[Mr. Deputy Chairman.]

the following letter dated the 25th August, 1961, has been received from Shrimati Rukmini Devi Arundale written from California:

"I planned to be back in Delhi early after my work here but I regret to say, I am delayed by the fact that I had to consult a Doctor as my health was not at all what it should be. Therefore, I entered a clinic for treatment which I am having. As I will be very weak to travel immediately, I will be arriving too late to attend the Rajya Sabha during this session which I now hear closes on the 8th September. Will you please give me the necessary leave?"

Is it the pleasure of the House that permission be granted to Shrimati Rukmini Devi Arundale for remaining absent from all meetings of the House during the current session?

(*No hon. Member dissented.*)

MR. DEPUTY CHAIRMAN: Permission to remain absent is granted.

SHRI BHUPESH GUPTA (West Bengal): Sir, I draw your attention to what happened in the other House as that concerns us. There was a demand in the other House that the European Common Market subject should be discussed.

MR. DEPUTY CHAIRMAN: You are having it here.

SHRI BHUPESH GUPTA: I point out that when they objected, the Speaker said that there must be a discussion. I congratulate the Speaker but I wish you had given the same ruling in this House.

MR. DEPUTY CHAIRMAN: Order, order.

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## THE INCOME-TAX BILL, 1961—*continued*

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): Sir, I have great pleasure in having this opportunity to make a few remarks on this Bill. I cannot say that I lend my whole support to the Bill because I find that we have not the power to do so. Our remarks here in this House on this Bill are to be treated as mere expression of views and the Bill is to be returned. It is from that point of view that in the beginning I would like to make a few observations.

I feel that even if the power of the purse is to be with the other House, here, in our country, where we have taken our parliamentary system from England, we need not exactly copy or ditto everything that regulates the powers of both the Houses there. There the aristocracy, namely the Lords, are the Members of the Upper House and, therefore, the common people had to have the power of the purse and therefore it had to be in the Lower House or the House of Commons. In this House, we are people of the same class as the Members of the Lok Sabha. There may be indirect elections but even there, the M.L.As. who elect us are also elected directly by the electorate and therefore, there need not be this distinction. Even if it is necessary to put this in accordance with the Constitution, I would like to make a suggestion. If our remarks in this House have to have any value and if the debate in this House is to be of use and the money that is spent on this House is to be of use and the money that is spent on the debate is to be used for making any changes in the Bill—because that is the object of a debate—then, I would suggest that even under the present Constitution, there would be nothing wrong in making a motion for a Joint Select Committee on this type of Bill which may be a Money Bill, particularly a Bill of the type of the Income-tax Bill, so that the views of the Members of the House would be available through the Joint Select

Committee and before the Bill goes to the House wherein, in any case, it is introduced, it can still be introduced with the limitations that it had under the Constitution but the views of the Members of this House would be available there and when the Joint Select Committee motion is made before this House, Members who are not on the Committee also would be able to speak there.

There is another thing. As an Amendment Bill even where the amendments sought to be made referred to powers, for example, of officers or are with reference to penalties or to such things as powers for searching of records, it is not within our competence in this House to bring such a Bill. I had given notice of such a Bill in 1953 or 1954 to make certain changes in the then Section 134 for seizure of records. This has been done subsequently by the Lok Sabha but the Chairman ruled, naturally, limited as he is by the present rules and regulations, that that being a Money Bill, it could not be introduced in this House. I would like to point out that after all it is not as if we have no powers in this House to make suggestions with regard to any penalties, etc. which involve money or where monetary penalties are concerned. Take even the Dowry Bill or others like that. All those Bills we can introduce and deal with whatever penalties are to be imposed. From that point of view, if there is an Amendment Bill and if this Bill deals with nothing except the penalties or the powers of the officers, etc., it is difficult to appreciate why there should be any objection and why suitable changes should not be made to make it possible that even if it is a Money Bill, in this respect it should not be within the competence of this House. We know that this House usually has more time available for business and if Bills of this type could be permitted to be introduced here, I think it will serve a useful purpose.

With these remarks, hoping that the hon. Finance Minister would go into the question and if at all it is possible to make any changes, would accept the suggestions at least with regard to asking Members of this House to sit on a Joint Committee . . .

THE MINISTER OF FINANCE (SHRI MORARJI R. DESAI): It is not within my competence.

DR. SHRIMATI SEETA PARMANAND: It is certainly within our power to make appropriate changes wherever it may be, either in the Constitution or elsewhere, because we are changing the Constitution several times and wherever it is practicable, looking to the history of the Houses of Parliament in England and here, I do not think it would be very wrong to do so. Rather it would be the most desirable thing. I would congratulate the Ministry on having improved the Bill and made it simple as the hon. Deputy Minister, in her introductory speech, said herself. Most of the clauses have been commented upon but there are others and I would not like, therefore, to take the time of the House by commenting on everyone of them. There has been a good deal of appreciation but there has been some adverse criticism also from the capitalist circles which have not been so appreciative, because the shoe pinches them where changes are made. After all this is an Income-tax Bill which has come before the House 3 or 4 times earlier and which has gone through so many changes as the Deputy Minister said, about 29 times. When certain changes are inserted, it is an example of a tussle between the tax evader and the Government. It is a constant battle of wits as it were, and the more the evasion and the ways of evasion that come to the notice of the Income-tax Officers, the more they have to be provided against through new rules and regulations and new sections. So some of the amendments with regard to charitable trusts, etc. are most welcome. It is common knowledge to those who have taken interest in the way the big business firms or families try to evade tax, how they make charitable trusts and set aside the income in such a way so that

[Dr. Shrimati Seeta Parmanand.]

they themselves derive benefit from it. For example there are certain families of big business people who have made a charitable trust called "Hospitality Trust", and through this trust every day the feeding expenditure of the whole household of, say, fifty persons, is taken care of. Their whole households would be fed under the pretext of entertaining a few guests or looking after the family deity every day and giving *bhog* to the deity and so on. In this way they take care of their own expenditure. There have been such trusts. That is why trusts which after a certain time are revocable, are brought in here for being taxed, from the time they are made revocable. Here I would like to give the example of education trusts also. In certain cases education trusts were made so that after ten years or so, the trust would operate for a certain group of people, maybe of a certain community or caste, and in that would be included a large number of the children and grand-children and great-grand children of the original donor himself. Now that we are aiming at a secular State, it is a good thing that all these types of communal trusts are declared not legal and from that point of view, this proposed provision is desirable. There have been certain restrictions put on trusts that would be revoked after a certain time. From this point of view also, I think this is a step in the right direction.

Next, I would like to say one or two words about gratuities. Certain rules have been made about gratuities according to which gratuities paid up to a maximum of Rs. 24,000 would be free of income-tax. I do not understand why, while giving this benefit to government servants and to employees of statutory bodies or corporations which are established under Acts, this benefit should not be given, especially since the State is not able to have the public sector more widely established, to employees of companies, employees of registered companies and limited liability companies. I would, therefore, suggest that if that is possible, this aspect of the question may be examined.

While on this subject of gratuities, I would like to add that there is a strong case for pensions below a certain sum being exempted, apart from the usual level at present which is free from taxation. It is well known that the cost of living has gone up 4 or 5 times and those pensioners who were getting, say, Rs. 400 or Rs. 600 or even Rs. 800 a month and who had served the government loyally, can now be considered to be getting only Rs. 200 or Rs. 250|- per month or one-fourth of their pension. Therefore, they find themselves in a very difficult position. So, considered from that point of view, if the exemption level for pensions could be raised and these pensioners could be allowed to have the benefit of their pension in their old age, that would be something done by Government to meet the demand which is often voiced that the pensions of these pensioners should be increased. That increase in pensions perhaps, is difficult now to give. But that is also a question that requires to be looked into.

There is one aspect about these foreign firms and the checking of their accounts that I would like to put before the hon. Minister, because I do not really know what provisions exist there for this purpose under the existing law. There is great scope at present for evasion of income-tax. Of course, what I now say would apply also to Indian firms which have head offices in one State and branches of business in different States. The company's gains are taxable in the State where the head office is situated and not where the officers get their salaries. But the income has to be taxed also in the places where their business are conducted and these are in other States. In such a case it is very difficult to get a proper assessment of the real state of affairs because the local Income-tax Officer is not able to give the correct information. I shall make

it clearer. The local Income-tax Officer who knows about the various ways through which that company may be receiving certain benefits, is not able to put that information, or rather he does not feel called upon to place that information—let me put it that way—before the assessing authority who is in another State. There are cases, therefore, where companies have escaped taxes to the extent, sometimes of large sums, maybe a lakh of rupees or more according to the business done by the company.

With regard to the tax to be imposed on the facilities given to officers, say, for concessions for travelling etc., I think a little more clarification is required. For example, if the concession is with respect to a lower class and the officer is entitled to travel by a higher class, on what basis the tax would be levied, is not known. So there should be a little more clarification. As far as the army personnel is concerned, I do not know whether the rules already safeguard their interests. Since it is not possible to give them salaries according to their requirements and since we want to keep them satisfied in spite of the rise in the cost of living, I think this type of legislation should not be made applicable particularly to army personnel.

(*Time bell rings.*)

There are one or two more points to which I would like to invite the attention of the House and the hon. Minister, but since the time bell has been rung, I would stop here. There is just one more thing I would say before actually concluding. I would say that the Income-tax Act would be enforced much better if Government according to the recommendation of an enquiry committee were to publish the names of the income-tax evaders. Not only that, when they concern big persons in society, holding high positions, if they were to be ostracised from public functions, that would have a telling effect. Otherwise, persons who should be treated as criminals for evading income-tax in various ways, are moving about in society as respectable persons. Therefore, that air that would encourage honest and faithful presentation of income is not prevailing now.

Thank you.

