

[Shri Bhupesh Gupta.]
technical questions. I know even yesterday the Home Minister would not like to have a judicial enquiry. The Punjab Government had been obliged to.....

MR. DEPUTY CHAIRMAN: I have given the Ruling and now you have to abide by that.

SHRI B. C. GHOSE (West Bengal): As you are aware, a strike situation has developed and a lot of people are inconvenienced. As you know, the Parliament is also coming to an end today and Members want to go back home. So I would request you to request the Railway Minister, if he could let us have at the end of the day, the latest information about the strike situation and.....

MR. DEPUTY CHAIRMAN: But yesterday he told us.....

HON. MEMBERS: No.

SHRI B. C. GHOSE: That was a different matter. I am talking about the strike situation today and if you will kindly request the Railway Minister to give us the latest information.....

MR. DEPUTY CHAIRMAN: I will find out if it is possible.

THE CONSTITUTION (SIXTH AMENDMENT) BILL, 1956

THE MINISTER FOR FINANCE (SHRI C. D. DESHMUKH): Sir, I beg to move:

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

On the 16th May 1956, my colleague Shri Shah moved this House to concur in the recommendation of the Lok Sabha in respect of the appointment of a Joint Committee of the Houses to examine the provisions of what was then called the Constitution (Tenth Amendment, Bill, 1956. The House

was pleased to concur and the Joint Select Committee in its report recommended that the Bill as introduced in the Lok Sabha be passed. There were, however, some doubts raised which were embodied in the notes and minutes of dissent to the Report of the Joint Select Committee.

On the 29th May, the Lok Sabha considered the Bill and after due discussion passed it with one verbal amendment relating to the name of the Bill which has now come to be the Constitution (Sixth Amendment) Bill, 1956. The Bill as thus passed, is now before the House.

I feel that I should not take up in my opening speech much of the time of the House that it has at its disposal for this Bill. But I thought it might perhaps be useful to Members of the House to have copies of what I said in the other House, when introducing the Bill for consideration and when replying to the general debate thereon. I am sure Members would by now have received the copies.

There are broadly three aspects with which this Bill is concerned. Firstly there is the question of the levy of a sales tax on transactions that enter into inter-State trade and commerce. The existing explanation to article 286(1) has caused considerable hardship to trading and commercial communities, particularly in view of the differing interpretations of it from time to time. It is not necessary for me to repeat the full history of this matter, since it is only too well known. What we now propose in this regard is to delete this explanation to article 286(1) and to drop also the second clause to article 286 as it stands, and to take power instead by suitable amendments to articles 269 and 286, for Parliament to formulate by law principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1) of article 286 or in the course of inter-State trade and commerce. We also propose to bring into the First List of the Seventh

Schedule a new entry, namely 92A, and also for a consequential amendment to item 54 in the Second List by which, broadly speaking, sales taxes on transactions in the inter-State trade and commerce will become a central subject.

The net result of these three amendments in this behalf would be that Parliament can decide when a transaction is in the course of inter-State trade and can also decide the rates and structure of the taxes in inter-State transactions.

So far as the distribution of the of the proceeds of the tax is concerned, by an amendment of article 269 of the Constitution, we seek to assure to the States the full proceeds of such a tax. This arrangement is considered on all hands as fair and proper and has evoked no criticism.

The second aspect concerns a group of commodities which assume a special importance in inter-State trade and commerce. The Taxation Enquiry Commission felt that the Central Government should have power to ensure that the sales tax structure of no State was allowed to develop in such a way as might hamper the free flow of certain commodities basically important from the point of view of the consumer or to industry in terms of the country as a whole. The criteria which they suggested are as follows:

(1) That the commodity should be raw material or largely in the nature of raw material;

(2) Either as raw material, or later as finished goods based on such material, it should, in terms of volume of inter-State transactions, be of special importance in inter-State trade;

(3) In terms of the country as a whole, it should also be of special importance from the point of view of the consumer or of industry.

The Taxation Enquiry Commission named six articles as being of this

type. They are: coal, iron and steel, cotton, hides and skins, oil seeds and jute. For these the Commission recommended that the tax leviable by the States should only be a single-point tax at the last stage of sale or purchase, not exceeding three pies in the rupee, that is to say, a quarter of an anna in the rupee. These six goods, except perhaps to a limited extent, oil seeds, have featured in the list of goods declared by Parliament to be essential for the life of the community, any new tax whereon could be levied by the State Governments only after the President had given his consent.

The effect of the amendments now proposed would be that in respect of these six commodities and such other commodities as would on examination be found to be of the same nature, the States would have fallen in line with the rules prescribed by Parliament, whatever higher taxes they may be having earlier or they might have been able to levy either by way of law passed before Parliament enacted the Essential Goods Act of 1952, or by any law subsequently assented to by the President. I should here also add that the Commission were of the view that the list should not be expanded except in the light of the four principles they had laid down, and also suggested that before any additions were made there should, so to say, be prior consultations with the States at the Inter-State Taxation Council that they had proposed in another context. While referring to this I might state that that particular recommendation in regard to the establishment of the Inter-State Taxation Council, has been held in abeyance for the time being, in view of the impending reorganisation of the States.

By and large, this amendment has also met with general approval, though it has been queried whether food-stuffs should also not be included in this list of articles of special importance in inter-State trade and commerce. My answer to that is that we shall have to bring in, in due course,

[Shri C. D. Deshmukh.]

a Bill before Parliament both to prescribe rates and conditions for inter-State sales tax as well as to enunciate the principles as to what should be regarded as inter-State trade or commerce transaction and to list out goods of special importance to such inter-State trade. It will then be for Parliament to decide. For the present I can only say that foodstuffs and the like do not stand in any sense automatically excluded, especially when large-scale movements become necessary, especially in connection with price controls or rationing or any other special situation.

Then there is the third aspect in regard to this Bill and that is one that has given room for considerable discussion, that is the proposed deletion of the present clause (3) of article 286 by which no State law taxing the sale or purchase of a commodity declared by Parliament to be essential for the life of the community can have effect unless it has been reserved for the consideration of the President and has received his consent.

11 A.M.

The objection taken to the deletion of this provision has arisen out of a desire to ensure that sales or purchases of essential commodities are not unduly taxed since this might raise their cost to the consumers. Now this is an aspect into which I think I should go somewhat in detail.

As hon. Members know, there are State Governments even now that collect sales taxes at various rates on some of these essential goods. These taxes have either been there even before Parliament passed the Essential Goods Act, 1952, or have subsequently come into effect with the assent of the President. In respect of the pre-existing taxes we have had no power under the constitutional provision to intervene. In respect of the latter, that is to say the new sales taxes, I consider it a relevant point to say that whenever such a law came up for assent we had had to take into

account the fact that in other States such taxes did exist. We could not there intervene and therefore we should be not justified if we were to regard with extreme disfavour a new request from a State that so far had desisted from taxing a particular essential commodity, that is to say, a commodity included in the Schedule to the Essential Goods Act. The Taxation Enquiry Commission viewed with much sympathy the point of view which certain State Government like Madras had even earlier put forth, namely, that there was no reason for the Centre reserving any special power in respect of a law passed by a State in a matter which was in the State List and which the State had no less responsibility to the public than the Centre. Further there was in the Constitution no such limitation upon the powers of the Centre or the State Governments to levy other taxes within their respective fiscal competency, which could also affect the prices of essential commodities as, for instance, excise in the Central List and octrois in the State List. Then there was a further point that the list of goods declared by law by Parliament to be essential for the life of the community contained goods all of which were not of the same importance, and the State Governments no doubt had even stronger views about the suitability of the restrictions being extended to the less essential of these commodities.

The Taxation Enquiry Commission has pointed out that there has been a tendency for the concept of essentiality to change. The criterion, strictly speaking, refers to the importance of a commodity for the life of the community. The Central Government, viewing things in all-India terms was only too apt, in the opinion of the Commission, to decide on essentiality also from a somewhat different angle, namely, the importance in inter-State trade, thus bringing into the List not only goods strictly essential for the life of the community but also goods important in inter-State trade. The Commission have also paid attention

to the role of sales tax on essential commodities in the context of a national economic policy. They were of the view that this is a matter of far wider significance and could be achieved only by proper co-ordination of all economic policies including the fiscal, and that the provision regarding Central control on certain restricted aspects of sales tax alone would hardly be justified on this ground. Therefore the Commission found little justification for containing the present schemes of things. As I said elsewhere, the panel of economists in the Planning Commission also endorsed this view. As a result, on the basis of our experience in the past and the views of the State Governments and the Taxation Enquiry Commission and the panel of economists we came to the conclusion that it would not be improper to dispense with the procedure of State legislation having to come up for the President's assent under clause (3) of article 286 and the law passed thereunder. This decision which is incorporated in the present Bill has come in for criticism on the score that State Governments will be free to follow a taxation policy which would increase the price of essential commodities for the common man and also because it is felt that it would tend to bring about a position which might impede free trade and commerce from State to State within the country.

On the first point there is little to add to what I have said earlier both here as well as elsewhere. The States are likely to agree to no scheme of reorganisation of the sales tax provisions of the Constitution which does not remove what, in their opinion, is perhaps an unjustified reflection and restriction on the discretion of their Legislatures.

So far as the second argument is concerned that unrestricted liberty of the State Governments to levy taxes on essential commodities might cause an impediment to the free flow of inter-State trade and commerce, I can only say that I cannot at the moment conceive of any sales tax rates being

so high as to impede such a free flow of goods, and if there should be such a tendency unfortunately, then there would be ample room for discussion between the State Governments and the Centre and we should not despair of State Governments being induced in that context to do what appears to us to be the right thing. In any case, constitutionally, the only limitation on the levy of a tax would be the restricted limitation imposed under Part XIII of the Constitution.

Then there is very little else that is necessary to say. I can only assure the House that its views as would be expressed on the taxation on sales of commodities essential for the common man will be conveyed to State Governments. I have no doubt that our colleagues in the State Legislatures and State Governments, whose sympathy for the common man is no less genuine and ample than our own, will fully realise the anxiety hon. Member feel or would be feeling that the confidence with which Parliament is being asked to agree to delete article 286(3) is equalled by the care with which they in the State ensure that the common man is not put to avoidable hardship.

Sir, I move.

MR. DEPUTY CHAIRMAN: Motion moved:

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

The time allotted is two hours.

SHRI BHUPESH GUPTA (West Bengal): Mr. Deputy Chairman, this Bill has come from the Select Committee and now from the Lok Sabha unchanged. We had some discussions on the Bill and we made certain suggestions for the Select Committee to consider and, as far as we are concerned, we made suggestions from the angle of the consumer and also from the angle of the larger question of the reconstruction of our country. But what worries us most when we deal with such questions of taxation is the interest of the common people.

[Shri Bhupesh Gupta.]

Now there are two important questions involved in this matter. One is the right of the States to have their own fiscal measures and as far as the present Constitution, goes, no one will say that the State Governments have been invested with necessary economic and financial powers to carry on the administration as they like. Today the position is somewhat simpler because one-party rule exists in India. Suppose some Government were there in some States which would like to run the Administration much more democratically where there will not be any shooting of workers, where the rights of the people would be respected, where the prices of commodities will be brought down in order to serve the interests of the people, they would come up against certain financial difficulties placed in their way by the Constitution. Naturally, we would not like that position to arise in our constitutional set-up. We would like every State to be free to refashion or remould its administrative and public affairs in the way that it likes best. We take it that such things, as time passes, would be handled with greater reference to the interests and the wishes of the people.

