, उद्देश्य ठीक होने के बाद भी कई बार, हम जो व्यवस्था कर रहे होते हैं वह ऐसी नहीं होती कि उस उद्देश्य को पूरा करने में सार्थक होने वाली हो। कम से कम ऊपर से देखने पर जब ऐसा लगता है कि इसका प्रभाव या तो कम होगा या जैसा होना चाहिए वैसा नहीं होगा तो स्वाभाविक रूप से लगता है कि उद्देश्य अच्छा होते हुए भी हम उससे अभीष्ट परिणामों को प्राप्त नहीं कर सकेंगे।

महोदय, वांचू कमेटी की सिफारिशों के आधार पर अपने कराधान व्यवस्था को सुधारने की बात गवर्नमेंट के ध्यान में है। वांचू कमेटी ने भी काले धन की बुराई की तरफ ध्यान दिया और उसको दुरुस्त करने के लिए कुछ सुझाव दिए। अनुभव यह है कि सरकार जब किसी कमेटी को नियुक्त करती है तो किसी बड़े महत्व के विषय पर, महत्व की समस्या पर, विचार करने के लिए उसको काम सौंपती है। लेकिन जब रिपोर्ट आ जाती है तो उस रिपोर्ट को पूरा का पूरा स्वीकार करने की बजाए, उसमें से कुछ टुकड़े यहां से कुछ वहां से ले लेते हैं और बाकी चीजों को छोड़ देते हैं।

मैं एक पहलू की तरफ सदन का ध्यान दिलाना चाहता हूँ। वांचू कमेटी के कहने के मुताबिक काले धन की समस्या का एक कारण यह है कि जो बहुत बड़ी आय वाले लोग हैं—उनके ऊपर जो हमारा हायस्ट माजिनल रेट आफ टैक्सेशन है, वह इतनी सीमा तक बढ़ा हुआ है, इतना ज्यादा है कि उसके कारण लोगों को करों से बचने के लिए भारी प्रलंभन पैदा हो जाता है। आज देश में 97.5 परसेंट माजिनल रेट आफ टैक्सेशन है, यानी सौ रुपया कमाने के बाद 97.5 रुपया किसी व्यक्ति से टैक्स के रूप में ले लिया जाता है। इसका

परिणाम यह होता है कि एक लाख ईमानदारी से कमाकर टैक्स देने वाला आदमी जो है वह या तो एक लाख रुपया कमाये और टैक्स दे या फिर ढाई हजार रुपया आमदनी में से छिपा ले। यानी ईमानदारी के ऊपर इतना बड़ा टैक्स लगने के बाद कितने लोग इस प्रलोभन से बचने हैं, यह आज की स्थिति में अच्छी तरह से देखा जा सकता है। मैं उन लोगों की सफाई नहीं चाहता हूँ, मैं नहीं समझता हूँ कि बेईमानी किसी भी सूरत में उचित है, लेकिन हम इसान हैं और ईसानियत के नाते हम लोग किस किस्म की कमजोरियों में फस जाते हैं। यह विचार इस सदन को करना चाहिये और मैं श्री चव्हाण जी से यही अनुरोध करूंगा कि आप इस पहलू को देखिये और विचार करें कि क्या यह उचित नहीं होगा कि वे लोगों को ईमानदार बनने के लिए मौका दे बजाय इसके कि ऐसी स्थिति हम बनाये जिसमें ईमानदार आदमी तो मरता हुआ दिखलाई दे और जो आदमी चोर बाजारी या कालाधन छिपाकर चलता है वह मौज उड़ाता चला जाय। इस तरह से एक लाख कमाने के बाद उसको किस तरह से 2,500 रु० की चोरी करने के लिए मजबूर होना पड़ता है और वह कितना अपने को नीचा गिराता है।

श्री महावीर त्यागी : एक लाख पर 98 हजार रुपया नहीं है।

डॉ० भाई महावीर : जो माजिनल रेट आफ टैक्स का हायस्ट लैवल है वह इस प्रकार से है कि एक लाख के ऊपर जितनी आमदनी होगी, उसके ऊपर हर लाख के वास्ते आपको पौने अठानवे हजार रुपया देना होगा। तो मेरा यह निवेदन है कि सरकार को इस पहलू की ओर भी ध्यान देना चाहिये जब कि वह छोटे तरीके से सुधार करने के लिए बिल लाई है।

महोदय, बूथ-लिगम कमेटी की रिपोर्ट को कई वर्ष हो चुके हैं जिसमें कहा गया था कि रुपये की क्रय शक्ति जो पहले ज्यादा थी अब

एक चौथाई रह चुकी है और छोटे लोगों को छोटी आय के लोगों जो एग्जैम्पशन लिमिट दी है आय कर में, वह कितनी बड़ी है? अगर आप इस एग्जैम्पशन लिमिट को साढ़ सात हजार, आठ हजार, और दस हजार तक बढ़ा देते हैं, तो क्या फिर छोटे लोगों के साथ न्याय नहीं होगा? इसके सम्बन्ध में यह कहा जा सकता है कि यह एक अलग सवाल है। लेकिन मैं यह निवेदन करना चाहता हूँ कि इन्कम टैक्स डिपार्टमेंट के ऊपर से लेकर नीचे तक जो कर्मचारी हैं, जो इस तरह के केसेज के बारे में बिजी रहते हैं, उनका आधा काम खत्म हो जायेगा अगर नीचे के जो आय वाले लोग हैं उनको कर मुक्त के अन्दर शामिल कर लिया जाय। इसका परिणाम यह होगा कि बाकी जो लोग बच जायेंगे, बड़ी आमदनी वाले लोग होंगे उनकी तरफ उनका ध्यान केन्द्रित हो जायेगा। इसलिए आप इस तरह का कार्य करें और काले धनको रोकने में अपनी कोशिश लगायें। महोदय,