SHRI MORARJI R. DESAI: Sir, it was with very great regret that I had to miss the discussions on the first day on this important Bill, and I would not have missed it if I could have avoided doing so. Because there was a holiday in Parliament for the 1st of September, as originally envisaged, I had accepted a public engagement in Bombay on that day; subsequently, the holiday was changed to the 2nd but I could not change my engagement in Bombay which was also of importance. It was, therefore, that I had to miss the debate but I hope the House will not feel that I have done it either out of indifference or deliberately because I have been very careful always to be present throughout the proceedings whenever they concern me because I consider it my duty to do so, and reading through the speeches is not the same thing as hearing them personally. Yet Sir, I have tried to make myself acquainted with all that has been said on this Bill by the hon. Members who spoke. I am thankful to all the hon. Members of the House for the generous words spoken by them appreciating the Bill. I find that all the Members, including even my hon. friend, Shri Bhupesh Gupta, had good words to speak about the Bill, and I was also happy to find that my hon. friend, Shri Bhupesh Gupta, said that he was softer in his treatment of the Bill because my hon. colleague, the Deputy Minister, was in charge of the Bill. Well, I am glad he has begun to be softer and I hope that habit will last because it is always good to have a habit of using softer words, and it is good that I gave him an occasion to make a beginning.

Sir, quite a number of points made during the discussions relate more appropriately to the taxation system, the annual Finance Acts and the Budget.

[Shri Morarji R. Desai.]

They do not relate to the administration of income-tax. My hon. friend, Shri Bhupesh Gupta spent his usual eloquence on the relative content of direct and indirect taxes in the tax revenue of the country. While the points made by him are not valid even in substance, in my view, I do not propose to go into them now because this is not the occasion to do so. My hon. friend, Shri Santhanam, whom I must congratulate on his detailed study of the Bill, could not resist the temptation of referring to the rates of taxation in some detail. As he is well aware himself, the rates are constantly under review.

SHRI K. SANTHANAM (Madras): Sir, I am sorry to interrupt him, but I did not refer to the rates of taxation. I referred only to the principle of consolidating income-tax and super-tax into one tax.

SHRI MORARJI R. DESAI: I am sorry if I have given a wrong description but it means the system of taxation. That is what it will mean.

SHRI K. SANTHANAM: It has to be done here.

SHRI MORARJI R. DESAI: But this is not the occasion for doing this.

SHRI K. SANTHANAM: If it is not to be done here where else can it be done?

SHRI MORARJI R. DESAI: Well, Sir, this is not a new system which we are establishing today. This is a re-arrangement of the Act because there have been so many amendments before and I am not trying to lay down new principles of taxation by this Bill. As a matter of fact, the Budget is the proper occasion for justifying taxation systems and tax.

SHRI BABUBHAI CHINAI (Maharashtra): If I am not mistaken, the Law Commission has suggested that the structure of the Income-tax Law should also be changed.

SHRI MORARJI R. DESAI: The Law Commission can suggest and the hon. Members also can suggest but it is for me to say which is the proper occasion.

PANDIT HRIDAY NATH KUNZRU (Uttar Pradesh): But you have just mentioned in the Bill.

SHRI MORARJI R. DESAI: Not in the taxation system. If we use all such occasions to go into the taxation system, it will not be possible to find adequate time for it. Especially on this Bill, several hon. Members have complained about the inadequate time available for discussion. I would, therefore, not like to add to that complaint by going into things which I should not go into on this occasion.

Sir, the hon. lady Member who spoke last spoke about this House not having a Select Committee and Members from this House not having been taken on the Joint Select Committee. Sir, that is not due to any fault of mine. I should have very much liked to do so but it is not I who regulate these things. These are regulated by the presiding authorities and more by the Speaker of the Lok Sabha in this instance than by anybody else, and I cannot, Sir, either interfere with or question his authority in this connection. I have to accept whatever it is.

DR. SHRIMATI SEETA PARMANAND: The hon. Minister could convey our feelings to the Speaker.

SHRI MORARJI R. DESAI: I did even last time when that kind of feeling was there but it is not a question of feeling. It is a question of law in this matter and the law tells him in this matter that this must be termed a Money Bill, and that is how he termed it and, therefore, a Joint Select Committee could not go into this Bill.

Sir, I now come to a point in this Bill which agitated hon. Members more than anything else. It has been urged that the provision regarding charities are ambiguous or even inconsistent. In this context, references have been made to the definition of

'charitable purpose' in clause 2(15) of the Bill, the provision in clause 11(1) excluding from total income, income derived from property held under trust wholly for charitable and religious purposes and the provision in clause 11(4) that property under trust includes a business undertaking so held. Let us examine how the salient features of these provisions will operate. A person, which amongst other things includes a body or association of persons claims exemption from tax for certain income under this clause. The first question will be, is the income derived from property held under trust or legal obligation? Property of every person or society or association of persons is not necessarily held under trust. Registration of a society makes no difference to this point. On the other hand, the fact that property yields a profit will not debar the claim. Actually the fact that property in this context includes a business undertaking necessarily means that there will be profit. If the income satisfies this test, the next point will be, has the income been applied for charitable or religious purposes in India? At this stage the question will be, what is the purpose of the trust? Is it a charitable purpose? Some purposes are obviously charitable and some obviously are not so. For the rest, it will be a question of fact to be examined in the light of the definition. During the course of the discussion, some illustrations were given. It was enquired whether Anath Vidyarthi Griha is covered. It obviously is.

PANDIT HRIDAY NATH KUNZRU: Is it so obvious to others?

SHRI MORARJI R. DESAI: Well, Sir, it is, obvious because it is a charitable trust and it is not run for profit. It is run for charity.

The point then raised was, will the fact that the Anath Vidyarthi Griha runs a printing press make a difference in this? My answer would be 'No'. In saying this I am making certain normal assumptions. There can be some very exceptional circumstances which may rule out the case but that can be left out of consideration in this. Another illustration given was of a hospital with some free wards and some paying wards. Again subject to certain normal assumptions, that would qualify. The facts that the press or the paying wards have some income will not disqualify them.

The next point raised was about running of newspapers by a trust. The main question in this is whether printing, publishing and selling a newspaper should be regarded as a charitable purpose. I do not think so. The facts that their profits are small or that they are run by a trust do not make a difference in this. That is why the definition excludes them. Surely, the size of the income cannot make a difference to the purpose. Shri Mani in effect argued that as the income to the treasury by taxing those trusts will be small, we should close our eyes to them

Sir, in that case, we must give up all the taxes which are small and coming from persons earning low incomes. No taxation principle could justify this. Quite a large number of groups could validly argue that income to the treasury from them taken individually is small. Would it be correct to exempt them on that ground? If publishing a newspaper is to be accepted as a charitable purpose, manufacture and sale of medicines would also fall in the same category and I should not be surprised if Shri Bhupesh Gupta claims that so should the activities of the Communist party be considered.

Having made these general observations, I shall specifically deal with the argument that clauses 2(15) and 11(4) are in conflict with each other. Clause 11 provides that subject to certain conditions any income derived from property held under trust for charitable purposes will be exempt from tax. It further provides in sub-clause (4) that such income may be derived

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from a business undertaking. The essential thing is that the income derived from the business or investments should be held under trust and the income should be applied for charitable purposes. The distinction will be noticed. One part is about deriving the income. The other is about spending it. It is in this connection that the expression 'charitable purpose' has to be defined. Here it is that clause 2(15) says that the trust having derived its income from the business or the investment should spend it only on purposes mentioned in that provision and not on furthering business interests. Thus, if a newspaper undertaking is placed under a trust and the income of the undertaking is required to be spent and is actually spent on, say, medical relief, its income is exempt from tax. However, if, after earning the income it does nothing but develop or carries on its business or the income is spent on some other utilitarian purpose, it does not qualify for the exemption. Thus, there is no conflict or inconsistency between clause 2(15) and clause 11(4).

SHRI AKBAR ALI KHAN (Andhra Pradesh): There has been a criticism that the words "carrying on activities for profit" create confusion. The word "private" should be inserted before "profit". If it is inserted, then this will, according to the latest decision, clear the matter further.

SHRI MORARJI R. DESAI: I shall now turn to another objection which has been raised questioning the necessity, in order to carryout Government's intention of adding the words "not involving the carrying on of any activity for profit" in clause 2(15). The definition of charitable purpose in section 4(3)(i) of the existing Act was originally based on the definition given by Lord Macnaghten in what is known as the Pemsel case. He defined 'charitable purpose' as relief of poverty, advancement of education, advancement of religion and other purposes beneficial to the community not falling under any of the preceding heads. But the Indian definition was wider in that the words, "the advancement of any other object of general public utility" took the place of the words, "other purposes beneficial to the community" used by Lord Macnaghten. The effect of these was that trusts which were not in essence charitable and would have been excluded from the purview of charitable objects in England were allowed to be considered as objects of general public utility in India. The process of widening the scope of charitable purpose was aided by another doctrine evolved by the courts that it is not a necessary element in a charitable purpose that it should provide something for nothing or less than its cost or for less than the ordinary price, that is, the charitable element is not essential for a charitable purpose. Thus, running a newspaper itself was claimed to be a charitable object of general public utility even though a newspaper charged its readers and advertisers at the ordinary commercial rates. This was the law laid down in the case of trustees of 'The Tribune' referred to by Shri Pathak. By gradual stages, a trust for the maintenance of a public swimming pool and a Chamber of Commerce deriving income from house property claimed before the courts and obtained exemption from taxation as charitable institutions on the ground that their services are for the advancement of an object of general public utility. A logical extension of this would be for a hotel to argue that it caters to the general public without any distinction of caste or creed and, therefore, it subserves an object of general public utility. It is certainly not the intention that the expression "advancement of any other object of general public utility" should cover cases of such commercial activities and should lead to these activities themselves being treated as "charitable activities". It was, therefore, necessary to state it clearly in the law that any activity for profit shall not in itself be regarded as a charitable purpose. Sir, I hope this will clear the doubts existing on these two clauses.