At the same time we are also up against a question and it is this that here are some States which thank to the Congress rule, are rackless in administrative matters. Once the hon. the Finance Minister advises them to impose taxes in order to find, what he calls, resources for the First or the second Five Year Plan, there are states in our country under the management of the Congress Party which go to extreme limits. That is to say, they impose all manner of taxes in order to find such money to foot the bill of the Finance Minister. We would like therefore in such a situation to have certain powers in our hands, certain revising powers, to look to the impositions or imposts made by the State Governments so that the interests of the people are not jeopardised, so that the taxes are so

conceived and imposed that they do not hit the people hard. It is with this end in view that I support them when the Central Government wants to assume power.

Let it be clear that it is not at all our intention that the Central Government should be invested with power to encroach upon the domain of the State Governments or to restrict their powers. The Central Government should have powers in its hands only with a view to setting things right. If for one reason or another, for one circular or another issued by the Planning Commission or by any Central Ministry, any State Government chose to violate certain democratic principles and impose taxes on the people, we should have the authority and power to look into them and nullify such things, to set such things at naught. It is with this object that we feel that the Central Government, and Parliament in the final analysis, should have the power of revision. I am a little perturbed by the way things are being handled today.

As you know, Sir, there is a constant pressure from the Centre, especially from the Planning Commission which is armed with the Report of the Taxation Enquiry Commission, to get more money realised from the common man by way of taxation and the hon. the Finance Minister has raised the whole thing almost to the pedestal of a great theory that you cannot reconstruct your economy until and unless you are prepared to have additional taxation. We have our own ways of reconstructing our economy and we have pointed out to him that here are ways of getting money, but they are always for imposing taxes on the people. Our suggestions are not acceptable to the hon. the Finance Minister or the Planning Commission. Now, we find that in the Second Five Year Plan there is a preposterous proposal for raising Rs. 450 plus Rs. 350 crores by way of additional taxation; that is to say, in addition to the existing taxes the people must be ready for paying more money by

way of taxes. That is the decree of the great ones in the Planning Commission; that is the decree of the great ones in the Government of India regardless of how the people feel about it or how it would affect the interests of the common man. Now, not only that but it is becoming clear as you will find in the Progress Report—I have not in mind the latest one; I have in mind the earlier Progress Report which makes it clear—that nearly 75 to 80 per cent. of the States Revenues come from taxes and that the sales tax is becoming more and more a menacing feature in the whole scheme of things. In the Second Five Year Plan Report which has been given to Members of Parliament, it is proposed that by way of sales tax they will have to raise Rs. 112 crores out of Rs. 225 crores which is expected to be raised by this tax although the State Ministers had made it clear that they would not be in a position to raise more than Rs. 166 crores. Now, all these calculations were made on the basis that Rs. 450 crores would have to be raised by additional taxation. The additional Rs. 350 crores which has now been added was not taken into account at that time. If this is also to be taken into account, that is this additional Rs. 350 crores, then it would mean that the sales tax would also go up much higher than what is fixed at present, namely, Rs. 112 crores. We have great fears about it. I should have liked the hon. the Finance Minister to give us a better glimpse into the working of his mind. Undoubtedly, he will have such powers as are required for the reconstruction of the country, especially for protecting the interests of the people against the financial depredations of the State Governments. I have no hesitation in giving him powers but it is necessary for him to tell us exactly how things would be administered.

Now, look at the Budgets that were presented during the budget session of the current year in the various States. One State after another made proposals for additional taxation and invariably the burden of taxation fell

on the common man so much so that great land of Uttar Pradesh wherefrom many great people adorn the benches opposite was in uproar, was in a rebellious mood. The Congressmen, Socialists, Communists, all loudly protested against the imposition of such sales tax. They came out in processions and held demonstrations and made it a little hot for the gentlemen on the Treasury Benches there. They have all my sympathies! In the end they had to change the proposals a little. Some good sense dawned on them and they made a little retreat. It was all to the good; but the fact remains that it was opposed by all sections of the people. Sir, do not bring in party questions here; do not raise ideological bogeys. All of us protested against those things and we thought that such things were wrong. Today, when you are passing this measure it is necessary for us to know from the Government whether they are going to administer it along the lines of the Uttar Pradesh Government. Too many of those people are here and therefore there will be a tendency to go that way. The Finance Minister comes from Maharashtra; he comes from a very fighting land at the moment and naturally he seems also to be in a fighting mood. Therefore we would like to know whether the sales tax would be administered in a way as to injure the interests of the people or whether it would be so administered to protect the interests of the people against any possible encroachment on their living standards. That is what I would like to know from him.

Sir, we passed a legislation in which it was provided that if the essential goods are to be put under sales tax in any State that particular State would be obliged to get the consent of the President. Parliament came into the picture that way. Today there is no bar on the State Governments imposing such taxes even on essential commodities. Now, the word "essential commodities" has to be defined. We feel that all commodities which are required by the people in their daily life and which go into the

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daily consumption of the people should be treated as essential commodities—cloth, and various other things of daily consumption by the people. All such things should be treated as essential commodities and the Government should not impose any further tax on them. Hon. Members of the Congress party exhort the people to make sacrifices for the Second Five Year Plan. Time and again from their rostrum they issue such big sermons to the people. At the same time, I find that they impose burdens on the people. People are prepared to make sacrifices provided you are making the rich pay for your reconstruction in a way they should be made to pay. But this thing should not be used as a device for fleecing the people, while leaving out the rich people. That is what is going to happen. But I believe it is possible for the Government to realise funds through taxation on the richer sections of India, especially the very rich classes. Now, there is no such thing. Therefore, what I fear here is that essential commodities—not in the technical sense, when I say essential commodities I have in mind such commodities as are required by the people for living their day to day life—would be taxed by the State Governments at the orders of the Central Government. This is what I fear. Because every time I read the report of the Commission, every time I turn over the pages in order to look into the schemes and plans, I find there is a theme running through the pages and that is for increased taxation on the common man for broadening the base of taxation, that is to say, 'bring in more and more people under taxation'. That is the song of songs of the proposals that are being made by the Central Government and the Planning Commission. Would I be unjustified in such a case ~~to~~ having very grave misapprehensions about this matter? Would I be unjustified in having my fears that these measures will not protect the interests of the common man? It will enable in some cases the State Governments to be in a position to

impose taxes on any commodities without restriction, regardless of whether they are essential commodities or not. The Central Government has no power in such a case. That is to say, if the Government of West Bengal or the Government of Bombay—I suppose the hon. Finance Minister does not very much like that one keeping in view the Maharashtra question—imposes certain taxes on essential commodities,—I may tell him that so far as the Maharashtra question is concerned we are with him—whether they are essential commodities in the technical sense or not is beside the point—have we any powers to interfere with the action of the State? No, none at all. Some of the commodities which we think are essential commodities should not be taxed. The hon. Minister will say that he has the power of mutual consultation. Undoubtedly you have the power of mutual consultation. You can certainly consult them. But the point is we in Parliament do not have the same power, especially the constitutional power to prevent such an imposition of tax on any essential commodity. And this is a position into which we would not like ourselves to be placed just at the moment when we know that the propensities of the State Governments are in the wrong direction. That is to say, some provoked by the Centre, some because of their own habits are inclined to put more and more tax burden on the people. In such a situation we would not like that it should be left absolutely free and the field should be left wide open to them without any right of interference on the part of Parliament. Mind you I am not at all asking for any kind of interference against the interests of the people of the States. I am only asking an interference by way of revision. That is to say, we revise things when we in our wisdom think that the proposals of a State Government injure the interests of the people of a particular State. This is a beneficial power that we want to keep to ourselves for use, should occasion demand it. Now, Sir, this is a point which I would like the

Finance Minister to elaborate a little. I know that there are too many cats in the bag and it would not be possible to let all of them out at a time. But nonetheless, since they are getting out one after another, I would like to have one or two more out of the bag now.

(Time Bell rings.)

As far as the inter-State tax and other things are concerned, I did not go into that question because it seems to me that from the point of view of administration the Central Government would require certain powers in this matter. But since it is a question of taxation and involves certain principles, certain approaches to our public finance, public life, I would like the Finance Minister to clarify this position and I would be grateful to him if he would be good enough to give an assurance to this House and through this House to the country that these measures would be so administered as not to inflict any injury on the people; if possible, and that this measure would be used and applied with a view to protecting the interests of our common man who seeks remedy from the Government, who wants the tax burden on him to be lightened.

SHRI P. D. HIMATSINGKA (West Bengal): Sir, I have followed with interest the speech delivered by the hon. Finance Minister here and in the other House and I have tried to follow the different principles that have been suggested for enacting this legislation. One thing that has been suggested is that the inter-State sales tax created a lot of difficulties for the traders and the business community especially on account of the different interpretations that had been put on the Explanation in clause (1) of article 286. What I feel about that is that the intention of article 286 of the Constitution was clear and it was intended very clearly that no State should be entitled to tax inter-State sales. As you know, the Constitution came into force in January 1950 and no State took any action for imposing such a tax on inter-State sales till about the end of 1951. And, therefore,

all these States understood what the intention of the Legislature was and what the sections really meant. Thereafter some time in the middle of 1951 or a little later one of the States took into its head that perhaps they would just make an attempt to tax such inter-State sales. Eventually, as you all know, they succeeded in having an interpretation to the effect that the Explanation really intended to exclude the power of the supplying State from taxing such things and making it clear that the sale the legal title having passed to the State that received the goods, will be deemed to have taken place in the State where the goods have gone. It was really a fictional, national sale, that was intended to be made clear, so that neither of the two States can impose the tax. And that position was made specially clear in clause (2) which says:—

“Except in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of any goods where such sale or purchase takes place in the course of inter-State trade or commerce.”

Clause (1) made it clear as to the circumstances in which the supplying State cannot impose the tax and clause (2) made it absolutely clear that where the goods go in the course of inter-State sales that State also will not be entitled to tax. It would have been proper at that stage for the Government of India to ask the States which were trying to realise tax from dealers who were outside the jurisdiction of that particular State, not to try to impose a tax which they were not entitled to and which was never intended to be levied. In 1953, when the law was made clear by the second judgment of the Supreme Court, which clearly explained the position as in the Constitution, what did we find? In spite of the fact that the Government of India realised that it was an oppression on the dealers to ask them to go on producing their books of accounts from State to State for the same transaction, what did

[Shri P. D. Himatsingka.]
 they do? When the correct decision of the Supreme Court in 1955 in the Bengal Immunity case was delivered explaining the law correctly, we find that the Sales Tax Ordinance validating the imposition of tax by the States was issued. Subsequently an Act was passed by Parliament to this effect: "Notwithstanding any judgment, decree or order of any court, no law of a State in so far as it imposes or authorises the imposition of a tax on the sale or purchase of any goods, where such sale or purchase took place in the course of inter-State trade or commerce during the period between 1st April, 1951 and the 6th day of September, 1955, shall be deemed to be invalid or ever to have been invalid merely by reason of the fact that such sale or purchase took place in the course of inter-State trade or commerce and all such taxes levied or collected shall always be deemed to have been validly levied or collected."

In spite of the knowledge that was available to the Government of India that such tax was not intended to be levied or was not authorised by the Constitution and in spite of the fact that it had also been correctly interpreted by the Supreme Court, this law was enacted which, even now, authorises the States to impose tax for all transactions between the 1st April, 1951 to the date of judgment, September 1955. One could understand if a law is passed for removing the difficulties of the States which had realised taxes from certain dealers, so that they may not be asked to refund what had been collected. But if you will read the law as enacted—and the Ordinance also—you will find that not only have they authorised the collections that had already been made, but the law as passed does authorise even now the imposition of a sales tax for all transactions that took place between the 1st April 1951 to the 6th of September, 1955. One could have understood the authorisation for retaining the taxes collected between the dates of the two judgments—the

first judgment of the Supreme Court and its second judgment. But under no circumstances, one should have expected such a law validating the imposition from 1st April 1951 which was never intended by the Constitution.