एक प्रारम्भिक बात करने के बाद मैं इस 3 P.M. बिल के एक विशेष पहलू के बारे में विचार आपके सामने रखना चाहता हूँ। जब कोई सौदा किया जाता है एक मकान या जायदाद बिक्री की जाती है और सरकार को यह लगे कि जितनी कीमत पर मकान बेचा गया है उतनी, कीमत रजिस्टर नहीं की गई है तो 6 महीने के अन्दर सरकार उसको एक्वायर कर सकती है, यह व्यवस्था की जा रही है। अगर वह एक्वायर होँगा तो वेल्यूअर्स होंगे, उसके बाद अपील होगी फिर अपील हाई कोर्ट में जायगी, काफी लम्बा चौड़ा प्रोसीजर है, काफी कम्प्लिकेटेड व्यवस्था है। हम लोगों की यह कठिनाई है कि जो सरकार लोकसभा से पारित कराकर लाती है यहाँ उस सम्बन्ध में कितनी भी युक्ति की, अक्ल की बात आए तो फिर उनको लगता है कि इसको फिर लोकसभा में ले जाना पड़ेगा, इतना वक्त सरकार के पास नहीं होता, लोकसभा के पास नहीं होता परन्तु इसके बावजूद मैं एक सुझाव आपके सामने रखना चाहता हूँ। क्या आज यह स्थिति नहीं है कि जब कभी 50 हजार से ज्यादा कीमत का मकान या जायदाद बेचनी

[डा० भाई महावीर]

पड़ती है तो उसके लिए इनकम टैक्स विभाग से इजाजत लेनी पड़ती है ? 34-ए फार्म भरकर अनुज्ञा लेनी पड़ती है तब सौदा होता है उस फार्म के साथ प्रपोज्ड सेल डील भी अने-कजर में दे देना पड़ता है और वह इजाजत लेने के बाद वह सौदा हो सकता है। यह, मैं समझता हूँ, एक आसान तरीका हो सकता है उस लक्ष्य को पूरा करने के लिए जो सरकार इस विधेयक के द्वारा पूरा करना चाहती है कि जब इजाजत मांगी जाती है तो इजाजत देने से पहले हम एक महीने, दो महीने जितना समय लगे उसको रोके और देखे कि जो यह सेल डील किया जा रहा है वह ठीक कीमत पर किया जा रहा है या नहीं। अगर ठीक कीमत पर नहीं किया जा रहा है तो जितनी कीमत ठीक है उसके अनुसार फैसला करे और जो कोई व्यक्ति माग रहा था उतनी कीमत देकर जायदाद ले ले, बजाय इसके कि पहले एक व्यक्ति को जुर्म करने दे, फिर जुर्म की वजह से एक प्रोसेस चलाए, प्रक्रिया चलाए, फिर उस प्रक्रिया में कितने अफसर होंगे, कितनी मुकदमेबाजी होगी, कितना लिटिगेशन होगा। इसके द्वारा—चव्हाण साहब भी जानते हैं जैसा हमारा ऊपर से लेकर नीचे तक का सरकार का ढांचा है, वह मेरा विषय नहीं है—हम करप्शन का भ्रष्टाचार का एक और भाग खोल देंगे। अफसरों को ही फैसला करना है कि किस जायदाद को एक्वायर किया जाय, किसको न किया जाय। बेल्युएशन के लिए रिपोर्ट देने वाले, लिटिगेशन के सम्बन्ध में जाने वाले ये सब मामले सरकारी ढांचे के द्वारा होंगे और वही लोग करेंगे जिनके ऊपर आज भी तरह तरह के आरोप लगते हैं और ऐसे आरोप लगते हैं कि आरोप लगाने वालों को शर्म आती है। आरोप इस सदन के अन्दर और दूसरे सदन के अन्दर आते हैं। मैं पूछना चाहता हूँ कि क्या हमारी सरकार का यह काम है कि जुर्म करने दे, जहाँ रोक सकती है वहाँ न रोके और जब कोई जुर्म कर ले तो फिर डकड़ लेकर उसके

पीछे पड़े। यदि आप समय पर रोक सकते हैं तो उसी वक्त रोक लीजिए और उनको वह जुर्म करने नहीं दीजिए। मैं समझता हूँ कि जो लक्ष्य सरकार का है वह इसी के द्वारा पूरा हो सकता है। यदि ऐसा होता है तो सरकार के काम कम होंगे, मुकदमेबाजी कम होगी। विधेयक में हाई कोर्ट में अपील किए जाने की व्यवस्था है हाई कोर्ट के पास कितने हजारों मुकदमों के ढेर लगे हुए हैं, हाई कोर्टों को फुरसत नहीं। क्या हम लोग वकीलों की आमदनी बढ़ाए वगैरह कोई व्यवस्था ऐसी नहीं बना सकते जिसमें सरकार जो चाहती है वह हो सके, चोरबाजारी से या काले धन से जो सौदा या खरीद-फरोख्त करना चाहते हैं वे रुक सकें और सौदा होने के पहले सरकार बीच में आकर कहे, अगर वह समझती है कि कीमत ठीक नहीं है कि जो कीमत तुम रजिस्टर करा रहे हो वह ठीक नहीं है सरकार इसको नीलाम करेगी और नीलाम करके जो पैसा उस कीमत से ऊपर हो सरकार उसको रख सकती है। इसमें जो पेनल्टी होगी वह नहीं मिल सकेगी, लेकिन सरकार का यही परम लक्ष्य तो नहीं है। सरकार एक सुधार करना चाहती है और वह सुधार जब बुराई को प्रीवेंट करने से हो सकता है तो मैं समझता हूँ कि इस पर सरकार को जरूर विचार करना चाहिए।

एक बात मुझे और कहनी है। चव्हाण साहब जानते हैं जो वस्तुस्थिति है प्रापर्टी के बाजार में। हर प्रापर्टी की कीमत दो प्रकार की है। सफेद दाम दी तो इतना पैसा, काला धन दी तो इतना पैसा, यानी जो लोग खरीद करते हैं या फरोख्त करते हैं उन लोगों को पता है कि सफेद पैसे से खरीदी जाने वाली वह चीज कीमत में नहीं जायगी जितनी काले धन में जायगी। इसके बारे में मेरी जानकारी में महीदय, एक उदाहरण है। इनकम टैक्स डिपार्ट-मेंट ने टैक्स की वसूली के लिए एक बिल्डिंग को अटैच कर लिया। और अटैच इस आशय से किया कि उसकी कीमत लगभग 5 लाख रु० है। लेकिन 5 लाख रु० उपकी कीमत

