

COUNCIL OF STATES*Saturday, 2nd August 1952*

The Council met at a quarter past eight of the clock, MR. CHAIRMAN in the Chair.

RESIGNATION OF SHRI P. B. THACKER

MR. CHAIRMAN : I have to inform non-Members that Mr. Premji B. Thacker has resigned his seat in the Council of States with effect from the 26th July 1952.

ANNOUNCEMENT BY THE CHAIR

MR. CHAIRMAN : I have to tell you that the Council will also meet on the 5th, *5th, 7th, 8th and 9th August 1952 and, maybe, we may have to have afternoon sessions but that will depend on the rate of progress that we make.

THE ESSENTIAL GOODS (DECLARATION & REGULATION OF TAX ON SALE OR PURCHASE) BILL, 1952

SHRI T. V. KAMALASWAMY (Madras) : On a point of order, Sir, we have already had the Prevention of Corruption (Second Amendment) Bill 1952 moved, and in fact the hon. Minister was in the middle of his speech.

MR. CHAIRMAN : Will you please explain ?

THE MINISTER OF STATE FOR FINANCE (SHRI MAHAVIR TYAGI) : Sir, my Bill had preference over the Bill of my hon. friend, Mr. Biswas, but somehow or other, Mr. Biswas came first and I was relegated to the background. It has been brought to my notice that in the meantime some of the States are going forward with some additional sales taxes. It seems to me that they are racing with us just to have their Bills passed before we come out with our proposals. Therefore I would request you and the House to accom-28 C. S. D.

modate me, because we want to get this Bill through, before the Bills in Bombay and Madras and elsewhere progress further. I would like, Sir, this Bill to be passed by Parliament before they (States) are in a position to have their Bills passed.

SHRI J. R. KAPOOR (Uttar Pradesh) : Could not the Central Government issue a directive or even a request to the State Governments not to hurry through their Bills. I am not opposed to this Bill being taken up now. The hon. Minister of State for Finance has said that these States are hurrying through their Bills. Cannot the Central Government request the State Governments not to hurry through with their measures ?

MR. CHAIRMAN : Under the Constitution the States have complete autonomy so far as this subject is concerned.

SHRI MAHAVIR TYAGI : As the hon. member have rightly pointed out, it is not possible for us to intervene. They have a monopoly of Sales Tax. They want to pass these Bills because they know that the Constitution is so worded that whatever measures they pass in regard to articles not declared by Parliament to be essential for the life of the community will have effect. It is because of this we are in a hurry.

SHRI J. R. KAPOOR : I do not suggest that the Central Government should intervene, but is there not a little amount of co-operation between the State Governments and the Central Government ? It is more a question of co-operation rather than a question of intervention.

SHRI B. C. GHOSE (West Bengal) : I am faced with a little difficulty, but that difficulty is technical, but the point that was raised by my hon. friend was not with regard to the urgency of the measure. I agree with the hon. Minister that we should hurry up this Bill as early as possible and pass it. I also find co-operation among the Ministers as to who should move his Bill first and who should move his Bill thereafter, but the point raised

[Shri B. C. Ghose.] by my friend is one procedure that a Minister having moved his Bill and having begun his speech, should he not finish his speech and also would it be in order at this stage for another Bill to be brought before the House? That is the point. I am not also quite sure as to what would happen to the other Bill if this is taken up now. I should like to suggest this that apart from the hon. Minister's point of view that this should be taken up and passed and also apart from how the point of order is settled, we may, without any precedent being established, allow the Minister to go on with this Bill.

THE MINISTER FOR LAW AND MINORITY AFFAIRS (SHRI C. C. BISWAS) : It is a very simple matter. He had the preference but he lost it. He gets it back now.

KHWAJA INAIT ULLAH (Bihar) : Preference once given cannot be changed.

MR. CHAIRMAN: His was a technical point. The other Bill was moved and the Minister actually started his speech. The point is whether it is right for us to go back on the order of business already arranged. But the House is supreme and with the consent of the House we may make a change in the order of business but it should not be a precedent.