SHRI P. S. RAJAGOPAL NAIDU (Madras): That Bill is passed?

SHRI P. D. HIMATSINGKA: Yes, that is.

As a matter of fact, I do not know whether the Finance Minister knows this. I was told that the intention was to validate the collections that had been made and instructions were that no further taxation should be attempted to be realised which had not been levied and collected. But I can inform him that even now, dealers are getting notices from certain States for transactions of the nature of inter-States sales between the period 1951 and 1955. In any event, if Government feels that they are harassed and they will not be justified in it they will take steps to see that no further notice is issued by any State.

The next point that has been suggested in the amendment is that taxes on certain raw materials are intended to be controlled or regulated by the new provision—proposed clause (3) of article 286 in the case of articles which may by law be declared by Parliament to be of special importance in inter-State trade or commerce; any imposition by law by a State shall be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify. And the ground that has been suggested by the hon. Finance Minister is that they do not want that the prices of such important commodities should be allowed to increase and become burdensome. The same argument applies with greater force in respect of the other articles which are essential to the life of the community and I do not see how you can differentiate in case of an article which may be of special importance in inter-State trade or commerce, when articles will

be liable to be taxed by the States at different stages or articles which are essential to the life of the community may be taxed at any amount by the States. If we feel that certain essential commodities should not be allowed to be taxed at rates which might make them very troublesome or burdensome for the common man or consumer or for any person who has occasion to use them, then it will be only consistent if we take steps either asking the States to do so or authorising Parliament to have some sort of a regulatory right to see that commodities of that nature are not taxed in a manner which may become very oppressive. That is another suggestion that I would like to make and that is why I have sent in my amendment. Of course, this has been discussed in the other House and has not been accepted. But my idea was that it would be supplementary to what is intended to be done by proposed clause (3) of article 286 because, without such a clause, as article 286 (3) of the Constitution exists at present, you will be leaving the whole field to the States to tax in any manner they like. Therefore, the present suggested clause (3) of article 286 will be practically made useless. That is what I want to suggest so far as that is concerned.

Therefore, I suggest to the hon. Minister to take that into consideration and see what can possibly be done by him in that connection.

SHRI RAJENDRA PRATAP SINHA (Bihar): Sir, sales tax today has assumed a very important role in our fiscal system and I find that during the very short period.....

MR. DEPUTY CHAIRMAN: Not more than ten minutes each.

SHRI RAJENDRA PRATAP SINHA: All right, Sir.....they have transformed the revenue system of our States. They are important to the State projects. And I find from the Taxation Enquiry Commission's Report that, out of the total revenue of Rs. 500 crores for the States, the sales tax is Rs. 57 crores.

Sir, during the course of development of this sales tax in India, certain difficulties were experienced. Particularly, there were difficulties in the course of inter-State trade when the dealers in the consuming States or consumers in the consuming States were put at a disadvantage. Sir, when the Constitution was being drafted, this aspect of the question was taken into consideration and under article 286, certain restrictions were placed on the States' power to impose sales or purchase tax. Now, Sir, the most important restriction was that the States were debarred from taxing the inter-State transactions. And secondly, Sir, the Constitution-makers felt that the commodities which entered into the essential requirements of the common man should not be allowed to be taxed without the prior concurrence being obtained from the President. And that is how this Parliament came into the picture. Sir, I would not like to go into the whole history. But there were various interpretations with regard to the inter-State sales tax, and a lot of confusion was created by the various interpretations given by the States, and the matter was further confused by the various decisions given by the Supreme Court. Sir, the Taxation Enquiry Commission has thoroughly examined this position, and this Bill is to implement the recommendation of the Taxation Enquiry Commission.

Now, Sir, so far as the delegation of power to tax the inter-State transactions by the Centre is concerned, I am in entire agreement, and in order to bring about harmony, I would like that the Centre be vested with the power that we propose to give it under the present measure that we are considering. But, Sir, I would like to suggest that we should view this problem from another angle as well.

It was the desire of the Constitution-makers that we should not tax the commodities which were essential for the life of the community. Now, under the influence of the Report of

[Shri Rajendra Pratap Sinha.]

the Taxation Enquiry Commission we are taking away the power of Parliament to interfere wherever any occasion arises. Sir, it was rather anomalous that some of the commodities continued to be taxed by the States in spite of the Essential goods Act, because the Constitution did not give enough powers to the Centre to intervene in such matters. I am rather surprised to find that the Central Government granted permission, for the imposition of taxes on the commodities which are essential for the life of the community, to the States which had not imposed those taxes before on account of Essential goods Act. Not only that, Sir, but it became a general rule to accord sanction whenever any request was made by the States for enhancing the imposition. I would have, Sir, liked to further strengthen the provisions of the Constitution, so that the essential commodities could be free from any kind of taxes. Instead of that, Sir, we have accepted the recommendations of the Taxation Enquiry Commission, and we are now permitting the States to tax the essential commodities to any length that they want without any let or hindrance.

Sir, the incidence of the sales tax is very wide. Even the commonest of the common man is affected by it. It has been estimated, Sir, that more than 70 per cent. of our people live on an income of less than a rupee a day. About 50 per cent. of them live on an income of less than ten annas a day. Now we can say that sales tax is very common in other countries, and we are probably borrowing from them the idea to impose sales tax on a wider scale in order to raise our resources for developmental purposes. Sir, we must not forget that in other countries, the sales tax is also accompanied by other very steep measures of taxation. Here in India, the conditions are quite different from those obtaining in other countries. The per capita income is very much lower, and there is a large mass of population which lives on sub-marginal levels. Now we have taken away all

the powers of the States to raise their resources for developmental expenditure. Now unless we come to their rescue by giving them liberal grants, they will not be in a position to agree to do away with the power of taxing even the essential commodities. Sir, the best thing would have been for the Central Government to examine all other possibilities of raising the resources, because the States now have not got much capacity to raise their resources. I mean to say, Sir, that the Centre ought to have imposed greater and greater taxes on those who could afford to pay, for instance, the wealth tax and other kinds of taxes—death duty and income-tax can be raised—can be imposed. In that way, the States could have been placed in a better position. In that event, Sir, they would have agreed not to tax the essential commodities. (*Time bell rings*). I would, therefore, support the amendment given notice of by my friend, Mr. Himatsingka, that the Centre should have reserve powers in order to control the imposition of taxes on essential commodities. Thank you, Sir.

SHRI P. N. SAPRU (Uttar Pradesh): Mr. Deputy Chairman, the amendment of the Constitution, which has been proposed by the Finance Minister, has been necessitated by two judgments of the Supreme Court. My first complaint is that it has not been possible for us to obtain those copies of the judgments from the Library. I tried hard to get them, but no copy was available. I had read those judgments long ago, and I can now speak only from my recollection.

SHRI RAJENDRA PRATAP SINHA: That is my complaint also, Sir.

SHRI P. N. SAPRU: Mr. Deputy Chairman, I think the second judgment of the Supreme Court, with all respect for that highest judicial tribunal in the country, has created certain difficulties which have now to be removed.

Sales tax, Sir, is an important source of revenue for the States. It is an elastic source of revenue. And if we

have, somehow or other, to implement the Five-Year Plan, then we have to view this question in that perspective.

The second thing that I would like to emphasise is, whatever be the recommendations of the Taxation Enquiry Commission, we here, as Members of Parliament, are only bound by the actual terms of the amendments proposed, and when questions go before law courts, they will not look into what the Taxation Enquiry Commission said or what we said in the House; they will look into the actual letter of the enactment. Approaching this question from this point of view, I have come to the conclusion that the substitution of clause (3) of article 286 will not be a disaster. My first inclination was to attach very high importance to that clause of article 286. The difficulty, however, is that that clause of the article imposes almost intolerable burdens upon the Union Government. It is possible for a bureaucracy to control a bureaucracy, but it is not easy for a democratic Government to control legislation passed by a democratic Legislature. I think this is something fundamental. The idea that you can work a democratic constitution with reservations and safeguards placed in the hands of some outside agency is rather difficult for constitutional purists to follow and I have therefore come to the conclusion that the substitution of clause (3) of this article will not lead to any disaster.

What happens even now? In Uttar Pradesh, some taxes have been imposed on foodstuffs. We are all very much worried about these taxes. I do not like indirect taxes. Whatever the Taxation Enquiry Commission may have said or may not have said, I do not like the poor man to be taxed so far his food is concerned, so far as his kerosene oil is concerned, so far as his soap is concerned. We have heard protests after protests in the Legislatures from Congressmen also; it is not only from the opposition. They have been very critical. So far as the Centre is concerned, it

has proved ineffective in dealing with a situation like that, because they say, "There is an Essential Goods Act and we have to have a uniform policy. Some States tax foodstuffs and others do not and we must have uniformity. Some principle or other has to be evolved and followed by the Union Government to get rid of inconvenient situations." Therefore, let us look at the actual terms of the amendment and see whether that amendment will meet our point of view.

Mr. Deputy-Chairman, I will come to clause 4 first. "Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1)". If there is any dispute about this provision, the matter will have to be settled by law courts. Intervention of the courts is therefore inevitable under this proposed clause (2). But more important than the proposed clause (2) is the proposed clause (3). Here it is true that we have only inter-State trade or commerce in mind. In respect of inter-State goods, we can lay down the principles of taxation of goods, if they are of special importance in inter-State trade. The words "special importance in inter-State trade" we shall have to define, and the Finance Minister has assured us that we will be given an opportunity when the revision of the Essential Goods Act comes up before us.

SHRI C. D. DESHMUKH Under the new Act contemplated under proposed clause 3.

SHRI P. N. SAPRU: I think the words "of special importance" are comprehensive enough to include even foodgrains. Only the condition here is that the goods must be of special importance in inter-State trade or commerce. Therefore, the omission of the word "essential" is not of a very material character, though I would have preferred some such words as "are otherwise essential to the community". I can conceive of many articles which are important from the common man's point of view and

[Shri P. N. Sapru.]

which have got an inter-State bearing, not only raw materials like cotton. Take the case of a famine. It will be very important in that situation that there should be free movement of grains from one part of the country to another part of the country. Therefore, this question can be settled by us when we have the legislation which is contemplated by this clause before us.

Then in the new clause (3) of article 269, it is stated that it will be for us to lay down the principles "for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce." These are very comprehensive words, and they give us a great deal of power, but here too I would like to say that the literal text is more important than what is in our actual minds.

With these words, I should like to give my support to this Bill, hoping that the poor man will not be taxed in regard to those commodities which are essential for enabling him to maintain a minimum standard of living in a country where there is no minimum, where the vast majority of the people are living on almost nothing. Thank you, Sir.

12 NOON

JANAB M. MUHAMMAD ISMAIL SAHEB (Madras): Mr. Deputy-Chairman, the questions of taxing sales or purchases entering the inter-State trade or the trade that takes outside a particular State or the sale and purchase that take place in the course of export or import have been causing a lot of confusion, uncertainty, trouble and litigation in the country. The proposed Bill, that is before the House, tries to make things easier in all these respects. For one thing, it takes the power to tax the inter-State trade in its own hands. Secondly another important change which is effected by this Bill is that the power which the Essential Goods Act confers at present on the Centre for regulat-

ing the taxation of all essential goods necessary for the life of the community is being replaced by certain provisions regarding the power to regulate taxation of articles of special importance and entering into the inter-State trade. All these changes are salutary and are welcome and therefore I support the measure before the House.