आकने के बाद जब उसको बाजार में बेचने के लिए खड़े हुये तो उसकी कीमत 3, साढ़े 3 लाख २० से ज्यादा न जाय। कारण क्या है कि बाजार में जो लोग कीमत देते हैं उसमें काले धन का एक अंश भी रहता है। लेकिन जब सरकारी पक्ष या मुहकमा बेचेगा तो वह काले धन के हिसाब से बेच नहीं सकता। कोई काला धन दे नहीं सकेगा और कीमत जो बाजार में है वह अलग होंगी और जो आप के लिए कीमत आयेगी वह अलग होगी। उस केस का मुझे पता है। उसमें काफी चक्कर चलता रहा और फिर मुहकमे ने कोशिश की कि लोगों को बुला कर के मनाया जाय कि वे चार या पांच लाख रुपया में उसको खरीदने को तैयार हों। मैं नहीं जानता कि उसके बाद क्या हुआ। लेकिन ये दो तरह की जो कीमतें हैं, जब तक यह काले धन की इतनी व्याधि है, जब तक यह काला धन हमारे देश के कोने कोने में और छोटी से छोटी जगह पर पहुंचा हुआ दिखाई देता है तब तक हमारा यह समाज और ऐसी व्यवस्था बनी रहेगी।

इस लिए मेरा मुझाव यह है कि सरकार ऐसी व्यवस्था करे कि जिस की प्रापर्टी को आप लेते हैं तो जैसे आप उसको एक्वायर करने का फंसला करे उसके साथ ही आप उसके पब्लिक आक्शन की व्यवस्था करे और पब्लिक आक्शन करने के बाद जो हायस्ट प्राइस ज्यादा से ज्यादा कीमत मिलती है, बेचने वाले को आप उतनी कीमत दे कर बाकी की आप उचित व्यवस्था करें। सरकार अगर मकान खरीदती जायेगी तो कितने मकान खरीदेगी, कितने रखेगी। किसी भी सरकार की सभालने की क्षमता सीमित होगी। चव्हाण साहब कितने ज्यादा योग्य हों, उनके अफसर कितने ज्यादा योग्य हों, लेकिन उनकी भी क्षमता किसी ऐसे नये झंझट को संभालने की असीमित है, मैं ऐसा नहीं समझता। नये कांड खड़े हों, नये स्कैंडल आये, नये आरोप लगे और फिर हम कभी इकबाल सिंह को यहां पर ला कर के खड़ा करें और कभी किसी को ला कर के खड़ा करें

यह हमारे सार्वजनिक जीवन के अन्दर बुराइयां हैं और उन सब से बच कर के अगर सुधार किया जा सकता है तो वह करने की कोशिश करनी चाहिये। केवल इतना ही सरकार न करे कि किसी रिपोर्ट में जो मीठा मीठा है उसको गप करे और जो कड़वा कड़वा है उसको थू कर दे। जहां अधिकार लेने की बात है उसको हम लेते जाय और जहां लोगों को कुछ सुविधा देने की बात आती है और जहां पर सरकार का नियंत्रण या कंट्रोल कुछ कम होता है वहां पर हम झिझकते रहे, यह कोई अच्छी स्थिति नहीं है। जब वाचू कमेटी की बात आई तो श्री.गणेश ने कहा कि यह पब्लिक इट्रेस्ट में नहीं है कि वह अन्तरिम रिपोर्ट सदस्यों के सामने रखी जाय। मैं समझ नहीं पाता कि पब्लिक इट्रेस्ट कौन सा है जिस के कारण उस कमेटी की रिपोर्ट को सदन मस्यस्यो से छिपाने की जरूरत पड़ गई।

इन शब्दों के साथ इस विधेयक की भावना का समर्थन करते हुये भी इसके अन्दर कुछ आवश्यक सुधार जो मैं जरूरी समझता था उनकी तरफ मैं ध्यान दिलाना चाहता है।

श्री महावीर त्यागी : मैं मिनिस्टर साहब से पूछना चाहता हू कि अगर किसी ने एक प्रापर्टी एक लाख रुपये की बेची आफिशियली लेकिन दो लाख रुपये का उस में ट्रांजैक्शन हुआ तो जो बेचने वाला है उस के पास एक लाख रुपया ज्यादा आयेगा। उस के बाद आप ने उस को एक्वायर कर लिया। एक्वायर करने के बाद प्रापर्टी की कीमत जो दो लाख बताई है, वह उस ने दी है जिस ने उस को खरीदा है। लेकिन आप तो एक ला देगे क्योंकि प्रापर्टी बेची गयी थी एक लाख में आफिशियली, हालांकि उस ने दो लाख रुपये उस के लिए दिये थे। तो इस तरह से जो पैसे लाइज होगा वह खरीदने वाला होगा और जिस ने प्रापर्टी बेची है उस ने तो एक लाख लिखाया है और दो लाख रुपया उस के वास्ते लिया है। उस ने प्रापर्टी की कीमत कम लिखाया है एक लाख

[श्री महावीर त्यागी]

तो बेचने वाला तो नुकसान में आया नहीं, खरीदने वाले पर पेनाल्टी हो गयी। क्या स्थिति होगी इस की जरा बता दीजिए।

श्री य० ब० चव्हाण : जवाब के समय में बता दूंगा।

SHRI HAMID ALI SCHAMNAD (Kerala): Mr. Deputy Chairman, there is an old saying that money can do many things. It does not make any difference between black money and white money. We know that nowadays black money plays an important role in the economic life of the country. When the Government tries to curb black money and black-marketers, black money and black-marketeers try to curb the Government's ways and means. We also find that black money has a commanding hold on the politicians and the leaders in the Government party. When I say this I do not say it just for the sake of saying. Everyone of us condemns black money and black-marketeers. But is it not a fact that whenever a political conference is organised, all of us — ruling party members and members of opposition parties and Ministers — go to black-marketeers and ask for donations? Also when the State Governments or Central Government raise loans, district officials and other officials go to black-marketeers and ask them to contribute. There is thus a nexus between black-marketeers, hoarders on the one hand and the leaders of the Government party on the other. Is it not an encouragement given to black-marketeers to flourish in this country? Of course, I welcome this Bill because Shri Chavan is making a sincere effort to curb black money. I wish him success, if he could succeed. But I do not know how far he is going to succeed in curbing black money. There is a proverb in Kannada which says that even if a dead body sees money, it will open its mouth. Why then blame Government leaders alone?