I will now come to another criticism made by several other Members. Shri Bhupesh Gupta stressed that the Government should concentrate on catching the 'big fish' instead of chasing small assessees and that all the efforts of the administration should be directed towards tackling the cases of persons who avoid or evade tax. The basic scheme of the Bill is that while protection is given to honest assessees, no quarter is shown to tax evaders. There are several provisions in the Bill which hit tax evasion. My colleague gave a list of these items in her opening speech and I need not repeat them. As regards the administrative arrangements to deal with tax evasion, I have repeatedly pointed out both in this House and in the other that the entire machinery of the Income-tax Department has been geared up to tackle big cases. We had first the Income-tax Investigation Commission which dealt with cases of substantial evasion and when the cases referred to that Commission were struck down as invalid by the Supreme Court necessary legislative proposals were brought before the Parliament to tackle those cases and a special machinery was set up to investigate and complete those cases. Side by side, to deal with cases of evasion relating to postwar years, a Directorate of Investigation with a number of special Circles attached to it was created and has been functioning for the last ten years. Besides these, two special investigation charges, known as the Central Charges are functioning both in Calcutta and Bombay for looking into cases with wide ramifications, and suspected concealment.

He also made the point that double income-tax avoidance arrangements made by India work against the interests of Indians and that the benefits to go the Englishmen and nationals of other foreign countries. Shri Bhupesh Gupta is, as usual, misinformed. There is no double taxation avoidance agreement with the United Kingdom yet. India has agreements with Sweden, Norway, Denmark, Japan, West Germany, Pakistan and Ceylon. In all these agreements, the principle is that if the source of income is located in India, India should have the right to retain the full tax on that income while the other country in which the person is resident should avoid double taxation either by *ab initio* letting such income go untaxed or by giving credit against its own tax, of the Indian tax. Where the scheme of giving tax credit has been adopted, we have also been able to incorporate a provision whereby the foreign government will give credit not only for the tax actually paid in India but also for the tax spared in India under the special tax concessions given in order to promote industrialisation in the country. It has thus been ensured that the tax incentives which we give are not frustrated by taxation in the foreign country. I hope, Sir, that it is not too much to expect that Shri Bhupesh Gupta will now feel convinced that the double taxation avoidance agreement concluded by us with foreign countries does not work against the interests of India. They are based on principles of fairness to all parties concerned. Shri P. N. Sapru wanted to know why in sub-clause (3) of clause 11, the date 1-4-1952 has been chosen for marking off charities for charitable purposes outside India. The answer is simple. Sub-clause (3) of clause 11 is a reproduction of proviso to section 4(3)(i) of the existing Act. This proviso was inserted by an amendment made in 1953 which came into effect from 1-4-1952. The amendment was made on the recommendation of the Income-tax Investigation Commission. That Commission pointed out that in the income-tax laws of other countries, exemption of the income of charitable trusts was restricted only to those cases where the trusts spent their income within the territory and that as the Indian Income-tax Act stood then, it permitted exemption even for charitable purposes outside India. The Commission, therefore, recommended

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that we should also restrict the scope of exemption to trusts spending their income within India. This amendment was accordingly brought forward and put into effect from 1-4-1952. It is in order to avoid an adverse effect on the trusts existing on that date, that a special provision was made for these trusts.

He also desired that religious trusts formed for building temples, mosques and charities should not be denied exemption under clause 13. It is only with a view to seeing that religious trusts and institutions are not affected by the restriction imposed in sub-clause (b)(i) of clause 13 that the words, "or religious" were removed by the Lok Sabha. If the hon. Member will kindly look up the Bill, as passed by the Lok Sabha, and the Bill as reported by the Select Committee, he will find that the Lok Sabha has safeguarded the position regarding the religious trusts.

Shri Dahyabhai Patel said that the provision in clause 62 restricting the application of benefit relating to temporarily irrevocable transfer of assets to trusts already in existence is not justified. Clause 62 corresponds to the third proviso to existing section 16(1)(c) of the Income-tax Act. Under the existing law the exemption from operation of section 16(1)(c) is conferred on trusts which are not revocable either during the life time of the beneficiary or for a period exceeding six years provided the transfer does not derive any direct or indirect benefit in either case. The provision relating to transfers not revocable for a period of six years has led to many abuses, in that it has enabled persons with high incomes to reduce their liability by transferring a portion of their assets to even near relatives under a trust made irrevocable for a period of six years. In order to plug this loophole, the exemption given in the third proviso to section 16(1)(c) is withdrawn in respect of future trusts.

He also mentioned that there are certain people who, though they have not acquired the high qualifications mentioned here or even the ordinary Degree of B.Com., have appeared successfully before Income-tax Officers. If a restriction has to be put, the least that the Government could have done, he added, was to recognise those people who have been in the profession and who have been doing this for all these years and allow them to practise. I am afraid the hon. Member has overlooked the provisions of clause 288 which permits existing Income-tax Practitioners to continue to practise even after the commencement of the new Act.

Shri Suresh Desai said that if a foreign technician stays in India for five years, he will be treated as not ordinarily resident under clause 6(6) only for the first three years and will be exempted from paying any tax and that for the next two years he will be treated as resident and will have to pay tax on his world income. I am afraid he is under a misapprehension. The definition of "not ordinarily resident" included in the Bill is the same as in the existing Act. The residential status of foreign technicians is, therefore, unaffected by the Bill. All that it says is that in the case of a person "not ordinarily resident", the liability will be determined as in the case of a non-resident. This does not mean, as presumed by Shri Desai, that his foreign income will be taxed in India. It will only be counted for rate purposes in taxing the Indian income and that too if he chooses to exercise the option to be assessed at the world income rate. It will thus be seen that his impression was based on not seeing the provision as it is.

Then, Sir, I was surprised that Shri Bhupesh Gupta referred here to an allegation made by some lady, Mrs. G. B. Dalal, as he says, in connection with the assessment of a firm. What he said was this:

"From this letter that I have got in my hand I must read out that

portion which has got to be clarified, and let the Finance Minister do it."

Then he read out from the letter:

"The firm exercised their influence on Shri Morarji Desai with the result that their income-tax was compromised for a meagre sum of Rs. 14 lakhs."

Then Mr. Bhupesh Gupta went on:

"I do not vouch for it, I cannot say whether it is right or wrong, but here are people who write such letters."

His business is not to verify what is written but merely to repeat them here so that the allegations go on and he is not held responsible. Then he said:

"Also the Prime Minister has been written to on this subject by Mrs. G. B. Dalal. The point is that no enquiry was made, and if an enquiry was made, we would like to know what happened to this particular case over which correspondence went on from the person, and she gave her name, her address and so on, and specific allegations were made about income-tax evasion. Her letter also went to the Prime Minister and others."

He wanted to have copies of these letters and he had got them, he said. Then he says:

"it seems from what is written here, that there is a serious allegation—to say the least—a serious allegation against the Government and against the Finance Minister as to the manner in which a particular case had been compromised."

Well, Sir, I only wish that the hon. Shri Bhupesh Gupta had the common courtesy of asking me about it but instead of doing that, without any evidence, he comes here and utilises his privilege of making an allegation here in this indirect manner. Sir, in 1958, just about the time I took charge of the Finance Ministry—whether it was just before or soon after, I do not remember—certain complaints were received against Messrs. Pashabhai Patel & Co., to which the hon. Member refers. They were fully enquired into by the officers of the Income-tax Department and proper action was taken long ago. The allegation that any concession was shown to the firm at my instance is thoroughly baseless because it was not I who assessed; it was the Central Government Commissioner who assessed it. It was thoroughly gone into. The case was also reported to the Prime Minister. When the letter was received from Mrs. Dalal by the Prime Minister, he also sent it on to me and I sent back all the facts to him. The lady concerned was an employee of Messrs. Pashabhai Patel & Co. for a long time. Then they fell out, I do not know why. That is not my business to know but she left and then she saw Shri Feroze Gandhi and gave him all the information. Shri Feroze Gandhi gave this information to the Finance Ministry and that is how it was enquired into and the whole thing was enquired into and an additional levy of Rs. 14 lakhs was made as far as I remember and the lady concerned was given also her reward. But she wanted a larger reward and therefore she went on making these allegations so that by throwing dirt at me she could get more money. One knew how to deal with this kind of people. If it had not been the kind of person she is, I could certainly have prosecuted her for defamation but I do not think I would like to throw stone in mud because it will only splash back at me. That is how Mr. Bhupesh Gupta goes on utilising whatever information he gets from whatever source and making allegations here without verification. There could

[Shri Morarji R. Desai.]

not have been a more baseless allegation than the one that is made. Sir, I myself know for certain that if he meets me outside he will tell me, 'I do not believe that you are capable of doing it' but yet inside the House he tries to do this. It may be good party politics but I do not think it is proper parliamentary practice. That is all that I have got to say.

I do not think that there is anything else on which I have to make any clarification. The clarification that I have made ought to satisfy my hon. friends that the provisions that they have criticised have been made with a good purpose. There is only one further thing to which I should like to refer. There are some words omitted in clause 13. Those words have been omitted through oversight. I agree that those words should be replaced by a recommendation, and not otherwise, as is the practice here. There is an amendment moved about it by Mr. Akhtar Husain, which I shall certainly accept.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill to consolidate and amend the law relating to income-tax and super-tax, as passed by the Lok Sabha, be taken into consideration."

*The motion was adopted.*

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

*Clause 2.—Definitions*

SHRI K SANTHANAM: Sir, I move.

1. "That at page 7, at the end of line 39, after the word 'sub-clauses;' the words 'but does not include the Central Government' be inserted."