In this connection I want to say one thing and it is for that purpose I wanted to take part in the discussions. Certain Members, when speaking of the power for the Centre, the change in the power that is given to the Centre in the matter of the essential goods articles, have been very hard upon the States and the State Legislatures. They think that since most of the power with which the Centre is vested under the Essential Goods Act goes to the States now, the States are going to oppress the poor people by taxing even the barest necessities of life. They say that the poor people will be treated in such a manner that there will be no protection for them and therefore the Centre ought to take powers for preventing such an action on the part of the State and its Legislature. They used certain words which are unconscionable to my mind and are really very harsh. One Member even speaks of "saving the poorest in the land from the devastating and destructive effects of arbitrary and despotic taxation by the State Legislatures" and then again another statement made by the Member is this:

"To allow the State Legislatures to tax even the bare necessities of life of the poorest in the land is dangerous in the extreme".

Such and similar other statements and remarks made by hon. Members and others in the course of the discussion of this Bill are not only unfair and unjust but I say, they are atrocious in applying such an idea or making such a remark with regard to the States and their Legislatures. It should not be assumed that when people stay in the States, they are

devoid of patriotism or of consideration and commiseration for the poor people and it is only when they touch the soil of the Centre and when they become Members of the Central Legislature or of the Central Government that they come to have this commiseration for the poor people. They speak as if the people who are staying in the States as Members of the State Governments or as Members of the State-Legislatures are something like Rakshasas and tyrants who have no consideration or pity whatever for the poor people—this is what I object to. This change in the constitution is being made in consideration of all the experience that has accrued within the last 5 or 6 years in administering these particular articles of the Constitution.

Another important point which these Members try to make in support of their contention is that the Centre must have as much control as possible over taxation for securing uniformity of taxation and for ensuring uniformity in the level of economic condition obtaining in various parts of this country. I concede that regulation of taxation may go to ensure this object to some extent but it will not go to a substantial extent. There are other measures which the Centre will have to take for ensuring such uniformity of economic level and condition. I would cite a small incident which would illustrate my meaning in this connection. A few years ago the State of Madras requisitioned from U.P. 40,000 tons of rice in an emergency. The U.P. Government supplied the quantity but they charged a price.....

MR. DEPUTY CHAIRMAN: There is no time.

JANAB M. MUHAMMAD ISMAIL SAHEB: Only one minute. They charged a price of Rs. 10 per maund more for this 40,000 tons which they supplied to Madras. On this basis Madras had to pay more than a crore of rupees on these 40,000 tons. When Madras objected to it, U.P. said that

that was the price that was obtaining in their State. That was the market price, namely, Rs. 10 per maund more than the price obtaining in Madras. Then the Madras Government had to pay a crore more. That is to say, the Madras farmers, to be brief, were losing Rs. 1 crore and more on 40,000 tons of rice which they themselves produced in their State. That is, basing the price on that which was charged by the U.P. Government to the Madras Government. At this rate, the total loss that year for the Madras farmers would have been Rs. 100 crores on 40 lakhs of tons of rice that would have been produced in that year. Therefore what I mean to say is, the disparity between the economic condition of the farmers in such a State as Madras and that of U.P. farmers is borne out by the fact that the Madras farmers were getting 100 crores of rupees less than the farmers in U.P.; this disparity cannot be done away with by methods of taxation alone. That is much more substantial and serious than the disparity which our friends are speaking of and such disparities cannot be rectified by such a legislation as this. It can be eliminated or at least minimized only by the Centre giving equal consideration to all parts of the country in the matter of development.

MR. DEPUTY CHAIRMAN: Dr. Kunzru. I want to call on the Minister to reply at 12-20.

SHRI H. N. KUNZRU (Uttar Pradesh): In so far as the Bill before us will make the interpretation of certain provisions of the Constitution easier, it can be welcomed. But I do not think that all the changes that have been proposed in the Bill are of such a character as to deserve our approval. The provision of the Bill that I am referring to is that which relates to the substitution of a new clause for the old clause (3) of article 286. We are all aware of the recommendations of the Taxation Enquiry Commission and to the extent that effect is given to them, there can be no objection. But the existing clause

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(3) protects certain articles which have been declared to be essential for the life of the community, whether they are purchased or sold as between States or in a State itself. Now the new clause (3) will relate only to such transactions as are inter-State, that is to say, those which take place between two States, I mean commercial transactions between two States. But even when an article has been declared to be of special importance, its consumption can be taxed, its internal consumption can be taxed by any State, that is to say, sales tax can be imposed on the sale or purchase of a commodity declared to be of special importance, in the State itself. The existing clause (3) of article 286 was meant to prevent this state of things. If you declared certain articles to be essential for the life of the community or to be of special importance, then I think there is no reason why only transactions in the course of inter-State trade, why only sales tax on transactions that take place in the course of inter-State trade should be subject to any limitations or restrictions that may be imposed by Parliament by law. I think it is equally necessary that sales taxes on the sale or purchase of these commodities internally in a State should also be subjected to the restrictions that may be imposed by Parliament.

SHRI C. P. PARIKH (Bombay): It is there in the Bill.

SHRI H. N. KUNZRU: How?

SEVERAL HON. MEMBERS: It is not there.

SHRI H. N. KUNZRU: Clause (3) of article 286 runs as follows:

"No law made by the Legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any such goods as have been declared by Parliament by law to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent."

Now, compare with this, the language of the new clause which is proposed to be substituted by the Bill before us, for the clause that I have read out. The new clause runs as follows:

"Any law of a State shall, in so far as it imposes, or authorises the imposition of, a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce, be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify."

Now, if we accept this new clause, then Parliament will be able to impose restrictions on the levy of taxes on the sale or purchase of goods declared to be of special importance, only if the transactions are connected with inter-State trade. But if the transactions are connected with the internal sale or purchase, they will not be subject to the restrictions that may be imposed by any law passed by Parliament.

SHRI C. D. DESHMUKH: They will be.

SHRI H. N. KUNZRU: Then I should like the language to be explained. Why should you, when trying to make the interpretation of the Constitution easier, bring in a language which is even more obscure in some respects than the language of the article 286? If that is your meaning, why should you not make it quite clear? I welcome the assurance by the Finance Minister so far as that goes, but in order that the assurance may be regarded as valid by courts of law, it is necessary that the language should be so clear as to make it plain that not merely transactions in the course of inter-State trade, but also transactions in respect of sales and purchases inside the State are covered by the new clause (3) that has been proposed. There is then one important question I should like answered.

MR. DEPUTY CHAIRMAN: Can a State impose a tax on inter-State trade? According to the amendment, it is only Parliament, that can do it. Clause 4 relates to goods which are declared to be of special importance in view of inter-State trade.

SHRI H. N. KUNZRU: The new clause (2) of article 286, says:

"Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1)."

I take this to mean that in future, taxes on the sale or purchase of goods involved in inter-State trade can be levied only by Parliament.

MR. DEPUTY CHAIRMAN: That is right.

SHRI H. N. KUNZRU: And the language of the new clause (2) and the insertion of the new entry 92A in the Union List makes this plain.

MR. DEPUTY CHAIRMAN: So your fear is unfounded, that clause (3) would refer only to imposition of tax on sales between the States.

SHRI H. N. KUNZRU: Clause (3) of article 286 covers all transactions in respect of articles declared to be of special importance, not merely all those articles when they are connected with inter-State trade. But it seems to me that the proposed new clause (3) restricts the scope of this clause.

MR. DEPUTY CHAIRMAN: I do not think so.

SHRI H. N. KUNZRU: Well, I am glad to know that you agree with the Finance Minister.

SHRI AKBAR ALI KHAN (Hyderabad): The wording is clear.

SHRI H. N. KUNZRU: However sure you or the Finance Minister may be on this point, it will, I hope, be con-

ceded that the language requires to be amended so that the meaning may be clear even to those who are not lawyers like you, Sir, or those who are instructed by lawyers as the Finance Minister is.

PANDIT S. S. N. TANKHA (Uttar Pradesh): The Deputy Chairman is a lawyer.

SHRI H. N. KUNZRU: Sir, there is only one important question that I want to put and that relates to the consequences of the omission of the Explanation to clause (1) of article 286. Sir, according to the judgment of the Supreme Court it is clear that a commodity which is the subject of a transaction in the course of inter-State trade can be taxed only by the State in which the goods are delivered.

Taking the special case dealt with by the Supreme Court in 1955 the goods that were sold in Bengal technically could not be taxed, no sales tax could be imposed on the sale of goods, the title to which passed technically in Bengal, by the Bengal Government. The tax could be imposed only by the Bihar Government because the goods were actually delivered in the State of Bihar. Now, if you remove this Explanation it will depend entirely on the law passed by Parliament in what circumstances a tax can be imposed on the sale or purchase of goods the title to which passes in one State and the goods to which they relate are delivered in another State. I take it that it is the intention of Government not to make any change in the present position but, here again, I should like to know from the Finance Minister what the actual intention of Government is.

Just one word more I should like to say before I sit down. All these laws that we in Parliament may pass with regard to the imposition of sales tax will be of interest to us and to the common man only in so far as they restrict the power of the State Governments to impose taxes to any

[Shri H. N. Kunzru.]

extent they like on goods that are of special importance to the poor man, for instance, the necessities of life. Unless this is the effect of any law that may be passed, the legislation that has been proposed to us cannot be regarded by us as of much importance. They may make any changes in the constitutional provisions; they may make interpretation of the law easier but, so far as the States can go on imposing even multiple point taxes on foodstuffs, what will come of the restrictions that you imposed by any laws that you may pass in future?

Now the Finance Minister without telling us what articles would be regarded as of special importance drew our attention to the fact that the recommendations of the Taxation Enquiry Commission did not relate to foodstuffs. At present, Sir, the Essential Goods Act defines cereals and pulses in all forms including bread and flour including *atta* or *suji* bran when any such article is sold in sealed containers as essential goods. Again it regards fresh milk and edible oils as essential goods.

Now are these to be taxed by the State Governments without let or hindrance? Is the Central Government to have any say in that matter or not? Is the public at large vitally interested in that matter or not? Is it not more interested in that than in any technical changes that may be proposed in the law at the instance of the Taxation Enquiry Commission? I think this is a matter of much greater importance than any that has been referred to by the Finance Minister. Although we shall have an opportunity of discussing this thing, Sir, when a Bill to give effect to the changes that have been proposed in the Constitution is brought before us, still we should like to be informed of the intentions of the Government as early as possible. Again, Sir, it is quite possible that there may be delay in the passage of a law by Parliament. **Hitherto**, although clause (2) of

article 286 requires Parliament to pass a law with regard to matters concerned with the inter-State imposition of tax on goods in the course of inter-State trade, so far as I know, no such law has been passed, and it is quite possible that no law may be passed for a year or two. It is necessary therefore that we should know, that we be given full information with regard to the intentions of the Government in regard to the law that it will ask for, in regard to the manner in which any law passed by Parliament in future is to be worked.

MR. DEPUTY CHAIRMAN: The Finance Minister.

SHRI H. C. DASAPPA: (Mysore): Can I have a clarification before he speaks, if you have no objection?

MR. DEPUTY CHAIRMAN: Not necessary.

SHRI H. C. DASAPPA: That is the point raised by Dr. Kunzru but I will illustrate it in this way.

MR. DEPUTY CHAIRMAN: There is no time for illustrations. He will reply.

SHRI H. C. DASAPPA: Does not this article 286 confine essential goods to only goods which are of an inter-State trade and commerce character? That is the main thing; that is the only thing.