What is the method that Government is going to adopt to curb black money? My feeling is that many of the provisions in this Bill will be a paradise for the lawyers of this country. These provisions will also adversely affect bona fide purchasers and bona fide traders who pay their tax in time. The real black-marketeers are going to escape from the purview of this Bill. And there is no retrospective effect given to this Bill. Black-marketeers are clever and intelligent people. They would find out some loopholes. There are intelligent lawyers to give them legal advice. They will tell them how to make purchases and at what valuation. With regard to undervaluation of property which they purchase, even now under the existing law a man who does it in order to save stamp fees, can be prosecuted. As far as this Bill is concerned, in such cases Government can take over the property under-valued. That would only tempt government officials and valuation officers to be corrupt. Government is giving them one more chance to be corrupt.

With regard to market value I should like to say one thing. Market value is an abstract thing. A person who may be in need of money to clear his debts or to discharge some other obligation or to meet the marriage expenses of his daughter or children, will sell his property at any price he gets.

So also, Sir, there may be another person who may be urgently in need of some property in which case he will pay any price for that property. Sometimes even for the sake of friendship a person may sell his property to some friends. Therefore, Sir, we cannot fix any criterion for deciding what should be the market value of a particular property. You only give discretion to the valuation officers and by giving them the discretion you also make these valuation officers come within the clutches of black money. So, Sir, I say that black

money is very dangerous to the country and it is very dangerous to our entire economy.

No doubt, Sir, I welcome this Bill thinking that it would at least create a sense of fear among the people. Our Finance Minister has introduced the Bill to control black money. This has been given wide publicity in all the papers and the Press has given much publicity to this. I hope that it would create a sense of fear amongst our people and it would help in curbing black money in the country. With these words, Sir, I support the Bill. Thank you, Sir.

श्री रणबीर सिंह (हरियाणा) : उपसभा-पति महोदय, मैं कराधान विधि (संशोधन) विधेयक का समर्थन करने के लिये खड़ा हुआ हूँ। जहाँ तक इसके उद्देश्यों का सम्बन्ध है सदन में किसी भी सदस्य ने दो राय नहीं रखी। उद्देश्य बहुत अच्छे हैं। जहाँ तक काले धन और करों की चोरी का सम्बन्ध है किसी की उनके साथ हमदर्दी नहीं हो सकती जो कि काला धन रखते हैं या करों को चोरी करते हैं लेकिन इस देश के अन्दर समाज का एक बहुत बड़ा अंग है, बहुत बड़ा हिस्सा है जो कि जायदाद को खरोदते और बेचते हैं लेकिन न ही वह करों की चोरी करते हैं और न ही उनके पास काला धन है।

उपसभापति महोदय, पंजाब और हरियाणा के अन्दर जहाँ शहरों का सम्बन्ध है वहाँ यह प्रश्न एक बड़ा गम्भीर प्रश्न है कि लोग जायदाद की कीमत कम लिखाते हैं और काले धन में कुछ ज्यादा पैसा देने हैं, रजिस्ट्री का पैसा कुछ कम दिया जाता है लेकिन जहाँ पर प्रिएम्पशन का कानून अभी लागू है वहाँ इससे विल्कुल उल्टा है, वहाँ जायदाद की कीमत ज्यादा लिखाई जाती है। पंजाब, हरियाणा और जहाँ पर प्रिएम्पशन का कानून लागू है वहाँ जब जमीन बेची जाती है तो उस जमीन का जितना पैसा वह देने हैं उसमें पाँच सान्द्रहजार रुपया ज्यादा

लिखाते हैं। वैसे तो उसको कोई डर नहीं होना चाहिये कि खरीदी हुई जायदाद को लिया जा सकता है क्योंकि उसने कीमत बाजार भाव से ज्यादा दी है लेकिन जैसा कि आप जानते हैं कि आपस के अन्दर कई दफा लड़ाई होती है और जमीन की कीमत का उतार-चढ़ाव होता है, जो कीमत जमीन की आज है वह चार दिनों के बाद या एक महीने के बाद दूसरी हो सकती है, दूसरा कोई विरोधी ज्यादा कीमत देने का मुझाव दे सकता है और वह इंकम टैक्स आफिसर को यह सूचना दे देगा कि यह जमीन कम कीमत पर खरीदी गई, तो उस पर भी मुकदमा चल जायगा। इसी तरह से हिन्दू कोड के तहत हमने कानून बनाया कि वहाँ की भी जमीन-जायदाद के अन्दर हक है और हमारे समाज में बहुत सारे लोग आज तक उस बात को पचा नहीं पाये हैं और बहुत सारी बहनें हैं कि जब उनके पिता मर जाते हैं और उनको अपने पिता की जमीन-जायदाद में कानून के तहत हिस्सा मिल जाता है तो वह अपने भाइयों के नाम दानपत्र लिखती हैं। और दान-पत्र लिखते वक्त, ताकि स्टाम्प ड्यूटी कुछ कम देना पड़े या, जैसा मैंने पहले उदाहरण दिया, उसी तरह से कहीं यह शिकायत हो कि कम कीमत लिखाई गई है, तो क्या सरकार उस जमीन को भी लेने जाएगी। मैं मानता हूँ, सरकार का यह उद्देश्य हो नहीं सकता कि किसी बहिन की 5 एकड़ जमीन हो और वह अपने भाई को 5 एकड़ जमीन देना चाहती है जिसकी कीमत—कई जगह जमीन की कीमत हरियाणा में, पंजाब में 7,000 रु०, 8,000 रु० प्रति एकड़ तक है—तो वह 25,000 से ऊपर जा सकती है। ऐसी जमीन लेने का क्या सरकार का कभी उद्देश्य नहीं हो सकता? बिल्कुल नहीं हो सकता है। मेरे साथी अमजद अली कहते हैं हो सकता है। मैं मानता हूँ। चन्हाण साहव, वित्त मंत्री, देहात से आए हैं और वह जानते हैं कि देहात के अंदर अभी तक सामाजिक क्रांति को हम वहाँ तक आगे ले जा सके हैं, कहां तक उसका असर समाज के ऊपर बन सका है? इसलिए उनका कोई इरादा नहीं