2. "That at page 9, at the end of line 2, after the words 'this Act' the words 'and includes also any surcharge imposed upon those taxes under article 271 of the Constitution' be inserted."

SHRI A. D. MANI (Madhya Pradesh): Sir, I move:

19. "That at page 3, lines 31-32, the words 'not involving the carrying on of any activity for profit' be deleted."

30. "That at page 3, at the end of line 32, after the word 'profit' the words 'which is not to be utilised for the advancement of any such object' be inserted."

*The questions were proposed.*

SHRI K. SANTHANAM: Sir, I do not want to take the time of the House, but I shall simply explain the meaning of my amendment:

"That at page 7, at the end of line 39 after the word 'sub-clauses;' the words 'but does not include the Central Government' be inserted."

In the original Act, the word 'person' has been defined as follows:—

"Person includes a Hindu undivided family and a local authority."

In the General Clauses Act it says:—

"The word 'person' shall include any company or association or body of individuals whether incorporated or not."

Now, in the Bill 'person' has been defined to include:—

"(i) an individual,

(ii) a Hindu undivided family,

(iii) a company,

(iv) a firm,

(v) an association of persons or a body of individuals, whether incorporated or not,

(vi) a local authority, and

(vii) every artificial juridical person, not falling within any of the preceding sub-clauses;".

The main issue is whether the last sub-clause includes Government or not. Ordinarily a person would not include 'government', but they have gone out of their way and according to article 300 of the Constitution, the Government of India and the Government of a State are juridical persons, because they can sue and be sued. Therefore, according to this Bill all the State Governments and the Central Government should be liable to income-tax. The Constitution prohibits the Central Government from touching the State Governments and, therefore, the Union Government will be liable to tax. Of course, it may be that the Union Government cannot tax its own revenues. But income-tax is not the property of the Central Government. According to the Constitution it is partially the property of the State Governments also. Therefore, I think legally a writ can be issued against the Central Government in connection with the Union Government's taxation, according to this definition. I think it is wrong. It seems to be wrong. If the hon. Minister is convinced that it is not a mistake, I am not going to press my amendment.

Now, my second amendment is this. I want to include the surcharge. Now income-tax, super-tax and two surcharges are levied on every assessee. Unless the latter are included here in the definition, all the provisions relating to the administration of tax will not be applicable to surcharge. Legally it cannot be deducted. Therefore, in the interests of revenue, I think they should accept my amendment No. 2.

MR. DEPUTY CHAIRMAN: Mr. Mani, you said you would not make any speech.

SHRI A. D. MANI: I just wanted to make one small statement. I would not make a speech. We are very grateful to the Finance Minister for the clarification that he has made about clause 2(15), but the legal difficulties are still there. And we have been advised that without the amendment that I have suggested the position would be that the business undertakings of trusts would be liable to taxation. What the Finance Minister says here would not bind the courts of law.

PANDIT HRIDAY NATH KUNZRU: Sir, I can say a word about this—what Mr. Mani has not said. It was very pleasing to hear the Finance Minister explain the meaning that the Government attaches to clause 2(15) and clause 11(4) of the Bill. To the extent that he has clarified the position, we are grateful to him. But there is one point on which I should like to have some further clarification. So far as I understood him, he said that what mattered really to the Government were only two things. One is whether the income from a certain property was bound to be spent on charitable purposes. Was there a trust or any legal obligation that would compel persons receiving the income to spend it on charitable purposes? And the second point, with which the Government is concerned, is to see that the money is used habitually for charitable purposes, even if a charitable society may not have started as connected with any of these primary purposes. This is what I understood him to say. Could not this be made clear by a change in the law? If he could use the word, say, 'private' before 'gain', or make any other amendment, it would make the position legally clear. I can see what his meaning is, but is he certain that the law courts would take the same view as he has done? I referred to the case of Anath Vidyarthi Griha and its printing press. He said that the income of the printing press would obviously be exempt from taxation. This is the point on which I have some doubt. Is it clear that the income from such a profit-making concern would be exempt from taxation? The definition that is given here in clause 2(15), "charitable purposes", seems to throw doubt on the legal validity of the assurance given by the Finance Minister.

[Pandit Hriday Nath Kunzru.]

There is one other point that I should like to mention in connection with the trust, with the point made by the Finance Minister that the first concern of the Government would be to see whether there was a trust or a legal obligation for the income from a concern being spent for charitable purposes. I am sure that he is well acquainted with the judgment of the Privy Council in the case of the All India Spinners' Association *versus* the Commissioner of Income-tax, Bombay. The Privy Council decided in that case that even an unregistered association could take advantage of the provision of section 4(3) of the existing Income-tax Act without there being any trust or legal obligation for spending its income on charitable purposes they could show that as a matter of fact it had spent its income for those purposes. Now will this be acceptable to Government or not? Or does it want even when it is assured that the income is spent on charitable purposes that some legal provision should be shown compelling the institution concerned to prove that it is bound to spend the income that I have referred to on charitable purposes? These are the two points on which I should like to have clarification from the Finance Minister.

1 P.M.

SHRI MORARJI R. DESAI: Sir, taking the amendments to clause 2(15), first I would say that I had explained this just when I spoke explaining the points raised in the debate. To my mind the matter is very clear, and I do not see how another interpretation can arise. In any case this question cannot be in courts in this sense that anybody who is taxed against this has to go to courts if this interpretation is not accepted. The officers will follow the interpretation given by Government and not anywhere else unless the courts have given another interpretation. In these cases it is obvious that trusts which are for charitable purposes, that is their incomes are to be applied for charitable purposes, will be exempted, whatever may be their activities for earning profit or otherwise, because that is what is meant. What I am excluding is a trust which is not a charitable trust but a trust which can come under this general utility thing which has got to be provided against, the advancement of any other object of general public utility. If I do not keep those words "not involving the carrying on of any activity for profit", what will happen is, for instance, a doctor who practises and earns and makes money and also gives medical relief will be exempted. If I do not keep those words, then he is exempted.

SHRI AKBAR ALI KHAN: If you include the word "private", it will eliminate all these difficulties.

SHRI MORARJI R. DESAI: I have considered all that. That is not necessary, because under clause 11(4) a property includes business, and a charitable trust can hold that property and can do that business. That is what has been allowed. Now I will give you a specific instance. Take the 'Tribune Trust.' It has been exempted by courts because of the present law. It will not be exempted in future, and it is the intention that it should not be exempted, that is, such activity should not be exempted. That is the plain intention. If I remove these words, then these will be exempted. Therefore, it would not be right to do so. Therefore, I cannot accept that.

PANDIT HRIDAY NATH KUNZRU: What I want to know is whether in clause 11(4) property means a property that was in the possession of the trust at the time of its establishment, or does it include any other property also that may come in its possession later on, that is, after its establishment?

SHRI MORARJI R. DESAI: Yes, it will all be included, what comes later on also. It is only for trusts which are for all sections, without distinction of sect, class or creed, not for others. For others, only the existing trusts will

be exempted, but not the future incomes of those trusts. That is the distinction made in this Bill.

Then, Sir, my friend, Shri Santhanam, says that I should specifically say that the "person" does not include the Central Government. It has been held by the Supreme Court in a recent case that the rule of interpretation of statutes that a State is not bound by a statute unless it is so provided in express terms or by necessary implication is still good law. There is, therefore, every indication in the Bill that it cannot possibly apply to the Central Government even if any doubt is entertained on the question whether "person" includes the Central Government. Further in a taxing statute this rule applies with greater force, and therefore there is no need for this amendment as proposed.

The same applies in another manner to the other amendment proposed by my hon. friend. I know, Sir, that he has made both these amendments in order to safeguard the position of Government. But I plead with him that it is not necessary to have these amendments. The question of surcharge also is the same. The Bill defines taxes as meaning income-tax and super-tax chargeable under the provisions of this Act. Under article 271 of the Constitution the surcharge is only an increase of any of the duties or taxes referred to in articles 269 and 270. Therefore, the surcharge is really an increase of income-tax and super-tax chargeable under the provisions of this Act, and hence it is not necessary to add the words as suggested by him. It is, therefore, Sir, that I cannot accept these amendments.

SHRI K. SANTHANAM: Sir, I beg leave to withdraw my amendment.

SHRI A. D. MANI: Sir, I beg leave to withdraw my amendments.

**Amendment Nos. 1, 2, 19 and 30 were, by leave, withdrawn.*

*For texts of amendments, *vide* cols. 2933-34 *supra*.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 2 stand part of the Bill."

*The motion was adopted.*

*Clause 2 was added to the Bill.*

*Clauses 3 to 9 were added to the Bill.*

*Clause 10—Incomes not included in total income.*

MR. DEPUTY CHAIRMAN: Mr. Santhanam, your amendment No. 5 is out of order. It requires the recommendation of the President. You may move amendment No. 4.

SHRI K. SANTHANAM: Sir, I move:

4. "That at page 15, line 11, the words 'or occupation' be deleted."

SHRI A. D. MANI: In view of the statement made by the Finance Minister I do not move my amendment No. 20.

*The question was proposed.*

SHRI K. SANTHANAM: Sir, the word "profession" has been defined to include a vocation. This has been made specifically by the Select Committee, and now they have introduced another word "occupation" which has no relevance and no meaning. This Bill is intended to clarify and simplify the existing statute. What exactly is "occupation"? When they have included all vocations under the term "profession", again introducing "occupation" is to add an element of confusion. I do not know why this has been done. Probably I think it is a mistake of drafting. If the hon. Minister is content with the mistake, then I have nothing to say about it.

SHRI MORARJI R. DESAI: As my hon. friend says, profession and occupation are the same. Therefore, it is not necessary to keep those words. That is how I understand it.

SHRI K. SANTHANAM: Because profession includes vocation.