SHRI C. D. DESHMUKH: Mr. Deputy Chairman, first as regards the factual situation in regard to the Sales Tax Validation Act, we gave power to the States only to validate the collections that had been made. They had to issue notices to ascertain which dealers have actually recovered the taxes from the consumers, and it is only in that sense that certain new notices have been issued. For the rest, the collections are confined to the assessments already made in respect of which a claim for refund might have arisen. Therefore hon. Members might rest assured on that score.

SHRI P. D. HIMATSINGKA: Assessments already made and collected?

SHRI C. D. DESHMUKH: Collected so far as refunds are concerned plus, as I said, to find out where the sellers had collected but it had not come to the States. It is only for that limited purpose that that Act was passed. For the rest it is quite correct, as the last speaker has said, that no law has been passed under clause (2) of article 286.

SHRI P. D. HIMATSINGKA: The Validation Act itself authorises the States to realise it.

SHRI C. D. DESHMUKH: I say no more comprehensive law has been passed. The hon. Member asked whether any other law had been passed and he said, to his knowledge no other law had been passed. I am only confirming what he said although it hardly needs confirmation. The position is therefore that, but for the Validation Act the States would not be able to recover sales taxes on inter-State transactions.

I am sorry that my assumption that hon. Members would be able to lay their hands on the judgments in these cases was wrong. I thought perhaps the library of the Parliament or the library of the Supreme Court would contain the judgments and that Members might be able to refer to them; otherwise I might have circulated extract copies from the judgments.

I would just ask your permission to read out the gist of those two judgments, both in the Supreme Court. The first one was in the case of the State of Bombay and another *versus* the United Motors (India) Ltd. and others, March 30, 1953. Now I quote:

"We are therefore of opinion that Article 286(1)(a) read with the Explanation prohibits taxation of sales or purchases involving inter-State elements by all States except

the State in which the goods are delivered for the purpose of consumption therein in the wider sense explained above. The latter State is left free to tax such sales or purchases, which power it derives not by virtue of the Explanation but under Article 246(3) read with Entry 54 of List II."

Then they go on to say:

"We are of opinion that the operation of clause (2) stands excluded as a result of the legal fiction enacted in the Explanation, and the State in which the goods are actually delivered for consumption can impose tax on inter-State sales or purchases."

That was their judgment.

SHRI H. N. KUNZRU: Was this the judgment delivered in 1953?

SHRI C. D. DESHMUKH: Yes; that is the first judgment.

Then there was the second judgment of the Supreme Court in the case of *Bengal Immunity Co. Ltd. versus the State of Bihar and others* and this is dated September 6, 1955. It says:

"For all the foregoing reasons we are definitely of opinion that, until Parliament by law made in exercise of the powers vested in it by clause (2) provides otherwise, no State can impose or authorise the imposition of any tax on sales or purchases of goods when such sales or purchases take place in the course of inter-State trade or commerce and the majority decision in *The State of Bombay Vs. The United Motors (India) Ltd.* in so far as it decides to the contrary cannot be accepted as well founded on principle or authority."

They add that the State of Bihar should forbear and abstain from imposing sales tax in respect of sales or purchases that have taken place in the course of inter-State trade or commerce even though the goods

[Shri C. D. Deshmukh.] have been delivered as a direct result of such sales or purchases for consumption in Bihar. Therefore the Explanation far from explaining made things more difficult and I think it is only right that we should omit that Explanation and take power to be able to define the position exactly. But that is not the only reason why we have brought this Bill. In other words, it is not purely technical changes or technical considerations. The change that is now proposed by the Taxation Enquiry Commission is really a fundamental one. It is that the theory of goods essential for the life of the community be abandoned so far as restrictions are involved and that what we should try to control from here should be the imposition of sales taxes on goods of special importance in inter-State trade or commerce.

One hon. Member said that the Taxation Enquiry Commission's recommendations did not bind us. Of course they do not bind us but they are the basis of these proposals and they have secured the acceptance of nearly all the States. They have also been accepted by the Central Government and now they have been accepted by the Lok Sabha. Therefore they have a large measure of agreement behind them.

We are all agreed in regard to the principle that there should not be excessive taxation of goods which are essential for the life of the community. I do not think anyone will disagree that no hardship should be caused in this respect and for a very sound reason that the common man is finally the sovereign so to speak. I mean he holds the franchise apart from anything else, apart from any other considerations of doctrine and philosophy and so on.

SHRI BHUPESH GUPTA: As far as taxation is concerned, he has become the guinea-pig.

SHRI C. D. DESHMUKH: The hon. Member has a poor opinion of parlia-

mentary democracy because probably he believes in some other forms of democracy.

AN HON. MEMBER: Not democracy.

SHRI C. D. DESHMUKH: Democracy within inverted commas maybe. What I was going to say was that differences arise only when we deal with the machinery for ensuring that no hardship is caused and the view taken by the Taxation Enquiry Commission which I had quoted was that these matters can safely be left to the State Legislatures. They have given one or two reasons which perhaps I might reiterate. One is that there were pre-Constitution taxes of this nature. In other words the thing was not uniform at all. I have got a long list of States which were imposing taxes on foodgrains—multi-point as well as single-point. On some articles of food they had six pies and three pies and in the commoner cases three pies single-point. Those taxes were already in existence.

Secondly, as I pointed out in my speech, this is a matter which is not confined only to this narrow aspect. One hon. Member appealed to me that when one considers uniformity, inequality, hardship and so on, one has to consider the whole economic picture. It is not only what you do with Central or State taxation. That is a part and an important part, but what about price movements? What about transport charges from one end to another? What about prices that the monopolists charge for certain commodities and so on and so forth? Because of these reasons a far greater hardship ensues for the consumer than could possibly ensue from these marginal rates of increases, that is to say, these rates of sales taxes at the levels with which we are familiar. Therefore that problem of uniformity in regard to the taxation of essential goods, apart from those of special importance in inter-State or commerce, will have to be dealt with in other ways. And this is irrespective of one's view as

to the sense of responsibility or otherwise of State Legislatures. Apart from that, there are many other economic steps that one would have to take in order to ensure that the total burden in respect of these matters of supply of essential goods to the community does not involve too great a hardship.

That brings us to this general question. Then what is it that we propose to do? Well, one is, as I have stated already, that it might be possible to enlarge this list of articles of special importance in inter-State trade and commerce and that brings me to the doubts of the last speaker. As you pointed out, Sir, it refers to State laws. Now, the State law could only be henceforth in matters of imposition of sales tax on inter-State consumption because that is the sphere that is left to them and what this clause says is that in any such law whether made afterwards or in existence now, this is a kind of overriding provision and that is the advantage of this provision over the provision of article 286(3) because, as I have pointed out, article 286(3) did not relate to existing Acts, whereas this relates to all Acts including the existing Acts. Henceforth if Parliament were to decide, when we bring forward that Bill, that the rates shall not be more than this or that on these six items that are given and any other cognate items that we might add, then those rates will be applicable in the face of other rates that might be in existence under State laws. That is what it means. Therefore hon. Members may rest assured that as soon as we have a Bill and as soon as we finalise our list of items of special importance in inter-State trade and commerce, we shall have introduced a complete uniformity without any exception. That is certainly a very valuable feature of this Bill but in frankness I must admit that there are limits to the expansion of that list. We have given six articles and I have already stated that a good case could be made out for inclusion of foodgrains, or as the present entry reads, of cereals

and things like that. There may be a few others.

It would perhaps be fruitless to enter upon a speculative discussion as to what those other items might be, but I say that that list would not be—as far as I can see, and I hope it is not wrong of me to try to anticipate the final decision of Parliament,—it would not be possible to have a list as long as the list we have today of 28 entries or something like that in the Schedule to the Essential Goods Act, 1952. Therefore, I am free to admit that the problem will remain of the level or sales tax on essential goods which are not declared to be of special importance in inter-State trade and commerce. That matter will remain to the extent to which there are existing laws. It will remain uncontrolled by us unless we change the Constitution again. Now, to the extent to which we are taking away the protection that exists in respect of new laws to be made under the Essential Goods Act, 1952, certainly we are taking away a cover, but there I say it would be worthwhile to bring this about by general agreement and discussion with the States, apart from leaving it to the good sense and the sense of fairplay and justice of the local Legislatures which enjoy a co-extensive sovereignty, so to speak, in this particular respect. Their entry is 54 and our entry is the new one that we are inserting here.

That brings me to this general issue of taxation and the relations between the Central Government and the Planning Commission and the State Governments.....

SHRI H. C. DASAPPA: May I know, Sir, why the protection that was afforded by article 286(3) in so far as inter-State trade and commerce are concerned on essential goods within the States, is now taken away? Take for instance there are so many articles, millets and so on which are not goods of inter-State character at all. Formerly, the President's approval was required in

[Shri H. C. Dasappa.]

order to levy sales tax on those articles. Today that protection for such trade and commerce within the State is taken away. Why should that be done, is the question.

SHRI H. N. KUNZRU: May I also, before the Finance Minister replies, read out section 3 of the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Act, 1952? That section runs as follows:—

“No law made after the commencement of this Act by the Legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any goods declared by this Act to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and received his assent.”

There is not a word here about transactions in the course of inter-State trade. Take foodstuffs. These foodstuffs may be grown in U.P. but if they are declared to be of special importance under this Act, the U.P. Government's power to impose a tax on the sale or purchase of these foodstuffs will depend on the assent of the President. But if we take away article 286(3), as suggested in the Bill, there will be no power in Parliament to control the levy of taxes on the sale or purchase of the goods that may be declared to be essential for the life of the community or of special importance in the State itself.

SHRI R. C. GUPTA (Uttar Pradesh): May I ask.....

MR. DEPUTY CHAIRMAN: Let him finish. There is no time.

SHRI R. C. GUPTA: Are we not curtailing the powers of the Parliament by making the new amendments as provided by clause 4. So far as the question of the assent of the President is concerned, we are enlarging the power of the State.....

SHRI C. D. DESHMUKH: Hon. Members are stating only the obvious. Obviously that is the result of deletion of article 286(3), although I do not agree that we are taking away the powers of Parliament....

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): But what appears to be obvious to the Finance Minister, in the same breath it is not so obvious to him.

SHRI AKHTAR HUSAIN (Uttar Pradesh): We are recognizing the sovereignty of the State Legislatures.

SHRI C. D. DESHMUKH: I am sorry there are too many interruptions. What I was going to say was that Parliament has already exercised its power. The only power Parliament has under article 286(3) is to give a list of essential goods. That it has done, I think, as liberally as it could possibly do. If you take away article 286(3), certainly in theory you are preventing an addition to those 28 goods. You may have another one hundred added to it, to that extent in theory you are taking away the powers of Parliament.

SHRI H. N. KUNZRU: Will this Act remain valid in future?

SHRI C. D. DESHMUKH: It won't, because 286(3) will go. But I am only answering this point that so far as the assent of the President is concerned, that is provided in article 286(1) of the Constitution and as we are changing the Constitution, we are taking away that particular thing. I do not know—so long as you are satisfied about the reasons why we are doing it, the fact that we are doing it is no great argument. This is what was suggested.

SHRI H. N. KUNZRU: The main question is that Parliament will not have the right to regulate the principles on which such tax can be levied in future in regard to a matter in respect of which it possesses ~~that~~ power now.

SHRI C. D. DESHMUKH: Parliament does not have the power. It is the President who has the power.....

SHRI H. N. KUNZRU: They are all subject to the control of Parliament.