SHRI MAHAVIR TYAGI : I am very grateful to you and also to the House for having permitted me to intervene at this stage and move my Bill. I am glad that the House has realised the difficult situation in this regard and has given its consent to this procedure.

MR. CHAIRMAN : The House will cooperate even though the Bombay Government will not.

SHRI B. RATH (Orissa) : The best thing would be to scrap off the proceedings of the last ten minutes of yesterday.

SHRI MAHAVIR TYAGI : Sir, my colleague being engaged elsewhere on official business, I may, with your permi-

ssion, move the Bill on his behalf. Sir, I move :

That the Bill to declare, in pursuance of clause (3) of Article 286 of the Constitution, certain goods to be essential for the life of the community, as passed by the House of the People, be taken into consideration.

Sir, the House of the People have passed "The Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Bill, 1952." The Select Committee recommended a number of additions to the Schedule of essential articles which were accepted with some modifications by the House of the People. The Bill is now to be considered in the Council. During the debate in the House of the People, the question as to whether the Bill should be prospective or retrospective was discussed at great length. We are informed that the proper reading of the Constitution is that the Bill cannot have retrospective effect. Clause (3) of the Bill makes this implicit provision of the Constitution clear and explicit and it is desirable to retain it. Otherwise, Government may be fairly accused of not telling the public in clear terms what the real position is. It appears to me that there is hardly likely to be any new point on the legal interpretation and there seems to me to be little scope for further debate on the legal aspect.

I am not sure if some members would want to increase the number of items contained in the Schedule. If so, I would tell you that the greater the number of items included in the Schedule, the more is the position of the States weakened thereby to raise revenues without Central permission. I am quite sure that the Council, being representative of the States, will take more care for the welfare of the States, _____

KHWAJA INAIT ULLAH : That of the people.

SHRI MAHAVIR TYAGI : because this is the Council of States. I hope, Sir, that the Council will accept the list as passed by the Lower House. I do not want the financial position of the States to be in any way weakened. This is not desirable as the States themselves would raise sufficient resources to implement their development

plans as included in the Five Year Plan*, and I would not like to see the States looking induly to the Centre for resources and so encourage spoonfeeding. The States will have to look after themselves with respect to their development plans as far as they can and for this purpose their present powers of taxation regarding sales tax should not be curbed unduly. It could not have been the intention of the Constitution to curb their powers drastically as otherwise sales tax would not have been an item in the States List. The power conferred on Parliament through Article 286 (3) refers to the exercise with reference to these considerations and the Schedule should therefore be limited to the least possible number of items. The Schedule should confine itself to items of food, cloth and raw material for basic industries and other raw materials like hides and skins which are produced by a large number of poor people, so that there is no disruption in the life of the community.

The Bill in its present form does not bring about that uniformity of sales tax which some Members have desired in the lower House and some Members of this august House might also desire. We hope to convene shortly a meeting of the States and Finance Ministers when the question of achieving greater degree of uniformity by mutual consultation will be taken up.

Sir, sales tax is not, as it may seem to be, an innovation in the field of taxation. The very conception of sales tax draws its origin from, I believe, the middle ages when perhaps Augustus levied it for the first time in Rome. Even in India, in the olden days, probably it was in the time of Chandragupta Mourya that this was levied for the first time. But it remained forgotten for a long time. It was on account of the stress of financial stringency during the first Great War that Germany in 1917 came out with this proposal of sales tax. Since then two or three years after, France, Italy and Czechoslovakia etc, fell in line and now the sales tax is prevalent practically every-