[श्री रणबीर सिंह]

हो सकता कि ऐसी जमीन को लिया जाए। लेकिन जिन आफिसरों को वह कानून चलाना होगा, उनको कौन रोक सकता है? इस विधेयक में तो उनके लिए तो यह रखा नहीं गया होगा कि ऐसे केशों के ऊपर कार्यवाही नहीं की जा सकेगी। तो मैं वित्त मंत्री महोदय से चाहूंगा कि वे आश्वासन दें ऐसे केसेज में सरकार का कोई इरादा नहीं है कि जहां न करों की चोरी है, न काले धन का सवाल है, जमीन को खरीद और फरोख्त है, वह 25,000 रु० से ज्यादा है तो भी अगर वहां किसी तरह से कोई साबित भी करेगा कि उसमें स्टाम्प ड्यूटी कम दी गई हो, कोमत कम लिखाई गई हो, तो भी सरकार का उस जमीन को लेने का कोई इरादा नहीं है, क्योंकि वह जमीन उसके लिए एक तरह से पेशा है। जो जमीन खरीद रहा है वह खेतों के लिए खरीद रहा है। आप जानते हैं वेल्थ टैक्स का इसमें जिक्र है। कुछ दिन पहले इस सदन को एक सूचना दी गई थी जिसके मुताबिक विड़ला जी के ऊपर वेल्थ टैक्स लगा हुआ है 8 रु० और आज सूचना दी गई कि 3 साल के अंदर उनकी 125 करोड़ रु० की जायदाद की कोमत बढ़ गई। उनसे वेल्थ टैक्स लिया गया 8 रु०। तो कई तरह के उदाहरण आते हैं। मुझे याद है, मैं पंजाब मंत्रिमण्डल का सदस्य रहा, हम लोगों को 1,500 रु० कानून के मुताबिक तनख्वाह मिलती थी लेकिन मंत्रिमण्डल ने फैसला किया कि सिर्फ 800 रु० तनख्वाह लेंगे और 700 रु० कटौती होगी और उसमें से जो भी टैक्स होगा वह दिया जाएगा। जब इस सदन के अंदर एक हमारे बहुत बड़े नेता के बारे में कुछ सवाल उठा तो मुझको भी शक हुआ कि कहीं मैं भी चक्कर में न आ जाऊं। तो मैंने पता किया कितना टैक्स लगाया और मालूम हुआ कि चूँकि मैंने रिटर्न दाखिल नहीं किया इसलिए वह टैक्स दाखिल नहीं हुआ, हालांकि 24,000 रु० तनख्वाह से कटे और इनकम टैक्स कुल 8,000 रु० लेना था। कहीं मेरी जायदाद नीलाम न

हो इसलिए मैं वित्त मंत्री महोदय को मंवा मे हाज़िर हुआ और जब हाज़िर हुआ तो उन्होंने मुझसे कहा कि पता नहीं, मैं इसके बारे में इम-दाद कर सकता हूँ या नहीं कर सकता हूँ, मैं पता करूँगा। तो मैं जानता हूँ, जिस वक्त इनकम टैक्स आफिसरों के पास मामले जाएंगे तो ये जो बड़े बड़े काले धन वाले भाई हैं, उनके पास तो बकौल हैं उनके पास पहले भी खुद अपना जानकारी ज्यादा है, वे उससे बचने की कोशिश करेंगे और जो कमी है वह बकौल पूरी कर देंगे, वे नहीं फसेंगे। तो बहुत सारे ऐसे भाई जिन्होंने कोमत भी ज्यादा लिखाई, टैक्स भी ज्यादा दिखाया लेकिन आपस में बँद की वजह से किसी ने अर्जी दे दी कि नहीं, 40,000 रु० की कोमत से अधिक को ज़मीन है या किसी बहिन ने थोड़ा टैक्स बचाने की खातिर दान-पत्र में कम कोमत लिखा दी तो झगड़े खड़े होंगे। इसलिए मैं इस बारे में आश्वासन चाहता हूँ, हालांकि यह ठीक है कि वह कानून की शक्ल नहीं हो सकती है लेकिन इस कानून को बनान में क्या इरादा है वह इरादा आपके उत्तर से जाहिर हो सकता है। तो मैं आपसे चाहता हूँ कि जब आप जबाब दें तो यह आश्वासन दें कि इस मामले के अन्दर किसी के साथ ज्यादाती नहीं होंगी। यही कहते हुए मैं विधेयक का स्वागत करता हूँ।

SHRI BABUBHAI M. CHINAI (Maharashtra) : Mr. Deputy Chairman, Sir, I welcome this Bill which has come, according to me, very late. Even though it is late, I am glad that Government has thought it fit to come before the House to take approval of it.

We have been hearing about parallel economy and black money for a long time and one of the best method of adjusting black money is in land and estates. Therefore, I welcome this Bill that at least people henceforward would think twice before they do anything of this sort.

I have a few suggestions to make to the Government. Firstly, the Bill says that if an immovable property worth Rs. 25,000 is to be exchanged and if it is less than the market value by 15 per cent—upto 15 per cent it is all right—then there would be a question of valuation and the Government's taking over. What I want to impress upon the hon. Minister is that in terms of the today's rupee value, Rs. 25,000 is a very small amount. Even if you want... I do not want to quote any other city but my own city of Bombay. There, even if you want to have a small room of 10' x 12', it costs Rs. 25,000. Therefore, I personally feel that if the hon. Minister would have stuck to the Income-Tax Act, section 230A in which a certificate is necessary for a property of Rs. 50,000, the harassment to the people would have been less.