SHRI C. D. DESHMUKH: Everybody is subject. That is to say, the executive Government is subject to the control of Parliament. Parliament can ask questions, they can raise half-hour discussions, they can bring in motions for adjournment, a vote of no confidence can be made. That, I think, has no relation to this. But from a constitutional point of view what is happening today is, the Central Government—not the Central Government, that is a wrong word to use—the President as advised, shall we say, by the Central Government, because in these matters invariably he takes the advice of the Central Government, has the power to regulate the taxes on these goods which are declared to be essential under the Essential Goods Act, 1952. Now, what is suggested is that apart from goods which can be declared as of special importance in inter-State trade and commerce, there might be an overlapping list there. It is correct to say that the State Governments and the State Legislatures will be free to impose any tax that they like on goods which we have regarded and which are regarded in that Schedule as essential for the life of the community.....

SHRI H. C. DASAPPA: To any extent?

SHRI C. D. DESHMUKH: To any extent, unregulated, yes. That is the position that Parliament has to recognise. Now, my argument was that although in theory that position exists, there are various considerations why we should agree to this. And I was enumerating some of the things, one, that there are already taxes with which we cannot interfere. Then, the far more important reason was that whereas there is such a control by the President on

the State legislations, so far as our own Parliament's legislation is concerned, there is no constitutional bar. That is to say, the States were complaining that supposing there is some margin of taxation, say on cloth—because you are imposing an excise on cloth, you can impose six pies, nine pies or one anna whatever it is, but you won't allow us to impose 3 pies or 6 pies. Therefore, they had a grievance and most of the States felt very strongly about this matter. And the third thing, as I said, was the general one, that this is not the only thing which enters into the price element. They are mainly elements which are far weightier and far more massive. That is one side of it.

Now, I was going to draw attention to general considerations. It is not as if as Shri Bhupesh Gupta thought, there was some kind of oppressive policy followed by the Centre in the name of implementing the *hans vis-a-vis* the State Governments' taxation policies. It referred to circulars and orders issued by Centre to State Governments and therefore, he said that power must reside in Parliament's hands. Now that had reference, if it had any significance at all, to one amendment which was moved in the Lok Sabha and which has not been moved here. That was to the extent that sub-clause (3) should also apply to goods essential to the life of the community. In that case, the result would have been that we should have legislated also in regard to those, as we have legislated, and we shall be called upon to legislate in regard to goods of special importance of inter-State trade and commerce. But that scheme was not accepted. Apart from that, we are not making any change in the powers of Parliament.

But to revert to my point, all these matters are decided by consultation and agreement to the extent to which the State Legislatures do not enter, I mean, on the executive side. And there are no circulars issued. What I mean to say is that the scheme

[Shri C. D. Deshmukh.] of taxation for the new Plan, for instance, is an agreed scheme by the State Governments only on the executive side—they are to go to the Legislatures—between the State Governments and the Planning Commission and the Finance Minister, as a member of the Planning Commission. So, these matters are settled in a general way; not in regard to every single detail. That is all the significance that one should attach to these Rs. 112 crores or whatever it is, to be raised.

Now, the general issue still remains as to how far you should tax the rich and not fleece the poor. Here again, I do not think there will be any difference of opinion. As I had occasion to point out previously, all that we are concerned with is to what extent are we killing or injuring the goose that lays the golden eggs. We are all agreed that we want the golden eggs. And therefore, it is all a question of the appropriateness or otherwise of your legislation. Now, in this matter, ideas change—ideas both of the people affected as well as ideas of Government. New light is shed on these problems. There is Prof. Kaldor's report. There may be other suggestions. All these things are being considered very earnestly and I have no doubt that Parliament will not agree to a scheme of taxation in which they feel that the rich are let off lightly and the poor are dealt with harshly. That principle will always be inviolable and that is the real protection so far as the common man is concerned, not these pieces of legislation. These are only instruments and an apparatus of taxation. But the real heart of taxation will be the concrete proposals that will come up.

So far as the State Governments are concerned, there is not very much in the way of direct taxation except land revenue; and there, Prof. Kaldor has suggested that it must be doubled. I believe that is one of his suggestions. I have no doubt it will not be acceptable to

anyone who hails his report with great enthusiasm.

Then there is another portion in that report which doubts the wisdom of imposing a ceiling on income and I have no doubt that that will also be discarded. But hon. Members will voice on the other recommendations. I have nothing against them. We want to examine them. I am actually sending out now a team of experts to some other countries, where some of those taxes are in existence.

SHRI BHUPESH GUPTA: Where?

SHRI C. D. DESHMUKH: Wherever they are in existence—on the Continent, in the U.S.A.—in order to study this system of tax on wealth and other direct taxes. I think there is no tax on expenditure anywhere. But whatever has to be gathered in this field of direct taxation, I am prepared to gather and garner and enrich our own experience.

SHRI BHUPESH GUPTA: What about capital gains tax?

SHRI C. D. DESHMUKH: I mentioned all this. They are mentioned in Prof. Kaldor's report. I cannot here and now introduce all these taxes. As I said, there is enough time for that and many of them, as Prof. Kaldor has pointed out, require a much stronger administrative machinery. It is not like Eureka. You just say, 'Eureka!' and things start happening. I have to make preparations because hon. Members would have it both ways. I must have that decision. But if I fail administratively, then it is myself who will be trounced and castigated here. I have to study it.

SHRI BHUPESH GUPTA: Then have a good Administration.

SHRI C. D. DESHMUKH: I have to take care to ensure that the Administration will be able to carry the burdens that are being imposed on it. After all, the Estate Duty was passed only two years ago and that

has imposed a great deal of burden. I am sure that every tax on wealth involves the appraisal and evaluation of property, not with death, but with every year. Everybody's wealth statement, so to speak, has to be investigated and verified and so on and so forth.

So, that is the general issue in regard to the common man and I do not think that we ought to allow that consideration to come here in this way of our approving a scheme which has the support of all State Governments.

One last point. I think I have dealt with all the points. There were some points about oppression of dealers in inter-State sales tax and so on. And that is a matter of the past. It is because we want to introduce a more orderly system in inter-State sales-tax. That we are undertaking.

So, one last point, and that is that this House should be the last House to have any doubts about the wisdom of State Legislatures, because, in a sense, the State Legislatures, as I understand the matter, are the electors who have sent the Members to this House. And, therefore, I would appeal to them to have confidence in the sense of judgment and discretion and wisdom of their own electors.

MR. DEPUTY CHAIRMAN: The question is:

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

The House divided:

AYES—174

Adityendra, Shri.

Agarwal, Shri B. P.

Agarwala, Shri R. G.

Agnibhoj, Shri R. U.

Agrawal, Shri Amar Nath.

Agrawal, Shri J. P.

Ahmad Hussain, Kazi.

Ahmed, Shri Fakhruddin Ali.

Akhtar Husain, Shri.

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Ali, Shri Mohammad.

Amolakh Chand, Shri.

Anis Kidwai, Shrimati.

Banerjee, Shri Satyapriya.

Barlingay, Dr. W. S.

Bedavati Buragohain, Shrimati.

Bharathi, Shrimati K.

Bisht, Shri J. S.

Biswas, Shri C. C.

Bodra, Shri T.

Chandravati Lakhanpal, Shrimati.

Chatterjee, Shri J. C.

Chaturvedi, Shri B. D.

Chauhan, Shri Nawab Singh.

Daga, Shri Narayandas.

Dangre, Shri R. V.

Das, Shri Biswanath.

Dasappa, Shri H. C.

Dave, Shri S. P.

Deokinandan Narayan, Shri.

Desai, Shri Janardhan Rao.

Deshmukh, Shri N. B.

Deshmukh, Shri R. M.

Dhage, Shri V. K.

Dharam Das, Shri A.

Dhillon, Shri G. S.

Dinkar, Prof. R. D. Sinha.

Diwan Chaman Lall.

Doogar, Shri R. S.

Doshi, Shri Lalchand Hirachand.

Dube, Shri Bodh Ram.

Dube, Dr. R. P.

Dutta, Shri Trilochan.

Faruqi, Moulana M.

Galib, Shaik.

Ghose, Shri B. C.

Gilder, Dr. M. D. D.

Gour, Dr. R. B.

Gupta, Shri Bhupesh.

Gupta, Shri Maithilisharan.

Gupta, Shri R. C.

Gupte, Shri B. M.

Hans Raj, Shri.

Hardiker, Dr. N. S.

Hathi, Shri J. S. L.

Himatsingka, Shri P. D.

Indra Vidyavachaspati, Shri.

Ismail Saheb, Janab M. Muhammad.
Jalali, Aga S. M.
John, Shri M.
Kapoor, Shri Jaspat Roy.
Karayalar, Shri S. C.
Karimuddin, Kazi.
Kaushal, Shri J. N.
Keshvanand, Swami.
Khan, Shri Abdur Rezzak.
Khan, Shri Akbar Ali.
Khan, Shri Barkatullah.
Khanna, Shri Mehr Chand.
Kishen Chand, Shri.
Kishori Ram, Shri.
Krishna Kumari, Shrimati.
Kulkarni, Shri G. R.
Kunzru, Shri H. N.
Lakhamshi, Shri Lavji.
Lakshmi Menon, Shrimati.
Lall, Shri Kailash Bihari.
Leuva, Shri P. T.
Mahanty, Shri S.
Mahapatra, Shri Bhagirathi.
Mahesh Saran, Shri.
Mahtha, Shri S. N.
Malkani, Prof. N. R.
Malviya, Shri Ratanlal Kishorilal.
Maya Devi Chetty, Shrimati.
Mazhar Imam, Syed.
Mazumdar, Shri S. N.
Misra, Shri S. D.
Mitra, Dr. P. C.
Mohamad Umair, Shah.
Mookerji, Dr. Radha Kumud.
Mukerjee, Shri B. K.
Nagoke, Jathedar U. S.
Naidu, Shri P. S. Rajagopal.
Naik, Shri Maheswara.
Nair, Shri K. P. Madhavan.
Nair, Shri Perath Narayanan.
Nallamuthu Ramamurthy, Shrimati.
Narasimham, Shri K. L.
Obaidullah Sahib, Shri V. M.
Panigrahi, Shri S.
Panjhazari, Sardar Raghbir Singh.
Parikh, Shri C. P.
Parvathi Krishnan, Shrimati.

Pawar, Shri D. Y.
Pheruman, Sardar Darshan Singh.
Prasad, Shri Bheron.
Prasad Rao, Shri V.
Pushpalata Das, Shrimati.
Pustake, Shri T. D.
Raghavendraraao, Shri.
Raghu Vira, Dr.
Raghubir Singh, Dr.
Rajagopalan, Shri G.
Raju, Shri A. S.
Rao, Shri V. C. Kesava.
Rath, Shri Abhimanyu.
Reddy, Shri A. Balarami.
Reddy, Shri Channa.
Reddy, Shri M. Govinda.
Reddy, Shri Narotham.
Rukmani Bai, Shrimati.
Sahai, Shri Ram.
Saksena, Shri H. P.
Sapru, Shri P. N.
Sarwate, Shri V. S.
Savitry Devi Nigam, Shrimati.
Jeeta Parmanand, Dr. Shrimati
Shah, Shri M. C.
Shah, Shri Manharlal Mansukhlal.
Shakoor, Shri N. Abdul.
Sharda Bhargava, Shrimati.
Sharma, Shri B. B.
Sharma, Shri Purna Chandra.
Shetty, Shri Basappa.
Shrimali, Dr. K. L.
Singh, Dr. Anup.
Singh, Capt. Awadhesh Pratap.
Singh, Thakur Bhanu Pratap.
Singh, Sardar Budh.
Singh, Babu Gopinath.
Singh, Shri Jaswant.
Singh, Shri Nihal.
Singh, Shri Ram Kripal.
Singh, Sardar Swaran.
Singh, Sardar Zail.
Singh, Shri Vijay.
Sinha, Shri B. K. P.
Sinha, Shri Ganga Sharan.
Sinha, Shri R. B.
Sinha, Shri Rajendra Pratap.