where. In Russia, 80 per cent, of the revenue comes through this. They call it a turnover tax because they do not tax only the commodities or goods sold in the market but they also tax the services rendered. For instance, the doctor or lawyer who lends his brains or services and charges for it is also taxed. I don't think it is a very healthy tax compared with direct taxes. Naturally people would always prefer to have direct taxes rather than indirect ones because the incidence of indirect taxes is rather blind comparatively. No body can say as to on whom it falls most and some time poorer people are taxed more than the richer. In sales tax there is some possibility of discrimination between the rich and the poor because those goods which are mostly luxury goods can be taxed at a higher rates and the essential goods may be exempted from tax. Thereby some distinction is made and the incident can be slightly regulated. In the circumstances here in India in 1935 according to the Government of India Act when for the first time provincial autonomy was established and the expenditure naturally increased, the provinces were in need of some elastic sources of revenue and the sales tax was the only avenue which was left at their sole discretion so that they could meet the additional expenditure which they had to incur on account of their own development schemes for social improvement. Therefore since that time onwards they have been resorting to the sales tax more and more and that is the only source at the disposal of the provinces. I think the Central Provinces came into the field for the first time with 5 per cent, sales tax on petrol. I am narrating this to remind the hon. Members that the sales tax has really become a sole monopoly of the States exchequer. When the Central Provinces came with a 5 per cent, levy on motor spirit and lubricants, the Central Government fought against it. They thought that perhaps the Central Provinces was going beyond its zone of authority. They also thought that excise would be affected which is a Central subject.

[Shri Mahavir Tyagi.] Therefore the case went up to the Federal Court and the Federal Court decided that the States had the right to levy such taxes and that the Centre could not come in their way and they also denied that the zone of taxation of the Centre on account of the Central excise ended immediately where and when a thing was manufactured in a factory. But immediately as it came out in the market, it became a part of the market and then the Central zone of authority expired and it came into Provincial zone. It came into the provincial zone of taxation and thus the tax was regularised by the Federal Court. Then Madras came out with 3 general plan of sales tax on various commodities and that too was disputed in the Federal Court. This time they gave a still stronger ruling in favour of the State and they said it is immaterial for the purposes of the sales tax, whether the thing was in the hands of the producer or manufacturer or in the hands of the seller the sales tax could be levied. The result was that the States became stronger in their claim of having a total monopoly on sales tax. This is the history of how the sales tax has become a monopoly of State Government's exchequer. I have already said that the States have now expended their activities to a large extent and whatever our development schemes are, they are basically the responsibility of the States to develop. It is they who are really responsible. Financially also, they are required to contribute quite a substantial amount towards the development programmes or the Five Year Plan and therefore it will be unfair to go on narrowing down their scope of income.

With these words, I commend this Bill.

MR. CHAIRMAN : The motion is :

That the Bill to declare, in pursuance of clause (3) of Article 286 of the Constitution, certain goods to be essential for the life of the community, as passed by the House of the People, be taken into consideration.

SHRI RAJAGOPAL NAIDU (Madras) Mr. Chaitman, if the Essential Goods and the Sales Tax is to prove benefi-

cial it is not enough that the State Governments agree on some measure of uniformity about the levy of sales tax but it is necessary for the Centre to have some recognized policy of its own in the imposition of sales tax on essential goods by the States. On reading Article 286 (3) I find this :

" 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."

The hon. Mover of this Bill was saying that on a reading of clause (3) of Article 286 it will not mean retrospective but on a careful reading of that it would mean this much at least that after this Bill is made into law, the States who had already passed legislations levying sales tax on certain goods which are essential for the life of the community have to come forward and get the assent of the President. I don't think it will be legal on our part to construe that this will not be retrospective in its effect but at least the States will have to come forward and get the assent of the President.

Coming next to the object of the Article, it is to detract from the powers of the States the levy of sales tax and to empower the Central Government on whose advice the President will give or withhold his assent, to see that the goods essential for the life of the community were not oppressively taxed. Now, Sir, the question is whether we have to include such items in the list of Schedule which are essential for the life of the community. Now I find that almost all the goods on earth find a place in the Schedule. I will come to that in detail later. I find there is absolutely no saving clause in the Constitution exempting existing States legislations from the operation of Article 286. If that is there, I would certainly agree with the hon. Minister that this Bill will have no retrospective effect but inasmuch as we don't find any saving clause in the Constitution, I feel bold in saying that this is certainly