Another point is that you are allowing a man to sell and then you go on enquiring and surveying etc. What I would like to say is : Why don't you give a couple of months' time to the seller and the sale deed to be examined by appropriate authorities appointed by the Government? Don't allow the seller to back out? If Government comes to the decision that this property is to be taken over and there is something fishy about it, I have no objection thereto, but to go afterwards into it means a lot of trouble and harassment and legal expenses, and all other things would arise. For example, when the sale deed is finalised, the purchaser has to pay stamp duty but when Government takes any property it has not to pay any stamp duty and the stamp duty to be paid is also gone. Then, the stamp duty is not paid only by the seller or the buyer, it is always shared fifty fifty. Therefore, I would submit to the Government—I am talking at a very late stage, I know Government cannot improve upon it today—that it will after some experience please bring before the Parliament an amendment to the Act

whereby the seller or the buyer is least harassed and at the same time the object of the Government is realised.

Another point which I want to bring to your notice is whether it is worthwhile initiating proceedings for acquisition, as I said, for a sum of Rs. 25,000 worth. I think the Government should of their own, resort to Rs. 50,000, which, as I have said in the beginning, is according to the Income-Tax Act.

The Bill also provides that, in case the fair market value of any property transferred exceeds its apparent consideration by more than 25 per cent of such apparent consideration, it shall be deemed to be conclusive proof of the fact that the consideration for the property has not been truly stated in the instrument of transfer for the purposes of acquisition proceedings. Is it not against the principles of natural justice that the onus to prove that there is no understatement or underestimate is thrown upon the assessee? This I thought, according to me, was not a proper thing.

Further, fair market value, after all, is a matter of estimate. No two expert valuers can ever come to one figure in determining the market value of the property. In wealth tax when we put the wealth of the jewellery and other things we get them valued by different dealers and our experience is that no two dealers have ever said that the value of the particular jewellery is the same. It can happen in this case also. That is why I am suggesting that this is rather a very harsh clause.

Though certain guidelines have been provided in the Bill to the competent authority for initiating proceedings for acquisition of property, yet no provision has been made for awarding the cost to the assessee where the proceedings are dropped by the competent authority. Besides, the assessee will be in suspense for the period from the point of initiating the proceedings till they are dropped. He would also have suffered

[Shri Babubhai M. Chinai]

monetary loss on account of the cost of litigation, etc. It would be equitable that certain provision be made in the Bill to provide for awarding the cost to the assessee where the proceedings are dropped by the Government for the acquisition of the property.

Sub-section (4) of section 269H of the Bill provides that consequent upon the order for the acquisition of immovable property becoming final, the property shall vest absolutely in the Central Government free from all encumbrances. The expression 'free from all encumbrances' may cause unintended hardship. The provisions of the Bill seem to ignore the fact that the consideration for the transfer of the property depends on the terms of sale, nature of title, the fact whether the property is vacant or let out, terms of payment etc. A property may already be encumbered at the time of sale. The Government, if it has decided to acquire the property, should take it at the same terms as are incorporated in the transfer deed.

Finally, section 269J provides that the compensation for the acquisition of property shall be a sum equal to the aggregate of the amount of the apparent consideration and 15% thereof. This does not take into account the expenses incurred in surveying the property, brokerage, registration expenses, etc. As I said a few minutes before, there is no provision for reimbursement of interest charges incurred by the transferee, except for interest at 12% on delayed payment of compensation, *vide* section 269K. It is submitted that registration charges should be refundable because transfer of property to Government as I have said already, is not liable to stamp duty. The Government does not pay any stamp charges on any transfer of property. They should also remember that besides, the transferee should be eligible for interest on the amount of

the apparent consideration from the date of original transfer to the date of compensation.

Sir, as I said in the beginning, I welcome this Bill. My only submission is that there will be several hardships and Government should at a very early date reconsider the whole question and bring forward an amending Bill so that the hardships are not there and the object of the Government is also served. I am in complete agreement with Government's objective and, therefore, I wholeheartedly support the Bill.

SHRI U. K. LAKSHMANA GOWDA (Mysore): Mr. Deputy Chairman, Sir, I would like to join with my other colleagues here who have appreciated the provisions of this Bill. The objectives, as have already been stated by many hon. Members on both sides, are laudable. The objective is to see how best we can eliminate the scourge of black money which, as the hon. Finance Minister has said many times in this House, has gone to such proportions that it has become almost a parallel economy. This Taxation Laws (Amendment) Bill concerns itself with one of the methods suggested by the Wanchoo Committee in order to curb the accumulation of black money. To that extent that is welcome. Sir, as Mr. Babubhai Chinai has stated here—I am glad it was he who has stated—this has been one of the main channels of accumulation of black money, particularly bigger transactions in larger cities and also in agricultural properties, where recourse is taken to under-valuation whereby stamp duty, capital gains tax and taxation on the amount transacted, etc. have all been defrauded. To this extent this is welcome. Sir, there is definition of immovable property which could have been a little more elaborate. Then, Sir, with regard to the preliminary notice a time limit of six months has been fixed from the date of registration. I certainly agree with this. One cannot expect that the buyer will have

to go on waiting in suspense for long periods of more than a year or so as has been suggested by my friend, Mr. Anandam. He is a chartered accountant and he knows the difficulties. But he thought of stringency in this particular case, and he also mentioned that wherever the differences have been detected the penalty clauses of the Income-tax Act and the Wealth-tax Act should be invoked in addition to the confiscation or taking over of the property as per this Bill. I completely disagree with him because, when you are already taking over the property for the value which has been mentioned in the sale deed plus only 15% of that amount, it is unfair to say that you also invoke the penal clauses, particularly in view of the fact that it is very well known that the penalty clauses in the Income-tax Act and the Wealth-tax Act of this country are almost sadistic. Nowhere else such penalties are there. It is not the amount of tax on which the penalty is levied, but on the difference of the valuation of wealth itself. In other words, it will be invoking capital punishment in addition to taking over of the property. So, Sir, I support the suggestion made here that no other penalty will be levied on that but the property will be taken over. To that extent it is a welcome proposal. One objection I have is about the definition of 'market value'. As has been said by other Members, determination of 'market value' is very difficult and the valuation from one person to another person varies, and this has landed honest assesseees in difficulties in many existing cases of valuation so far as Wealth-tax is concerned. I hope the Finance Minister will give proper instructions to the department to be very careful and also go into the actual merits of a case when those valuations are made, because it is always possible to get a valuation which will be 15% or 20% more than the value which is found on the sale-deed and often an honest assessee is subjected to this higher valuation. Sir, I hope in implementing this measure the department