SHRI MORARJI R. DESAI: That is all right. But the Madras High Court judgment is there in the case of C.I.T. Madras *vs.* V. P. Rao. An occupation is a more expansive word than vocation in as much as a temporary activity for a time may also be comprised therein in the sense of a person being engaged or occupied in a particular task or work. It is therefore that these words should remain.

SHRI K. SANTHANAM: Why was it not included in the definition that "profession" will include vocation or occupation?

SHRI MORARJI R. DESAI: That is an argument to which it is very difficult for me to reply. It was not included, therefore it should not be included.

**Amendment No. 4 was, by leave withdrawn.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 10 stand part of the Bill."

*The motion was adopted.*

*Clause 10 was added to the Bill*

*Clause 11—Income from property held for charitable or religious purposes.*

SHRI K. SANTHANAM: Sir, I move:

24. That at pages 22 and 23, for lines 37 to 44 and 1 to 3, respectively, the following be substituted, namely:—

"(4) For the purposes of this section, 'property held under trust' includes a business undertaking so held and the income of any such undertaking shall be separately determined in accordance with the provisions of this Act relating to assessment, and the provisions of sub-sections (1), (2) and (3) shall be applicable to such income."

*For text of amendment, *vide* col. 2940 *supra*.

I have made the object clear because as it is, the income of the business need not be shown separately at all. Now, it says that one account must be tested by another account. It might have shown a profit privately. But the whole property including the business would have one balance-sheet or one account. Therefore, there will be no means of comparing with that account, and the present clause will be wholly unexecutable. What I have suggested is that the profit should be ascertained separately and then all the other clauses will apply if it is for charitable purposes; if it is not for charitable purposes, it is taxed. I have made the object clear. If he likes to retain the original clause, will he please explain what exactly are the words that are to be included in the sub-clause?

*The question was proposed.*

SHRI MORARJI R. DESAI: I certainly appreciate the intentions of my hon. friend. But these words have been put into the clause—as it is worded—because they serve the purpose it has in view. I am explaining it. The existing sub-clause (4), as it is, makes the position, in my view, much more clear and explicit than the amendment moved and if this amendment is accepted, it will create a confusion as to what exactly is the income which is taxable. Clause 11(3) specifically states that any income spent on non-charitable purposes is chargeable to tax This would postulate that the amount cannot be taxed unless it is actually shown to have been spent on non-charitable purposes. But in the case contemplated under clause 11(4), if the Income-tax Officer determines an income higher than the income shown in the books of the account, say, on account of concealment, sub-clause (3) will not come into operation, unless the law deems the concealed portion of the income as having been spent on non-charitable purposes. Moreover, this amendment means that in every case the income must necessarily be determined. This will be perhaps

quite a hardship for small trusts. Therefore, the draft as appearing in the Bill expresses the intention more clearly and in a better manner than the draft submitted just now.

SHRI K. SANTHANAM: What is the meaning of the words "in the accounts of the undertaking"? There may be no account of the undertaking at all. Only the account will be of the property of the trust.

SHRI MORARJI R. DESAI: How can there be an account of a business not undertaken? This has been put for a specific purpose. We have now allowed charitable trusts to run any business that they may like provided the whole income of that business is spent for that charitable purpose. This provides a safeguard that that business undertaking may not be utilised for giving away moneys to various people because they will not be submitting any returns. The only other alternative would be as provided by my hon. friend that every trust must send in a return for the business undertaken and it must be scrutinised. Now, that is a hardship. We have, therefore, retained the power that wherever we find that any trust is doing that, the Income-tax Officer will determine that income and whatever is extra, he will charge. That is the purpose of the clause as worded. If I accept the amendment, it will mean that every trust will have to submit a return; it will have to be done and it will be a hardship for small businesses, small trusts.

MR. DEPUTY CHAIRMAN: Do you press it?

SHRI K. SANTHANAM: I do not accept argument but I beg leave of the House to withdraw it.

**Amendment No. 24 was, by leave, withdrawn.*

*For text of amendment, *vide* col. 2941 *supra*.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 11 stand part of the Bill."

*The motion was adopted.*

*Clause* 11 *was added to the Bill.*

*Clause* 12 *was added to the Bill.*

*Clause* 13—*Section* 11 *not to apply in certain cases*

SHRI K. SANTHANAM: Sir, I move:

6. "That at page 23, line 26, after the word 'caste' the words 'the income of such trust or institution' be inserted."

7. "That at page 23, at the end of line 36, after the word 'family' the words 'such part of the income of the trust or the institution' be inserted."

SHRI AKHTAR HUSAIN (Uttar Pradesh): Sir, I move:

31. That the Rajya Sabha recommends to the Lok Sabha that the following amendment be made in the Income-tax Bill, 1961, as passed by the Lok Sabha, namely:—

"That at page 23, line 24, after the words 'this Act' the words 'any income thereof' be inserted."

*The questions were proposed.*

MR DEPUTY CHAIRMAN: Mr. Santhanam, amendment No. 31 of Shri Akhtar Husain covers your amendment No. 6.

SHRI K. SANTHANAM: No, Sir, because my amendment says that if the trust or the institution is to be created or established for the benefit of a particular religious community or caste, then the whole income will be taxable. If only a part of it is for charitable purposes, according to my amendment, that part will be exempted. But according to amendment No. 31, even if half the trust goes to a university then the entire income

[Shri K. Santhanam.]

will be taxable. I do not see why it should be done. Then again, I object to the form of amendment No. 31. Here, this is a coequal House. We pass an amendment, it is accepted, and it is open to the other House to reject or accept it. But the question of recommending the amendment of this House to the other House, I think, is not a proper form.

MR. DEPUTY CHAIRMAN: It is the Constitutional form. That is the Constitution you framed.

SHRI K. SANTHANAM: Is it so?

MR. DEPUTY CHAIRMAN: On all Money Bills, any amendment suggested by this House go as recommendations.

SHRI K. SANTHANAM: If they do not accept it, then we cannot do anything about it.

MR. DEPUTY CHAIRMAN: It is true.

SHRI K. SANTHANAM: But here this is a Bill and we are moving an amendment to the Bill and, therefore, it is open to the other House to accept it or not.

MR. DEPUTY CHAIRMAN: Yes.

SHRI K. SANTHANAM: It does not mean that it is a recommendation.

MR. DEPUTY CHAIRMAN: It is a recommendation. It provides for the recommendation of the amendment to the Money Bill.

SHRI K. SANTHANAM: All our amendments should have been in that form.

MR. DEPUTY CHAIRMAN: As adopted by the House, it is recommended.

SHRI K. SANTHANAM: Sir, there is the question of expenses. When a trust is partially for one's own benefit or for the benefit of one's purpose and the other half is for a charitable purpose as defined by the Act, whether the other half should be taxable and should not be allowed exemption, that is the point at issue. I think that it is fair that where the other half is for a charitable purpose, only that part which does not go to the charitable purpose should be taxable. Now, according to this amendment, the entire thing would be taxable.

SHRI AKHTAR HUSAIN: Sir, the words are self-explanatory. This is a Bill of 298 clauses and if this omission has occurred either by some error or some accident, then we should try to make it good; otherwise, if it is not made good, the Opposition will raise objection that it is not the income that is being taxed but the corpus that is being taxed. Therefore, the intention of the framers of the Bill was that only the income accruing from it should be taxed.

Now, so far as the language of my amendment is concerned, I submit that it is fully in accordance with the rules of this House, and if others have made a mistake, there is no reason why we should repeat it also. Another reason is that we do not wish to encumber this clause by the words which have been included in the previous amendment moved by Shri Santhanam because that would make it cumbrous and that may even interfere with the proper enforcement of the Bill when it is passed. Therefore, Sir, in order to simplify the matter,—and that it is only the income that is intended to be taxed—we want these words to be brought in. We make this recommendation fully conscious of the fact that on account of grounds, technical or legal or any other, it was not proper that Members of this House should be associated in the Select Committee which was responsible for going into this Bill, but it is possible that if Members of this House had been included there, this omission may not have been made.

This is all that I have to say. Thank you.

SHRI MORARJI R. DESAI: Sir, the intention is obvious. My hon. friend, Shri Santhanam, is quite correct in saying that the intention is that the whole income should be chargeable to income-tax. But then this applies to all new trusts, not to the existing trusts. In the existing trusts it is only the income which is utilised for private purposes that will be taxed. In the matter of new trusts we do not want any new trust to be made where there are two purposes in view, one purpose being private purpose and the other being the spending of money for some charitable purpose. If they want to have two purposes like that, let them have two different trusts, one for private and another for charitable purpose, not combine the two in one trust. Therefore, it is that the whole income in such cases should be chargeable to income-tax. That is the intention. Unfortunately, these were omitted somehow—I do not know why it was not noticed in the course of the proceedings in the Lok Sabha. Therefore I accept the amendment moved by Shri Akhtar Husain. But I cannot accept the amendments of Mr. Santhanam.

MR. DEPUTY CHAIRMAN: Mr. Santhanam, do you want me to put your amendments to vote?

SHRI K. SANTHANAM: No, Sir, I beg leave to withdraw my amendments.

**Amendment Nos. 6 and 7 were, by leave, withdrawn.*

MR. DEPUTY CHAIRMAN: The question is:

31. That the Rajya Sabha recommends to the Lok Sabha that the following amendment be made in the Income-tax Bill, 1961, as passed by the Lok Sabha, namely:—

"That at page 23, line 24, after the words 'this Act' the words 'any income thereof' be inserted."

*The motion was adopted.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 13, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 13, as amended, was added to the Bill.*

*Clauses 14 and 15 were added to the Bill.*

*Clause 16—Deductions from salaries*

SHRI K. SANTHANAM: Sir, I move:

8. "That at page 24, lines 36-37, after the word 'entertainment' the words 'or sumptuary' be inserted."