Sinha, Shri R. P. N.
 Subbarayan, Dr. P.
 Sumat Prasad, Shri.
 Sur, Shri M. M.
 Surendra Ram, Shri V. M.
 Suryanarayana, Shri K.
 Tamta, Shri R. P.
 Tankha, Pandit S. S. N.
 Tayyebulla, Maulana M.
 Thanhkira, Shri R.
 Tumpalliwar, Shri M. D.
 Valiulla, Shri M.
 Vallabharao, Shri J. V. K.
 Variava, Dr. D. H.
 Varma, Shri C. L.
 Venkata Narayana, Shri Pydah.
 Venkataraman, Shri S.
 Venkataramana, Shri V.
 Vijaivargiya, Shri Gopikrishna.
 Violet Alva, Shrimati.
 Wadia, Prof. A. R.
 Warerkar, Shri B. V.
 Wilson, Shri T. J. M.
 Yashoda Reddy, Shrimati.

NOES—Nil.

1 P.M.

MR. DEPUTY CHAIRMAN: The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

Now we shall take up the clause-by clause consideration of the Bill. There is an amendment to clause 4.

SHRI P. D. HIMATSINGKA: Sir, I just want to suggest to the hon. Minister that he should delete the words "inter State trade or commerce". That will be cutting the Gordian knot and meeting all the objections that have been raised in the House. He will have the right only to limit the items to those which are of special importance in inter-State trade and commerce, and yet he will have the right to restrict the other imposition also.

SHRI C. D. DESHMUKH: I am not accepting the suggestion.

SHRI P. D. HIMATSINGKA: Sir, I do not wish to move my amendment.

MR. DEPUTY CHAIRMAN: The question is:

"That clauses 2, 3 and 4 stand part of the Bill."

The House divided:

AYES—168

Adityendra, Shri.
 Agarwal, Shri B. P.
 Agarwala, Shri R. G.
 Agnibhoj, Shri R. U.
 Agrawal, Shri Amar Nath.
 Agrawal, Shri J. P.
 Ahmad Hussain, Kazi.
 Ahmed, Shri Fakhruddin Ali.
 Akhtar Husain, Shri.
 Ali, Shri Mohammad.
 Amolakh Chand, Shri.
 Anis Kidwai, Shrimati.
 Banerjee, Shri Satyapriya.
 Barlingay, Dr. W. S.
 Bedavati Buragohain, Shrimati.
 Bharathi, Shrimati K.
 Bisht, Shri J. S.
 Biswas, Shri C. C.
 Bodra, Shri T.
 Chandravati Lakhanpal, Shrimati.
 Chatterjee, Shri J. C.
 Chaturvedi, Shri B. D.
 Chauhan, Shri Nawab Singh.
 Daga, Shri Narayandas.
 Dangre, Shri R. V.
 Das, Shri Biswanath.
 Dasappa, Shri H. C.
 Dave, Shri S. P.
 Deokinandan Narayan, Shri.
 Desai, Shri Janardhan Rao.
 Deshmukh, Shri N. B.
 Deshmukh, Shri R. M.
 Dhage, Shri V. K.
 Dharam Das, Shri A.
 Dhillon, Shri G. S.
 Dinkar, Prof. R. D. Sinha.
 Diwan Chaman Lall.
 Doogar, Shri R. S.
 Dube, Shri Bodh Ram.

Dube, Dr. R. P.
 Faruqi, Moulana M.
 Galib, Shaik.
 Ghose, Shri B. C.
 Gilder, Dr. M. D. D.
 Gour, Dr. R. B.
 Gupta, Shri Maithilisharan.
 Gupta, Shri R. C.
 Gupte, Shri B. M.
 Hans Raj, Shri.
 Hardiker, Dr. N. S.
 Hathi, Shri J. S. L.
 Himatsingka, Shri P. D.
 Indra Vidyavachaspati, Shri.
 Ismail Saheb, Janab M. Muhammad.
 Jalali, Aga S. M.
 John, Shri M.
 Kapoor, Shri Jaspat Roy.
 Karayalar, Shri S. C.
 Karimuddin, Kazi.
 Kaushal, Shri J. N.
 Keshvanand, Swami.
 Khan, Shri Abdur Rezzak.
 Khan, Shri Akbar Ali.
 Khan, Shri Barkatullah.
 Khanna, Shri Mehr Chand.
 Kishen Chand, Shri.
 Kishori Ram, Shri.
 Krishna Kumari, Shrimati.
 Kulkarni, Shri G. R.
 Lakhamshi, Shri Lavji.
 Lakshmi Menon, Shrimati.
 Lall, Shri Kailash Bihari.
 Leuva, Shri P. T.
 Mahanty, Shri S.
 Mahapatra, Shri Bhagirathi.
 Mahesh Saran, Shri.
 Mahtha, Shri S. N.
 Malkani, Prof. N. R.
 Malviya, Shri Ratanlal Kishorilal.
 Maya Devi Chettry, Shrimati.
 Mazhar Imam, Syed.
 Mazumdar, Shri S. N.
 Misra, Shri S. D.
 Mitra, Dr. P. C.
 Mohamad Umair, Shah.
 Mookerji, Dr. Radha Kumud.

Mukerjee, Shri B. K.
 Nagoke, Jathedar U. S.
 Naidu, Shri P. S. Rajagopal.
 Naik, Shri Maheswara.
 Nair, Shri K. P. Madhavan.
 Nair, Shri Perath Narayanan.
 Nallamuthu Ramamurthy, Shri-
 mati T.
 Narasimham, Shri K. L.
 Obaidullah Sahib, Shri V. M.
 Panigrahi, Shri S.
 Panjhazari, Sardar Raghbir Singh.
 Parikh, Shri C. P.
 Parvathi Krishnan, Shrimati.
 Pawar, Shri D. Y.
 Pheruman, Sardar Darshan Singh.
 Prasad, Shri Bheron.
 Prasad Rao, Shri V.
 Pushpalata Das, Shrimati.
 Pustake, Shri T. D.
 Raghavendrarao, Shri.
 Raghu Vira, Dr.
 Raghubir Singh, Dr.
 Rajagopalan, Shri G.
 Raju, Shri A. S.
 Rao, Shri V. C. Kesava.
 Rath, Shri Abhimanyu.
 Reddy, Shri A. Balarami.
 Reddy, Shri Channa.
 Reddy, Shri M. Govinda.
 Reddy, Shri Narotham.
 Rukmani Bai, Shrimati.
 Sahai, Shri Ram.
 Sapru, Shri P. N.
 Sarwate, Shri V. S.
 Savitry Devi Nigam, Shrimati.
 Seeta Parmanand, Dr. Shrimati.
 Sekhar, Shri N. C.
 Shah, Shri M. C.
 Shah, Shri Manharlal Mansukhlal.
 Shakoor, Shri N. Abdul.
 Sharda Bhargava, Shrimati.
 Sharma, Shri B. B.
 Sharma, Shri Purna Chandra.
 Shetty, Shri Basappa.
 Shrimali, Dr. K. L.
 Singh, Dr. Anup.

Singh, Capt. Awadhesh Pratap.
Singh, Thakur Bhanu Pratap.
Singh, Sardar Budh.
Singh, Babu Gopinath.
Singh, Shri Jaswant.
Singh, Shri Nihal.
Singh, Shri Ram Kripal.
Singh, Sardar Swaran.
Singh, Sardar Zail.
Singh, Shri Vijay.
Sinha, Shri B. K. P.
Sinha, Shri R. B.
Sinha, Shri Rajendra Pratap.
Subbarayan, Dr. P.
Sumat Prasad, Shri.
Sur, Shri M. M.
Surendra Ram, Shri V. M.
Suryanarayana, Shri K.
Tamta, Shri R. P.
Tankha, Pandit S. S. N.
Tayyebulla, Maulana M.
Thanhlira, Shri R.
Tumpalliwar, Shri M. D.
Valiulla, Shri M.
Vallabharao, Shri J. V. K.
Variava, Dr. D. H.
Varma, Shri C. L.
Venkata Narayana, Shri Pydah.
Venkataraman, Shri S.
Venkataramana, Shri V.
Vijaivargiya, Shri Gopikrishna.
Violet Alva, Shrimati.
Wadia, Prof. A. R.
Warkerkar, Shri B. V. (Mama)
Wilson, Shri T. J. M.
Yashoda Reddy, Shrimati.

NOES—Nil.

MR. DEPUTY CHAIRMAN: The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

Clauses 2, 3 and 4 were added to the Bill.

MR. DEPUTY CHAIRMAN: The question is:

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

The House divided:

AYES—171

Adityendra, Shri.
Agarwal, Shri B. P.
Agarwala, Shri R. G.
Agnibhoj, Shri R. U.
Agrawal, Shri Amar Nath.
Agrawal, Shri J. P.
Ahmad Hussain, Kazi.
Ahmed, Shri Fakhruddin Ali.
Akhtar Husain, Shri.
Ali, Shri Mohammad.
Amolakh Chand, Shri.
Anis Kidwai, Shrimati.
Banerjee, Shri Satyapriya.
Barlingay, Dr. W. S.
Bedavati Buragohain, Shrimati.
Bharathi, Shrimati K.
Bisht, Shri J. S.
Biswas, Shri C. C.
Bodra, Shri T.
Chandravati Lakhanpal, Shrimati.
Chatterjee, Shri J. C.
Chaturvedi, Shri B. D.
Chauhan, Shri Nawab Singh.
Daga, Shri Narayandas.
Dangre, Shri R. V.
Das, Shri Biswanath.
Dasappa, Shri H. C.
Dave, Shri S. P.
Deokinandan Narayan, Shri.
Desai, Shri Janardhan Rao.
Deshmukh, Shri N. B.
Deshmukh, Shri R. M.
Dhage, Shri V. K.
Dharam Das, Shri A.
Dhillon, Shri G. S.
Dinkar, Prof. R. D. Sinha.
Diwan Chaman Lall.
Doogar, Shri R. S.
Doshi, Shri Lalchand Hirachand.
Dube, Shri Bodh Ram.
Dube, Dr. R. P.

Dutta, Shri Trilochan.
 Faruqi, Moulana M.
 Galib, Shaik.
 Ghose, Shri B. C.
 Gilder, Dr. M. D. D.
 Gour, Dr. R. B.
 Gupta, Shri Bhupesh.
 Gupta, Shri Maithilisharan.
 Gupta, Shri R. C.
 Gupte, Shri B. M.
 Hans Raj, Shri.
 Hardiker, Dr. N. S.
 Hathi, Shri J. S. L.
 Himatsingka, Shri P. D.
 Indra Vidyavachaspati, Shri
 Ismail Saheb, Janab M. Muhammad.
 Jalali, Aga S. M.
 John, Shri M.
 Kapoor, Shri Jaspat Roy.
 Karayalar, Shri S. C.
 Karimuddin, Kazi.
 Kaushal, Shri J. N.
 Khan, Shri Abdur Rezzak.
 Khan, Shri Akbar Ali.
 Khan, Shri Barkatullah.
 Khanna, Shri Mehr Chand.
 Kishen Chand, Shri.
 Kishori Ram, Shri.
 Krishna Kumari, Shrimati.
 Kulkarni, Shri G. R.
 Lakhamshi, Shri Lavji.
 Lakshmi Menon, Shrimati.
 Lall, Shri Kailash Bihari.
 Leuva, Shri P. T.
 Mahanty, Shri S.
 Mahapatra, Shri Bhagirathi.
 Mahesh Saran, Shri.
 Mahtha, Shri S. N.
 Malkani, Prof. N. R.
 Malviya, Shri Ratanlal Kishorilal.
 Maya Devi Chettry, Shrimati.
 Mazhar Imam, Syed.
 Mazumdar, Shri S. N.
 Misra, Shri S. D.
 Mitra, Dr. P. C.
 Mohamad Umair, Shah.
 Mookerji, Dr. Radha Kumud.