retrospective and some provision, will have to be made if we are to regulate the imposition of sales tax. I went through the proceedings in the lower House and I find that the hon. Minister who has piloted the Bill has said that to achieve a certain measure of uniformity in taxes, he would call a conference of all the Finance Ministers and he was of the opinion that the levy should not be unduly hard. He has used the words 'unduly hard'. Now, we have to look at the whole thing in this way, whether the poorer section of the community is going to be affected by the levy of this tax. If sales tax is levied on food and food products, certainly it affects the poor man. It will certainly be reasonable to include some of the articles in the Schedule. But if you examine thoroughly you will find that it is only on food and foodstuffs that almost all the State Governments are levying sales tax. There is no item, at any rate not in Madras, which is not taxed, and as the hon. Minister has said, the entire financial system of the States is based on this sales tax. And if I remember aright^ it was only Madras which levied sales tax in 1937 for the first time. The Madras Government it was that paved the way in this direction and if there is much of oppression due to this sales tax you find it in Madras State. I am not completely in favour of* the removal of all sales taxes, because that would certainly affect the finances of the States, but I only want to suggest to the hon. Minister that the taxes should not be oppressive and there should be some uniformity in all the States in India. It is no doubt good not to levy any sales tax on essential goods, but then as I had already submitted that would affect the finances of the States. But I wonder what the Central Government has been doing all these months after the passing of our Constitution. Much water had flowed under the bridge since then. But the hon. Minister was not even prepared to give us a few hours to consider this Bill after yesterday's work was over. What has the Government been doing all this time when the States had been

levying all sorts of sales taxes on sales and purchases goods? My suggestion is that the object of the measure should be to see that sales taxes do not unduly affect the cost of living of the poorer sections of the consumers. That should be ultimate object of the Central Government. My other suggestion would be that all goods cannot be treated as on the same level. There should be certain gradation. But here you find foodstuffs bracketed with iron and steel. You have bracketed certain goods essential for human consumption with hides and skins. I wonder how hides and skins could be essential to the life of the community. The very object of the Bill should be to see that the poor sections of the population are not affected too much by the levy of sales tax. But why you have included all these items like hides and skins and iron and steel, I cannot understand.

Coming to certain details of the taxation, I may say that there is not much uniformity among the States in the matter of these sales taxes. I can speak with some authority as to how it is going on in Madras. In Madras we have sales tax even on *jaggery*. If an agriculturist manufactures *jaggery* out of the cane harvested from his own fields and sells it, then he has to pay sales tax to the Government. Sir, there cannot be a more oppressive legislation than a sales tax on *jaggery*. Not only that. What do we find in the case of cloth? On certain varieties of cloth the Centre levies a duty—an excise duty. The wholesaler pays this and then passes it on to the retailer. The retailer passes on his sales tax to the consumer. Therefore there are three taxes on the same yard of cloth and when it reaches the consumer ultimately, in certain cases the sales tax on the piece of cloth is as much as Re.1 per yard. No wonder cloth is selling at a high cost. Take again the case of petrol. There is absolutely no uniformity in the matter of its price. When you get up in the morning and see your newspaper you find that the price of petrol has increased by one anna, that the

[Shri Rajagopal Naidu.] Centre has added six pies to the price of petrol and so on. Last month the Madras Government levied a sales tax of one anna per gallon on petrol. There is, as I submitted, no uniformity about it. When you see the newspaper in the morning you find that such and such a State has imposed so much of sales tax on petrol. Sir, I have a little experience of this sales tax in the city of Delhi. After travelling for about fifty hours in the train from Madras and alighting at Delhi Station, since I had a basket of mangoes, I am asked to go to a certain place, a few yards off, and pay some tax, sales tax or some other tax. I cannot understand why a passenger travelling some fifty hours should pay any tax on a basket of mangoes that he may have. We are asked to go to a spot, at a little distance from the railway station and made to wait for several minutes and asked to pay this tax. I don't know what tax it is, but.....

KHWAJA INAIT ULLAH :
It is octroi.

SHRI RAJAGOPAL NAIDU : This is the sort of oppressive thing that we find in the levy of the sales tax.