9. "That at page 25, lines 14-15, after the words 'conveyance allowance' the words 'and such allowance as is not included in the total income of the assessee' be inserted."

My first amendment is only for safeguarding the revenues of the Government, because in some orders of appointment the word "sumptuary" is being used. Whether it will be construed as being in the nature of an entertainment allowance, I am not sure; I only wanted to make it certain.

The other amendment is one of substance. I want the Finance Minister to listen to my argument carefully. Where an assessee draws a salary exceeding Rs. 18,000 a year, all these allowances including also the conveyance allowance become perquisites in his case and they become taxable. In addition to making these other allowances taxable in his case, to deprive him of even the usual allowance for maintaining a car, which is allowed in the case of other people, is a mistake Therefore, my amend-

*For texts of amendments *vide* col. 2944 *supra*.

[Shri K. Santhanam.]

ment is obvious. If it is included in the taxable income, then he gets the other preferences; if it is not included, then it will be a conveyance allowance. Therefore, I think, he should accept this amendment.

*The questions were proposed.*

SHRI MORARJI R. DESAI: The first amendment is not at all necessary, because entertainment allowance means sumptuary allowance also. Therefore it is superfluous; it is not necessary.

Now, sub-clause (iv) permits a deduction for the maintenance and use of a conveyance by a salaried employee provided he is not in receipt of a conveyance allowance as such. Conveyance allowance being exempt from tax, it is necessary to provide that a person, who is already in enjoyment of a tax-free allowance should not get another deduction from salary. But what the amendment says is that if an employee is in receipt of any allowance not included in the total income of the assessee, he should be denied the benefit of a deduction. "Any allowance" is a very wide term and can have no relation whatever to the deduction allowed under this sub-clause, namely, for the use of a conveyance. The only appropriate allowance which should disqualify any claim for deduction in this context is the conveyance allowance. Hence I do not see why this amendment should be accepted. I cannot accept it.

MR. DEPUTY CHAIRMAN: Mr. Santhanam, do you press them to a vote?

SHRI K. SANTHANAM: No, Sir; I beg leave to withdraw my amendments.

**Amendment Nos. 8 and 9 were, by leave, withdrawn.*

*For texts of amendments, *vide* col. 2948 *supra*.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 16 stand part of the Bill."

*The motion was adopted.*

*Clause 16 was added to the Bill.*

*Clause 17—"Salary", "perquisite" and "profits in lieu of salary" defined*

MR. DEPUTY CHAIRMAN: Your amendment is out of order. It needs the recommendation of the President. So I rule it out.

SHRI K. SANTHANAM: May I know why?

MR. DEPUTY CHAIRMAN: It requires the recommendation of the President; it increases taxation.

SHRI K. SANTHANAM: No, Sir, it reduces taxation.

MR. DEPUTY CHAIRMAN: Either way it requires . . .

SHRI K. SANTHANAM: I think we can move amendments to reduce taxation, not to increase taxation. A man may get, for example, Rs. 5,000 only as salary for a year, but then he can get another Rs. 10,000 in the form of all kinds of benefits and perquisites, or more, up to a total of Rs. 18,000 in all. The perquisites can go on to any extent. I want to limit it in all cases to Rs. 3,000, and therefore this is actually reduction of taxation. Now, there is no limit to the amount given for perquisites, which any employee can get provided he does not get a monetary payment exceeding Rs. 18,000 a year. Up to that limit the benefits and perquisites can go on. A man on a salary of Rs. 100 per month now can get an additional Rs. 500 later in the form of perquisites, and I think that that was not intended to be allowed. I want to draw attention to that situation as otherwise an employer may take note of my interpretation and he may have trouble about it.

SHRI MORARJI R. DESAI: I do not think that persons who are getting lower salaries will be benefited like this by anybody.

SHRI K. SANTHANAM: Will he read sub-clause (iii)(c) on page 26 where the definition of the word "perquisite" does not apply to an employee getting Rs. 18,000 or below.

SHRI MORARJI R. DESAI: Yes, that is so. That means also that nobody who gets less than Rs. 1,500 a month will be given other allowances . . .

SHRI K. SANTHANAM: Any amount in the shape of perquisites . .

SHRI MORARJI R. DESAI: I do not think that such things happen generally, but if it happens, then certainly I will come back to you to see that it is plugged. I do not think it is necessary to provide for all imaginable cases.

SHRI K. SANTHANAM: For obvious mistakes he wants to come back with an amending Bill.

MR. DEPUTY CHAIRMAN: But actually it increases taxation, Mr. Santhanam. You limit it to Rs. 3,000; so it increases.

SHRI K SANTHANAM: No, Sir. According to the Bill Rs. 18,000 is the total limit. I reduce the limit for other people to Rs. 3,000. Now it is indefinite; benefits can be given indefinitely up to Rs. 18,000.

MR. DEPUTY CHAIRMAN: Anyway he is not accepting it.

SHRI K. SANTHANAM: That does not matter. I have not moved the amendment in any case.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 17 stand part of the Bill."

*The motion was adopted*

*Clause 17 was added to the Bill.*

*Clause 18—Interests on Securities*

SHRI K. SANTHANAM: Sir, I move:

25. "That at page 27, lines 5-6, after the words 'Central or State Government' the words 'unless it has been issued tax free' be inserted."

Sir, I made the position clear on an earlier occasion also. I make the point again now and seek a clarification. Now supposing the Central Government issues tax-free securities, is the person who receives interest on them liable to pay tax or not? According to the provisions here, he is liable to pay tax. In the original Bill it was specifically provided that if the Central Government issues tax-free securities, the holder of the same will not pay tax on the interest he receives on them. If the State Government issues tax-free securities, the State Government will pay the tax, but now the provision is that the State Government will pay and the man also will pay the tax; both will pay the tax because there is no exemption in the original clause.

*The question was proposed.*

SHRI MORARJI R. DESAI: May I refer the hon. Member to clauses 86(i) and (ii) which say that:

"Income-tax shall not be payable by an assessee in respect of the following—

(i) the interest due on any security of the Central Government issued or declared to be income-tax free;

(ii) the interest due on any security of a State Government issued income-tax free, the income tax whereon is payable by the State Government;".

SHRI K. SANTHANAM: Then I withdraw my amendment.

*Amendment No. 25 was, by leave, withdrawn.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 18 stand part of the Bill".

*The motion was adopted.*

*Clause 18 was added to the Bill.*

*Clauses 19 to 23 were added to the Bill.*

*Clause 24—Deductions from income from house property.*

MR. DEPUTY CHAIRMAN: Amendment No. 11. That is also barred. It requires the recommendation of the President.

The question is:

"That clause 24 stand part of the Bill."

*The motion was adopted.*

*Clause 24 was added to the Bill.*

*Clauses 25 to 27 were added to the Bill.*

*Clause 28—Profits/gains of business or profession*

SHRI A. D. MANI: Sir, I move:

21. "That at page 32, line 11, after the word 'income' the words 'excluding revenue from subscriptions' be inserted."

I would just take one minute of the House. The Finance Minister in his speech referred to income from the property of the Chamber of Commerce. At present the subscription of Mutual Association is not taxed. What I am trying to do by this amendment is to see that the subscription fee is exempted from taxation.

*The question was proposed.*

SHRI MORARJI R. DESAI: It is exempted. Sub-clause (iii) of clause 28 specifically states:

"Income derived by a trade, professional or similar association from specific services performed for its members."

which is taxable. Therefore, the subscriptions will not be taxed.

SHRI A. D. MANI: I do not press.

**Amendment No. 21 was, by leave, withdrawn.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 28 stand part of the Bill."

*The motion was adopted.*

*Clause 28 was added to the Bill.*

*Clause 29 was added to the Bill.*

*Clause 30—Rent, rates, taxes, repairs and insurance for buildings*

MR. DEPUTY CHAIRMAN: Your amendment No. 12, Mr. Santhanam, is again barred. It requires the recommendation of the President. So I rule it out.

The question is:

"That clause 30 stand part of the Bill."

*The motion was adopted.*

*Clause 30 was added to the Bill.*

*Clauses 31 and 32 were added to the Bill.*

*Clause 33—Development rebate*

MR. DEPUTY CHAIRMAN: This amendment again requires the recommendation of the President. Hence it is barred.

The question is:

"That clause 33 stand part of the Bill."

*The motion was adopted.*

*Clause 33 was added to the Bill.*

*Clauses 34 to 36 were added to the Bill.*

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*For text of amendment, *vide* col. 2953 *supra*.

*Clause 37—General*

MR. DEPUTY CHAIRMAN: This also cannot be moved as it requires the recommendation of the President.

SHRI K. SANTHANAM: I am here restricting the thing. Today it is unrestricted. Anybody can be given Rs. 200. Therefore, I am restricting it.

MR. DEPUTY CHAIRMAN: If the exemption is restricted, taxation will rise. So requires the recommendation of the President.

*(Interruption.)*

SHRI K. SANTHANAM: Is that the way a Member wants to prevent increasing the revenues of the Government of India? I am rather surprised at the interruption from hon. Members on the right.

MR. DEPUTY CHAIRMAN: That is the Constitution. What can you do?

SHRI MORARJI R. DESAI: May I explain to the hon. Member that this is not necessary? I would have accepted it . . .

MR. DEPUTY CHAIRMAN: But it is barred.

SHRI MORARJI R. DESAI: But for his satisfaction I would say that I just understand very well the purpose. But is it possible for the Government to prescribe for every business? There are thousands of businesses. How can anyone prescribe rates for all of them? It will mean so much hardship and so much corruption that the Government will not be able to cope with it. As a matter of fact, section 10(2)(xv) of the existing Act and clause 37 of the Bill lay down the condition that the expenditure should be wholly and exclusively for the purposes of business. If the Income-tax Officer finds that these are overdone, he can disallow them. That provision is there.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 37 stand part of the Bill."