will do it in the spirit in which this Bill is introduced and see that the honest assesseees particularly in the agricultural sector are not unnecessarily penalised. I am glad, Sir, that after the Select Committee recommendations appellate jurisdiction also has been provided for this; there is the Appellate Tribunal which will go into the question of any difficulties which arise out of the competent authority taking immediate steps for the acquisition of such undervalued properties. Sir, Mr. Ranbir Singh was referring to the sale of agricultural properties among relatives and others. I think relief has been provided for this in a Clause, which does not apply where the transfer is for love and affection, and I should think this also must be viewed with the spirit in which this Bill has been introduced which is only to curb black transactions, and take action against those who are evaders of tax, and not against genuine assesseees who, on many occasions, have to take recourse to sell properties at lower values, or at values agreed among themselves, which may not bear comparison to market value.

Then coming to the general question of taxation, to the amendment of taxation laws, I wish the hon. Minister had taken opportunity in this Bill to bring in some more measures which have been recommended in the Wanchoo Committee's recommendations as well. There have been differences of opinion about the marginal rate of income-tax and about the innumerable controls, necessary and unnecessary, which are in vogue in this country and which have acted as an additional incentive for the growth and accumulation of black money.

I wish the hon. Finance Minister would go into that question. In case it is not found possible to reduce the tax at one stroke, at least, as I have pleaded so many times in this House and also in the Finance Ministry's Consultative Committee, consideration should be

[Shri U. K. Lakshmana Gowda]
given to providing sufficient deductions and allowances in Income-Tax Act on various legitimate amenities, so that the assesseees do not take recourse to saving money by evasion of income-tax.

My hon. colleague, Mr. T. N. Singh, mentioned demonetisation. I am not so enthusiastic about the results of demonetisation. The results in 1946 have not been very encouraging. Particularly now when it has been talked about for more than a year or two years, it has lost its effect. Any person who has accumulated black money will have by now seen to it that it has been invested and he would not keep anything in high denomination currencies. Its only advantage is to a limited extent. I am prepared to agree with my hon. friend, Mr. T. N. Singh, that even if we demonetise ten-rupee notes, whatever money comes out from it in future will be subject to taxation, the better part of it, and probably it will have a check on the accumulation of black money hoarded for election purposes by political parties. Only to that extent.

SHRI T. N. SINGH : The point is that this demonetisation has been talked about for months and months together and it has lost all importance. Why is it being talked about like that? That is the point.

SHRI U. K. LAKSHMANA GOWDA : Anyway, it has been talked about. It has been talked about in the interim report and many political parties have made a platform out of this for years together. What effect will it have now? The money will have found its way into shares, properties and so many other things. I do agree with you and to a limited extent it will check black money flowing into political parties.

Another matter to which we have to give consideration is the ban on donations by companies to political parties. At that time everybody was very

enthusiastic about it and there were many experienced people who said that this would result in the accumulation and circulation of black money. If any company gave any donation, at least we could have known from the accounts of the company how much money had been given to different political parties. Now, we have given a chance to them for making this payment in black money. I would request the hon. Finance Minister to consider this matter very carefully, if possible, to scrap it and revert to the old position where it is properly accounted for. It may not be a chargeable amount for income-tax, but it should be allowed. Otherwise, you will never be able to get the companies to stop payment to political parties, because the pressure will be so much that somehow or other they will be encouraged to accumulate black money and make payment to political parties.

Lastly, in this Bill we are providing enormous powers to the competent authority. I would request that the hon. Finance Minister should send instructions to his department that they should be very judicious and careful in discharging their duties. They have such powers under their discretion that an honest assessee may be harassed to such an extent that in the end the result might be that he may be forced to become a dishonest assessee. Thank you.

SHRI Y. B. CHAVAN : Sir, I thank the hon. Members who participated in the debate. Though many of them had doubts about the efficacy of the registration, all of them have lauded the objective of the Bill and have given a hearty welcome to it.

श्री टी० एन० सिंह : नीयत तो अच्छी हमेशा होती है ।

श्री य० ब० चव्हाण : कम से कम इतना तो मान ले कि नीयत अच्छी होती है ।

श्री टी० एन० सिंह : यह तो हम को और आप को दोनों को मानना चाहिए ।

SHRI Y. B. CHAVAN : Sir, I quite agree that it is not enough to have taxation laws, it is not enough to have taxation policies, but what is most important is that administration has also to be effective. I concede this position. Therefore, while commending this Bill for your acceptance, I assure the House that we will try to see that this Act, not only this Act but other taxation Acts also are properly administered.

Some of the Members have made reference to the report of the Wanchoo Committee. The Wanchoo Committee has certainly made certain recommendations about the merits of taxation, the levels of taxation, the methods of taxation, etc., but at the same time they have also made certain recommendations regarding the taxation administration as well. I would like to tell the hon. House that we are going into details of necessary improvements that are necessary for the administration of taxation.

Having said this, I must say that I am not so pessimistic as some hon. Members wanted to be, because here is a problem and we have to find a solution for it. If I take a position as the hon. Member, Mr. T. N. Singh, took, that nothing is going to happen, that tax evasion is going on and on and on...

SHRI T. N. SINGH : I think you are rather unfair. What I said was that your administration is corrupt and inefficient, and you must improve that first. I think it is possible to improve the administration. It is possible to be honest, but then the steps that have to be taken are not taken. That is my complaint.

SHRI Y. B. CHAVAN : I do not want to have a dialogue. He has said it, I have heard him patiently, let me deal with it. That is why I did concede the position that the taxes administration will have to be improved, but at the same time I am not taking this pessimistic view because we have accepted that

there is black money. It is also a generally accepted proposition. One of the means of making use of the black money is in the transfer of immovable property. This is also an accepted proposition. The point is how to deal with it. This was one of the ways that was thought of and we thought there was something in it. Therefore, we brought this legislation. As I said in the Budget speech in 1971, it is much better to take the dishonest person at his words. If he says that this is the amount that he has paid, let us accept his statement and try to acquire the property at that value.