Mukerjee, Shri B. K.
 Nagoke, Jathedar U. S.
 Naidu, Shri P. S. Rajagopal.
 Naik, Shri Maheswara.
 Nair, Shri K. P. Madhavan.
 Nair, Shri Perath Narayanan.
 Nallamuthu Ramamurthy, Shri-
 mati T.
 Narasimham, Shri K. L.
 Obaidullah Sahib, Shri V. M.
 Panigrahi, Shri S.
 Panj hazari, Sardar Raghbir Singh.
 Parikh, Shri C. P.
 Parvathi Krishnan, Shrimati.
 Pawar, Shri D. Y.
 Pheruman, Sardar Darshan Singh.
 Prasad, Shri Bheron.
 Prasad Rao, Shri V.
 Pushpalata Das, Shrimati.
 Pustake, Shri T. D.
 Raghavendrarao, Shri.
 Raghu Vira, Dr.
 Raghubir Sinh, Dr.
 Rajagopalan, Shri G.
 Raju, Shri A. S.
 Rao, Shri V. C. Kesava.
 Rath, Shri Abhimanyu.
 Reddy, Shri A. Balarami.
 Reddy, Shri Channa.
 Reddy, Shri M. Govinda.
 Reddy, Shri Narotham.
 Rukmani Bai, Shrimati.
 Sahai, Shri Ram.
 Saksena, Shri H. P.
 Sapru, Shri P. N.
 Sarwate, Shri V. S.
 Savitry Devi Nigam, Shrimati.
 Seeta Parmanand, Dr. Shrimati.
 Sekhar, Shri N. C.
 Shah, Shri M. C.
 Shah, Shri Manharlal Mansukhlal.
 Shakoor, Shri M. Abdul.
 Sharda Bhargava, Shrimati.
 Sharma, Shri B. B.
 Sharma, Shri Purna Chandra.
 Shetty, Shri Basappa.
 Shrimali, Dr. K. L.
 Singh, Dr. Anup.

Singh, Capt. Awadhesh Pratap.

Singh, Thakur Bhanu Pratap.

Singh, Sardar Budh.

Singh, Babu Gopinath.

Singh, Shri Jaswant.

Singh, Shri Nihal.

Singh, Shri Ram Kripal.

Singh, Sardar Swaran.

Singh, Sardar Zail.

Singh, Shri Vijay.

Sinha, Shri B. K. P.

Sinha, Shri R. B.

Sinha, Shri Rajendra Pratap.

Subbarayan, Dr. P.

Sumat Prasad, Shri.

Sur, Shri M. M.

Surendra Ram, Shri V. M.

Suryanarayana, Shri K.

Tamta, Shri R. P.

Tankha, Pandit S. S. N.

Tayyebulla, Maulana M.

Thanhlira, Shri R.

Tumpalliwar, Shri M. D.

Valiulla, Shri M.

Vallabharao, Shri J. V. K.

Variava, Dr. D. H.

Varma, Shri C. L.

Venkata Narayana, Shri Pydah.

Venkataraman, Shri S.

Venkataramana, Shri V.

Vijaivargiya, Shri Gopikrishna.

Violet Alva, Shrimati.

Wadia, Prof. A. R.

Warerkar, Shri B. V. (Mama)

Wilson, Shri T. J. M.

Yashoda Reddy, Shrimati.

NOES—Nil.

MR. DEPUTY CHAIRMAN: The motion is adopted by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

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

SHRI M. C. SHAH: Sir, I move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The House divided:

AYES—172

Adityendra, Shri.

Agarwal, Shri B. P.

Agarwala, Shri R. G.

Agnibhoj, Shri R. U.

Agrawal, Shri Amar Nath.

Agrawal, Shri J. P.

Ahmad Hussain, Kazi.

Ahmed, Shri Fakhruddin Ali.

Akhtar Husain, Shri.

Ali, Shri Mohammad.

Amolakh Chand, Shri.

Anis Kidwai, Shrimati.

Banerjee, Shri Satyapriya.

Barlingay, Dr. W. S.

Bedavati Buragohain, Shrimati.

Bharathi, Shrimati K.

Bisht, Shri J. S.

Biswas, Shri C. C.

Bodra, Shri T.

Chandravati Lakhanpal, Shrimati.

Chatterjee, Shri J. C.

Chaturvedi, Shri B. D.

Chauhan, Shri Nawab Singh.

Daga, Shri Narayandas.

Dangre, Shri R. V.

Das, Shri Biswanath.

Dasappa, Shri H. C.

Dave, Shri S. P.

Deokinandan Narayan, Shri.

Desai, Shri Janardhan Rao.

Deshmukh, Shri N. B.

Deshmukh, Shri R. M.

Dhage, Shri V. K.

Dharam Das, Shri A.

Dhillon, Shri G. S.

Dinkar, Prof. R. D. Sinha.

Diwan Chaman Lall.

Doogar, Shri R. S.

Doshi, Shri Lalchand Hirachand.

Dube, Shri Bodh Ram.
 Dube, Dr. R. P.
 Dutta, Shri Trilochan.
 Faruqi, Moulana M.
 Galib, Shaik.
 Ghose, Shri B. C.
 Gilder, Dr. M. D. D.
 Gour, Dr. R. B.
 Gupta, Shri Bhupesh.
 Gupta, Shri Maithilisharan.
 Gupta, Shri R. C.
 Gupte, Shri B. M.
 Hans Raj, Shri.
 Hardiker, Dr. N. S.
 Hathi, Shri J. S. L.
 Himatsingka, Shri P. D.
 Indra Vidyavachaspati, Shri.
 Ismail Saheb, Janab M. Muhammad.
 Jalali, Aga S. M.
 John, Shri M.
 Kapoor, Shri Jaspat Roy.
 Karayalar, Shri S. C.
 Karimuddin, Kazi.
 Kaushal, Shri J. N.
 Keshvanand, Swami.
 Khan, Shri Abdur Rezzak.
 Khan, Shri Akbar Ali.
 Khan, Shri Barkatullah.
 Khanna, Shri Mehr Chand.
 Kishen Chand, Shri.
 Kishori Ram, Shri.
 Krishna Kumari, Shrimati.
 Kulkarni, Shri G. R.
 Lakhamshi, Shri Lavji.
 Lakshmi Menon, Shrimati.
 Lall, Shri Kailash Bihari.
 Latif, Shri Abdul.
 Leuva, Shri P. T.
 Mahanty, Shri S.
 Mahapatra, Shri Bhagirathi.
 Mahesh Saran, Shri.
 Mahtha, Shri S. N.

Malkani, Prof. N. R.
 Malviya, Shri Ratanlal Kishorilal.
 Maya Devi Chetty, Shrimati.
 Mazhar Imam, Syed.
 Mazumdar, Shri S. N.
 Misra, Shri S. D.
 Mitra, Dr. P. C.
 Mohamad Umair, Shah.
 Mookerji, Dr. Radha Kumud.
 Mukerjee, Shri B. K.
 Nagoke, Jathedar U. S.
 Naidu, Shri P. S. Rajagopal.
 Naik, Shri Maheswara.
 Nair, Shri K. P. Madhavan.
 Nair, Shri Perath Narayanan.
 Nallamuthu Ramamurthy, Shrimati
 T.
 Narasimham, Shri K. L.
 Obaidullah Sahib, Shri V. M.
 Panigrahi, Shri S.
 Panj hazari, Sardar Raghbir Singh.
 Parikh, Shri C. P.
 Parvathi Krishnan, Shrimati.
 Pawar, Shri D. Y.
 Pheruman, Sardar Darshan Singh.
 Prasad, Shri Bheron.
 Prasad Rao, Shri V.
 Pushpalata Das, Shrimati.
 Pustake, Shri T. D.
 Raghavendrarao, Shri.
 Raghu Vira, Dr.
 Raghubir Sinh, Dr.
 Rajagopalan, Shri G.
 Raju, Shri A. S.
 Rao, Shri V. C. Kesava.
 Rath, Shri Abhimanyu.
 Reddy, Shri A. Balarami.
 Reddy, Shri Channa.
 Reddy, Shri M. Govinda.
 Reddy, Shri Narotham.
 Rukmani Bai, Shrimati.
 Sahai, Shri Ram.
 Saksena, Shri H. P.
 Sapru, Shri P. N.

Sarwate, Shri V. S.
 Savitry Devi Nigam, Shrimati.
 Seeta Parmanand, Dr. Shrimati.
 Sekhar, Shri N. C.
 Shah, Shri M. C.
 Shah, Shri Manharlal Mansukhlal.
 Shakoor, Shri N. Abdul.
 Sharda Bhargava, Shrimati.
 Sharma, Shri B. B.
 Sharma, Shri Purna Chandra.
 Shetty, Shri Basappa.
 Shrimali, Dr. K. L.
 Singh, Dr. Anup.
 Singh, Capt. Awadhesh Pratap.
 Singh, Thakur Bhanu Pratap.
 Singh, Sardar Budh.
 Singh, Babu Gopinath.
 Singh, Shri Jaswant.
 Singh, Shri Ram Kripal.
 Singh, Sardar Swaran.
 Singh, Sardar Zail.
 Singh, Shri Vijay.
 Sinha, Shri B. K. P.
 Sinha, Shri R. B.
 Sinha, Shri Rajendra Pratap.
 Subbarayan, Dr. P.
 Sumat Prasad, Shri.
 Sur, Shri M. M.
 Surendra Ram, Shri V. M.
 Suryanarayana, Shri K.
 Tamta, Shri R. P.
 Tankha, Pandit S. S. N.
 Tayyebulla, Maulana M.
 Thanhlira, Shri R.
 Tumpalliwar, Shri M. D.
 Valiulla, Shri M.
 Vallabharao, Shri J. V. K.
 Variava, Dr. D. H.
 Varma, Shri C. L.
 Venkata Narayana, Shri Pydah.
 Venkataraman, Shri S.
 Venkataramana, Shri V.
 Vijaivargiya, Shri Gopikrishna.
 Violet Alva, Shrimati.
 Wadia, Prof. A. R.
 Warerkar, Shri B. V. (Mama)

Wilson, Shri T. J. M.

Yashoda Reddy, Shrimati.

NOES—Nil.

MR. DEPUTY CHAIRMAN: The motion is adopted by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

MOTION RE WORKING OF THE PREVENTIVE DETENTION ACT, 1950—continued

MR. DEPUTY CHAIRMAN: We now take up the further consideration of the motion on the working of the Preventive Detention Act. Mr. Akhtar Husain may resume his speech.

SHRI AKHTAR HUSAIN (Uttar Pradesh): Mr. Deputy Chairman, yesterday, when the House rose for the day, I was trying to explain the difficulty of proceeding against people who indulge in subversive activities in such a manner as to make it impossible for any evidence to be available against them and the only way in which they could be deterred from pursuing their criminal acts was to have some sort of an enactment which would enable the long arm of the law to reach them.

SHRI H. P. SAKSENA (Uttar Pradesh): It is not an enactment, Sir.

SHRI AKHTAR HUSAIN: I do not know why my hon. and esteemed and very learned and senior and elderly friend should have tried to correct me in a matter like this. We are discussing the Preventive Detention Act and my learned friend should not have interrupted me like this.

However, Sir, the submission that I was trying to make was that unless we have some provision which would enable the authorities to keep in control people who pull the wires from outside, it would not be possible for