*The motion was adopted.*

*Clause 37 was added to the Bill.*

*Clauses 38 to 87 were added to the Bill.*

*Clause 88—Donations for charitable purposes*

SHRI K SANTHANAM: Sir, I move:

26. "That at page 73, after line 18, the following be inserted, namely:—

'(6) Notwithstanding anything contained in sub-section (5), this section shall apply to donations given for the renovation or repair of any temple, mosque, gurdwara, church or any other place which is notified by the Central Government in the Official Gazette to be of historic, archaeological or artistic importance.' "

Sir, specially coming from South India, I think there are so many temples which are really national temples though technically they belong to the Hindu religious community. They are badly in need of renovation and I think and I would even suggest that the Finance Minister should give donations out of the Revenues of India because it is in the national interest to preserve them and thereby encourage private people to come forward to give this donation. I hope, Sir, the Finance Minister will accept this amendment. Because I have restricted it to those institutions which are approved by the Government of India, there is no question of any misuse or loss of Government funds.

*The question was proposed.*

SHRI MORARJI R. DESAI: I accept it.

MR. DEPUTY CHAIRMAN: The question is:

"That the Rajya Sabha recommends to the Lok Sabha that the following amendment be made in the Income-tax Bill, 1961, as passed by the Lok Sabha, namely:—

[MR. DEPUTY CHAIRMAN.]

26. "That at page 73, after line 18, the following be inserted, namely:—

'(6) Notwithstanding anything contained in sub-section (5), this section shall apply to donations given for the renovation or repair of any temple, mosque, gurdwara, church or any other place which is notified by the Central Government in the Official Gazette to be of historic, archaeological or artistic importance."

*The motion was adopted.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 88, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 88, as amended, was added to the Bill.*

*Clauses 89 to 180 were added to the Bill.*

*Clause 181—Interest on tax free securities of a State Government*

SHRI K. SANTHANAM: Sir, I move:

15. "That at page 130, for clause 181, the following be substituted, namely:—

'181. Income-tax payable on the interest receivable on any securities of a State Government issued income-tax free shall be payable by the State Government.'"

I think it is wrong drafting because any income-tax is due only on some income. It is not the income of State Governments or somebody's income. It does not say, "Whose income?". I am simply restoring the draft of the original section which is the proper draft. I think the present wording may be liable to some confusion. It is only a question of verbal drafting. There is no substance involved.

*The question was proposed.*

SHRI MORARJI R. DESAI: I am advised that the clause, as it stands, is clearer than what Mr. Santhanam wishes to substitute and I must accept the opinion of my Legal Adviser.

SHRI K. SANTHANAM: Sir, I beg leave to withdraw my amendment No. 15.

**Amendment No. 15 was, by leave, withdrawn.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 181 stand part of the Bill."

*The motion was adopted.*

*Clause 181 was added to the Bill.*

*Clauses 182 to 258 were added to the Bill.*

*Clause 259—Case before High Court to be heard by not less than two Judges*

MR. DEPUTY CHAIRMAN: The amendment is barred.

SHRI K. SANTHANAM: I want to oppose that clause, because clause 260 says that:

"The High Court or the Supreme Court upon hearing any such case shall decide the questions of law raised therein, . . ."

whereas clause 259 proposes to prescribe a particular procedure for the High Court. I think it is wrong for Parliament to prescribe any procedure. There are rules in both the Constitution as well as in other Acts providing the procedure for the High Court. I know that clause 259 is a mere reproduction of the old Act and so I know that the Finance Minister will argue that it has worked, and so why change it. But the procedure is wrong, especially part (2), which says:

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*For text of amendment, *vide* col. 2957 *supra*.

"Where there is no such majority, the judges shall state the point of law upon which they differ, and the case shall then be heard upon that point only by one or more of the other judges of the High Court, and such point shall be decided according to the opinion of the majority of the judges who have heard the case including those who first heard it."

Suppose a Full Bench hears the case. To that Full Bench, we should not add one or two judges who heard it at first and it must be considered as the judgement of the Full Bench. Technically it does not make any difference. From the point of view of jurisprudence, it is a mistake. If a Full Bench hears it, it is a judgement of the Full Bench. Therefore, I think this is a wrong clause. It is really unnecessary. Clause 260 covers it and therefore I oppose this clause.

SHRI MORARJI R. DESAI: I do not know why this clause is opposed. It is there. It has been existing and nobody has objected to it and it is necessary because these are references where the High Court acts in a special jurisdiction. It does not form part of its original jurisdiction and it does not act as a court of appeal. Therefore it is necessary to have this separate provision.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 259 stand part of he Bill."

*The motion was adopted.*

*Clause 259 was added to the Bill.*

*Clauses 260 to 286 were added to the Bill.*

*Clause 287—Publication of information respecting penalties in certain cases*

SHRI K SANTHANAM: Sir, I move:

17. "That at page 176, line 34, after the word 'person' the words 'under clause (a) of sub-section (1)' be inserted."

SHRI A. D. MANI: Sir, I move:

22. "That at page 176, lines 24 to 27, for the words 'the appeal is disposed of by the Appellate Assistant Commissioner, or, in the case of an appeal filed under clause (b) of sub-section (1) of section 253, by the Appellate Tribunal' the words 'the appeal is finally disposed of by an appropriate court of law' be substituted."

*The questions were proposed.*

SHRI K. SANTHANAM: Sir, this consists of two parts, one part which obligates the Government to reveal certain names and the second part which permits the Government to publish certain other names. Sub-clause (3) says that the Government shall have power to refrain from publishing. The word 'refrain' can cover only sub-clause (1) because the second sub-clause is optional. So there is no question of refraining from doing anything which is purely optional. It is a mere technical amendment which the hon. Minister may consider worthwhile accepting.

SHRI A. D. MANI: I would mention that the hon. Finance Minister did not touch this clause in his speech this morning. The object of the clause which stands now is that even though a matter may be *sub judice* before the Supreme Court the appeal having been disposed of at the lower stage, the Central Government has the power to publish the names of the defaulters. This will be unfair because if the appeal succeeds, it will be that the person concerned would have sustained an injury to his reputation. The amendment says that the publication shall not take place till the appeal is finally disposed of by an appropriate court of law. This will meet the ends of justice and we would like to have a statement from the Finance Minister on this point.

SHRI MORARJI R. DESAI: What my hon. friend, Shri Santhanam, says is that it is necessary to make it clear. It is technical. I do not think it is necessary to show it. The intention is already clear. Sub-clause (4) refers to 'this section' which obviously includes sub-clause (1).

As regards Mr. Mani's amendment, he wants that the publication shall not be made until it is disposed of finally. That means it can go up to the Supreme Court and till then it should not be made public. Anybody who can spend money can keep it open. I cannot accept it. It has been accepted by Parliament that it should be done at the first stage only and I stick to it.

SHRI P. N. SAPRU (Uttar Pradesh): Only by the Lok Sabha. It has not been accepted by Parliament.

SHRI MORARJI R. DESAI: This is already existing. This was the original amendment.

SHRI K. SANTHANAM: Sir, I beg leave to withdraw my amendment.

SHRI A. D. MANI: Sir, I beg leave to withdraw my amendment.

**Amendment Nos. 17 and 22 were, by leave, withdrawn.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 287 stand part of the Bill."

*The motion was adopted.*

*Clause 287 was added to the Bill.*

*Clause 288—Appearance by Authorised Representative*

SHRI J. C. CHATTERJI (Uttar Pradesh): I move:

18. "That at page 177, line 39, after the words 'and' the words 'an incorporated accountant and auditor who is an Associate or Fellow of the Society of Incorporated Accountants and Auditors of India, which is a Society registered under the Societies Registration Act, 1860, and' be inserted."

PANDIT HRIDAY NATH KUNZRU:

28. "That at page 177, for lines 32 to 36, the following be substituted, namely:—

'(v) any person who has passed any accountancy examination recognised in this behalf by the Central Board of Revenue; or

(vi) any person who has acquired such educational qualifications as the Central Board of Revenue may prescribe for this purpose; or

(vii) any other person who, immediately before the commencement of this Act, was an Income-tax practitioner within the meaning of sub-clause (a) of clause (iv) of sub-section (2) of section 61 of the Indian Income-tax Act, 1922 and was actually practising as such.'"

29. "That at page 177, for lines 37 to 42, the following be substituted, namely:—

'*Explanation.*—In this section 'accountant' means a chartered accountant within the meaning of the Chartered Accountants Act, 1949 and includes a registered Accountant enrolled in the Register of Accountants maintained by the Central Government under the Auditor's Certificate Rules, 1932 or a holder of a restricted certificate under the Registered Certificates Rules, 1932, or a member of an association of accountants recognised in this behalf by the Central Board of Revenue."

*The questions were proposed.*

PANDIT HRIDAY NATH KUNZRU: I am trying, by my amendments, to allow all those persons who have been

*For texts of amendments, *vide* col. 2960 *supra*.

allowed hitherto under the existing Income-tax Act to represent tax-payers, to appear before any appellate authority. Clause 288, as passed by the Lok Sabha, reduces the number of categories of persons who are entitled under the existing Act to represent the tax-payers. Is there any reason for it? This Bill generally conforms to the recommendations of the Tyagi Committee. No reason has been given, either in the notes on clauses or anywhere else, for the change made. What will be the effect of the change? In the first place the people who are called income-tax practitioners will be excluded. It has been laid down here that those who are already working as income-tax practitioners will continue to have the right to represent tax-payers but in the future income-tax practitioners will not be allowed to represent tax-payers.