Some Members have raised certain points of procedure. Some Members have pointed out the imperfectness of the definition of immovable property particularly in respect of the transfer of co-operative societies' flats. I can only tell them that the Select Committee did go into this question and we found there that this Act comes into operation where the property transferred is registered. In the case of flats it is the shares which are transferred and there is no provision for the registration of shares. We have made an observation there that it will be necessary to amend the Registration Act so as to make it compulsory to have the transfer of shares also registered so that this Act possibly can attract this provision for that matter.

The hon. Member, Shri Babubhai Chinai, said that Rs. 25,000 is a small amount. In the case of Bombay what he says possibly is true that this is small. I think we went into this question in the Select Committee in greater detail. Apart from this provision of Rs. 25,000 there is also a provision regarding 15 per cent of the fair value because it is quite possible that there may be some sort of difference of opinion about the valuation also because the Valuers may differ in the valuation and therefore this 15 per cent margin has been kept. I think there is another extreme view that some Members expressed : "Why is it

[Shri Y. B. Chavan]

that you have mentioned Rs. 25,000? That means that properties valued below Rs. 25,000 will go completely untouched". My only answer to that would be that if we take any property worth even below Rs. 25,000, administratively it will become completely impossible to go into this matter because, if we go into the statistics—I mentioned some statistics in the other House—because these transfers include even the transfer of agricultural lands and I think lakhs of transfers take place in each and every State. I have not got those figures with me now, but I have got some figure from Tamil Nadu. I think it ran into four lakhs of transfers which were registered. And it is quite possible that they can be even more than that. About the figure I got from Bombay, the transfers were 25000 or 30000 of immovable property in one year. It was not recently but in 1960-67 or so. So, it is administratively a very difficult proposition not to have this limitation.

Now, some hon. Members—particularly the hon. Shri Anandam—raised the point that the transferee could declare the unrecorded assets in his return for the following year and thus escape the penalty, etc. Really speaking, I am afraid the hon. Member has missed the real objective underlying the provisions of the Act, the provisions which aim at combating tax evasion. If the transferee admits that the asset has been understated and bases the tax hereon the object could have been achieved. Then there is no question of penalising. His main question is, if he has, really speaking, to declare the unrecorded assets next year, then possibly he would not have done that. This does not psychologically fit into that. If he wants to declare and he has to pay the tax, nobody is interested in merely penalising him for understating the property. Dr. Bhai Mahavir certainly went into that aspect as to what the Government is going to do with the properties so acquired. It is certainly a problem. I do

not want to deny the size of the problem, the intricacy or the complexity of the problem. But anyway we will have to find a solution for that as we go ahead with this matter.

Another question that Shri Mahavir Gyagi raised was this. He wanted to know about that because it was a very legitimate question. He said, as far as the transferee is concerned you are penalising him for acquiring his property. What about the transferer. He gets the money and gets away with it. That was the point that he raised. I can only tell him, as he has no property with him we cannot acquire it. But once it is proved that he has got that additional money with him, it is certainly subject to capital gains tax. We can certainly charge him for that.

SHRI BABUBHAI M CHINAI : It is not provided.

SHRI Y. B. CHAVAN : It is not a question of provision. It becomes subject to capital gains tax. There is no need for any additional provision. The provision is already there. He is subject to the capital gains tax. This is one thing.

Then, another point which Shri Anandam made was a very interesting point. He said that the exemption of the transferee from penalising under the income-tax and the wealth-tax will mean that the person will be let off leniently as compared to a person on whom the penalty is levied. In cases where the asset is not truly stated, there are provisions in the Income-tax Act for taking the unexplained investment in the hands of the transferee. There is provision even under the present Income-tax Act, so that we can certainly penalise him. But the experience is that the onus of proof is on the department which is impossible in order to get out of this difficulty the Wanchoo Committee suggested this provision and therefore this question of acquiring the property is a way out of that thing. So, I hope that

Shri Anandam can see the logic behind this particular provision. I see his point. Really speaking, the present provisions are proving ineffective. Therefore, as I said, it is not enough to have a law. We have to see that the law is workable and taxation becomes more effective. I can understand that. The honourable Mr. Choudhry made a speech and went away. He wanted some assurance उनके खिलाफ कोई ज्यादाता नहीं होगा that is, there would not be any injustice for honest people. We would not be unfair to them.

MR. DEPUTY CHAIRMAN : The question is :

"That the Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Gift-tax Act, 1958, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN : Now we shall take up the clause by clause Consideration.

Clauses 2 to 25 were added to the Bill.

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

SHRI Y. B. CHAVAN : Sir, I move :

"That the Bill be returned."

The question was put and the motion was adopted.

THE INSECTICIDES (AMENDMENT) BILL, 1972

THE MINISTER OF STATE IN
THE MINISTRY OF AGRICULTURE
(PROF. SHER SINGH) : Sir, I beg to
move :

"That the Bill to amend the Insecticides Act, 1968, be taken into consideration."

Sir, I am moving this Bill to amend sections 9(1) and 13(1) of the Insecticides Act, 1968, for extending the time limit up to 31st December, 1972, to enable large number of manufacturers, formulators, importers, sellers of insecticides who could not apply in time, to apply for the registration of their products to the Registration Committee, Government of India and for securing licences from the State authorities.

This has been necessitated because of the proviso of the above two sections wherein persons engaged in the business of import or manufacture of any insecticide immediately before the commencement of these sections, were to make an application to the Registration Committee within a period of six months i.e. up to 31st January, 1972, and those engaged in the manufacture or selling, stocking or exhibiting for sale or distributing, were to apply to the licencing officers appointed/notified by the States within a period of three months, that is, 31st October, 1971.

The bringing in of the manufacturers/formulators/importers/sellers who could not apply in time, under the purview of the Act would enable the States to continue to procure insecticides from these units and avoid dislocation and blockade of supplies of such an essential input for increasing production in the wake of all round drought situation resulting into substantial loss of foodgrains and other essential agricultural commodities.

The delay in setting up of the licensing agency in the States, lack of publicity, non-availability of gazette notifications to the widely scattered insecticide manufacturing/formulating units in the small scale sector, are some of the reasons for non-submission of the applications for registration and licences, in time. This amendment will also