There is one other thing that I want to bring to the notice of the Finance Minister. At present graduates in commerce, B. Coms. and M. Coms., are allowed to appear before the appellate authorities. Is there any reason why, at this time, when unemployment among the educated classes is increasing, we should prevent these people from continuing to enjoy the right that they are enjoying at present? The Tyagi Committee considered this point. The first point is whether in the future only chartered accountants should be allowed to appear before the appellate authorities. This was one of the suggestions made to the Tyagi Committee and this is what it says on this point:

> "However, we find that in our country"—

that is, whatever the practice elsewhere may be,—

> " . . . not only is the number of Chartered Accountants and lawyers engaged in tax practice limited but also that the majority of the assessees can ill afford to pay the comparatively high fees charged by them. We have given careful consideration to this matter and we feel that if the right to represent assessees is restricted only to Chartered Accountants and lawyers, it would cause undue hardship to the small income-tax assessees who form the bulk of the Indian tax-payers."

Again, Sir, the Committee has said both with regard to the present income-tax practitioners and future income-tax practitioners, that they should be permitted to represent tax-payers in respect of the direct tax laws. They certainly recommended that a certain examination should be held, that the income-tax practitioners should be asked to pass the examination, that only those people should be allowed to be income-tax practitioners who are graduates in commerce of a recognised university. That Government can easily institute. They can institute an examination and insist on this requirement. But there is no case for excluding income-tax practitioners in future from appearing before income-tax appellate authorities.

Lastly, Sir, I would like to say that the Committee observed:

> "We suggest that accountants other than Chartered Accountants who, by virtue of section 226(2) of the Companies Act, 1956, are entitled to be appointed to act as auditors of companies registered in a particular State, should also be allowed to represent assessees in tax matters."

That has been done. But that is not enough. What is necessary is that those people who are registered as accountants should also be allowed to continue their tax practice. They will have to either pass a certain examination held by the Central Board of Revenue or an examination approved by the Central Board of Revenue. I see, therefore, no injury to the public interest, in allowing the category of persons to which my

[Pandit Hriday Nath Kunzru.]

amendment refers, to continue to earn their bread in the manner in which they are doing now. Indeed, the Tyagi Committee positively recommended that the privilege to represent tax-payers before the appellate authorities should not be confined to the chartered accountants and they gave a good reason for that. Why is it that the Government has narrowed down the provision in clause 288 and deprived several categories of persons from the enjoyment of the right which they are in possession of at the present time?

MR. DEPUTY CHAIRMAN: Mr. Chatterji, have you to make any comments?

SHRI J. C. CHATTERJI: Sir, one aspect of the question has already been explained by Dr. Kunzru just now. But there is one more point that I would like to put forward. There is a particular Institute which has been working for many years now in India. They are a registered body and they are doing this work. But they have not the recognition which the chartered accountants have got. The statutory recognition which has been given to the chartered accountants has not been given to this Institute. That is why I want that this Institute which is already a registered body, should also get that statutory recognition. Hence my amendment.

SHRI P. N. SAPRU: Sir, I should like to support what Mr. Chatterji has said just now, because this Society has been working for a long time and there is no reason why it should not be recognised.

Apart from that, there is another clause with regard to which I would like to have some clarification from the Finance Minister. In sub-clause (2) part (i) it is stated:

> "a person related to the assessee in any manner, or a person regularly employed by the assessee;".

Now, what is the test of this "regular employment"? A man may be employed for the purpose of these income-tax questions. He may be doing that work for that person for a number of years. Would that constitute regular employment? Or should he be a clerk or be actually in his pay as an employee? What is the test for his regular employment? I have not been able to understand the meaning of this expression "regularly employed."

SHRI MORARJI R. DESAI: Sir, the words "regularly employed" ought to be clear to my hon. friend who has been an eminent judge. It is not necessary for me to explain to him. After all, who am I to interpret words? I cannot do that myself. This here only means that the person should be practising regularly and not sometimes, by fits and starts. That is the meaning of it.

SHRI P. N. SAPRU: How do you distinguish him from a legal practitioner who is entitled to appear?

MR. DEPUTY CHAIRMAN: The hon. Minister is now replying, Mr. Sapru.

SHRI MORARJI R. DESAI: As for amendment No. 29, I think that is not necessary in my opinion, because all the persons mentioned by the hon. Member in this amendment are all persons qualified to practise as chartered accountants under the Chartered Accountants Act of 1949. Therefore, the clause already states that he can be any person authorised by the assessee who is an accountant or an income-tax practitioner within the meaning of clause (iv) of sub-section (2) of section 61 of the Income-tax Act, 1922. Therefore, this amendment is not necessary.

As regards amendment No. 28, it extends the field for the practitioners.

As it is, it limits it to some extent by saying that he should be a person who has passed an accountancy examination recognised in this behalf by the Central Board of Revenue. So it is to be limited.

PANDIT HRIDAY NATH KUNZRU: But that is really in accordance with the recommendation of the Tyagi Committee which wants that these people should pass an examination in accountancy.

SHRI MORARJI R. DESAI: The clause also says:

> "any other person who, immediately before the commencement of this Act, was an Income-tax practitioner within the meaning of clause (iv) of sub-section (2) of section 61 of the Indian Income-tax Act, 1922, and was actually practising as such."

So that person has been included here, as far as I know. Part (vii) that the hon. Member wants, is already there.

PANDIT HRIDAY NATH KUNZRU: That thing is there. That is because I had to make the amendment a comprehensive one. I could not exclude it and put in another amendment.

SHRI MORARJI R. DESAI: But a superfluous thing cannot be put in. It is difficult. I am prepared to take parts (v) and (vi) and accept them, but part (vii) is not necessary, because it is there already.

PANDIT HRIDAY NATH KUNZRU: What I did was to take the categories of persons mentioned in the Bill and then add certain other persons and give a comprehensive amendment. You may exclude part (vii).

SHRI MORARJI R. DESAI: And retain (v) and (vi).

PANDIT HRIDAY NATH KUNZRU: That is all right. But what about the Explanation? I see, you are not prepared to accept that.

SHRI MORARJI R. DESAI: I accept parts (v) and (vi).

MR. DEPUTY CHAIRMAN: What about amendment No. 18?

SHRI MORARJI R. DESAI: As for amendment No. 18, the Society referred to there is not recognised under the rules as they are, and therefore, its members are not qualified under the rules. So why should any member of such a society be allowed to practise? It is not, therefore, possible to recognise them now. Let them be recognised under the rules. The rules are clear and under those rules they should qualify themselves to be recognised and then it will be done.

SHRI K. SANTHANAM: Sir, I may point out that now in this clause these parts of the amendment will become (vi) and (vii), because (v) is already there.

MR. DEPUTY CHAIRMAN: All right. Now, what about No. 18?

SHRI J. C. CHATTERJI: I beg leave to withdraw my amendment.

**Amendment No. 18 was, by leave, withdrawn.*

MR. DEPUTY CHAIRMAN: So it will remain as (vi) and (vii).

SHRI MORARJI R. DESAI: No, Sir. (v) and (vi) will become (vi) and (vii) respectively, because (v) is already there in clause 288. So these will be parts (vi) and (vii) added on to it. It will be amended accordingly.

2 P.M.

MR. DEPUTY CHAIRMAN: No, they will remain (v) and (vi). (v) will now be changed to (vii). I shall now put the amendment of Dr. Kunzru, as further amended.

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*For text of amendment, *vide* cols. 2961-62 *supra*.

[Mr. Deputy Chairman.]

The question is:

That the Rajya Sabha recommends to the Lok Sabha that the following amendment be made in the Income-tax Bill, 1961, as passed by the Lok Sabha, namely:—

28. 'That at page 177—

(a) after line 31, the following be inserted, namely:—

"(v) any person who has passed any accountancy examination recognised in this behalf by the Board; or

(vi) any person who has acquired such educational qualifications as the Board may prescribe for this purpose; or;

(b) in line 33, for the brackets and letter "(v)", the brackets and letters "(vii)" be substituted'.

*The motion was adopted.*

PANDIT HRIDAY NATH KUNZRU: Sir, I beg leave to withdraw amendment number 29.

**Amendment No. 29 was, by leave, withdrawn.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 288, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 288, as amended, was added to the Bill.*

*Clauses 289 to 298 were added to the Bill.*

*The Schedules, First to Fifth, were added to the Bill.*

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

SHRI MORARJI R. DESAI: Sir, I move:

"That the Bill, with the amendments recommended by the House, be returned."

*The question was put and the motion was adopted.*

MR. DEPUTY CHAIRMAN: Before we come to the next item, I have to inform Members that a discussion on the Finance Minister's Statement on the United Kingdom's decision to enter the European Economic Community will be taken up tomorrow at 3 P.M.

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## THE NEWSPAPER (PRICE AND PAGE) CONTINUANCE BILL, 1961

THE MINISTER OF INFORMATION AND BROADCASTING (DR. B. V. KESKAR): Sir, I beg to move:

"That the Bill to continue the Newspaper (Price and Page) Act, 1956, as passed by the Lok Sabha, be taken into consideration."

[THE VICE-CHAIRMAN (SHRI NAFISUL HASAN) in the Chair.]

I do not want, at this stage, to say anything regarding the Newspaper (Price and Page) Act which was passed by this House after due consideration. The pros and cons of that legislation were considered fully by this House and the other House and it was passed on the 7th September, 1956. After due consideration, Government promulgated, according to the Act, the Price and Page Order, for the consideration of newspapers in 1957. In the meantime, the Supreme Court gave a verdict regarding the Wage Board, and in the course of its observations regarding that decision, it was felt that certain principles enunciated by the Supreme Court at that time were such that it might be better for us to wait and see how the Wage Board decisions are finally passed and implemented before proceeding to implement this Act. The Supreme Court had made certain observations regarding the economic consequences of Acts and decisions and their effect on the newspapers.

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*For text of amendment, *vide* col 2962 *supra*.