Lastly I would like to make this surge: Either before this measure is passed or after it has become law, care should be taken to see what effect this levy has on the poor, how this will affect the finances of the States and what effect these taxes on sales have on the life of the poor and middle-classes of our population and on their cost of living. I would also suggest that Madras may be fixed as a centre, because it is only Madras which started this game first and it is only in Madras that we have got still the much-hated multipoint sales tax. There is also then what I nicely call a sales tax on sales tax. One has to pay sales tax on the turnover. Suppose one purchases an article for Rs. 10 and one had paid 10-2-0 as sale tax on that. If he has

to sell that again to another he will have to pay sales tax on this Rs. 10-2-0. That is what I would call sales tax on sales tax. I am glad the Central Government has come forward with a piece of legislation like this and I welcome it as I feel that it is high time that the Centre interfered and brought about a certain degree of uniformity throughout India in this matter. I hope this would be welcomed and supported by every section of the House.

SHRI K. B. LALL (Bihar) : Sir, I can say that as it is, we are bound to support this

SHRI B. C. GHOSE : How bound?

KHWAJA INAIT ULLAH :
Why are you bound ? You are a free Member and can do what you like.

SHRI K. B. LALL : We are bound to support this measure because in essence it is good and we must support an essentially good thing. But after hearing the speech of the hon. Minister who is piloting the Bill, though he argued a lot for the States, I still feel that the spirit in which he argued should have been in defence of the cause of the people.

SHRI MAHAVIR TYAGI : I have done that in the House of the People.

SHRI K. B. LALL : The case of the people has been safeguarded in the Constitution itself. The spirit of the Constitution is that the commodities essential for the life of the community must be so kept above taxation that the community may not feel hardship. That is the spirit in which the Constitution has safeguarded the people, and we expected that that would be the spirit in which this Bill would be brought forward by the hon. Minister. He argued much on behalf of the States and referred to clause 3 which says that no law made after the commencement of this Act shall have effect unless it has received the President's assent. This morning we heard so much in favour of the States and we, the representatives of the

States, are surely expected to safeguard the cause of the States. I too will not lag behind any one in safeguarding the rights of the States. The States themselves feel that they also owe some duty to the people and go by the spirit of the Constitution makers. After all, the Constitution makers were the highest authority who looked to the interest of the people as a whole and when the Constitution has provided, we should not frame legislation in a way that the whole purpose of the Constitution may be defeated; by the addition of the words "after the commencement of this Act", a good deal of the purpose of the Constitution may be defeated. This is the point of view that I want to place before the hon. Minister and to safeguard against that I have proposed an amendment that at least with regard to some of the items that are really essential the protection that the Constitution affords may not be whittled down. As a matter of fact, my hon. friend who has just preceded me, has mentioned certain articles that may or may not be essential for the life of the community. I do not want to enter into a controversy and if the States can derive any income out of that, there should be no objection, although the controversy, whether it is essential for the life of the community or not, remains there. But with regard to the items that I have mentioned in my amendment there should not be two opinions because they are all commodities that are consumed by the most ordinary people, the poorest and even the person who has no home to live and who passes his nights on the footpaths of Delhi. It concerns even that type of persons because the commodities mentioned there are eatables and as such, they should be exempted. Of course, taxes are being levied but I think this trouble has arisen because of some delay in bringing up this legislation. Had it been brought up before the 31st March 1951, perhaps there would have been no difficulty as the proviso under Article 286 is very clear on this question. As there has been sufficient delay and 31st March 1951 has passed away, the States are empowered to levy the taxes and even the Centre cannot come

upon them so easily. Therefore, this difficulty has arisen and it is on account of that that even the uniformity is disturbed. Some of the States are levying while some, after the passing of this piece of legislation, may be deprived of levying any tax. Now, what can be the remedy? There should be some uniformity and it is for the sake of that

The hon. Minister is not in his seat, Sir.

KHWAJA INAIT ULLAH : He is discussing about your amendment.

SHRI K. B. LALL :that I have thought it proper, before moving the amendments, to submit that—it may be that I may not be put to the necessity of moving them at all because, I thought, it may only be a formal thing, only a ceremonial, just as we withdraw so many amendments in order to facilitate the passing of the Act so that this Bill may not be passed away unwept, unsung and unhonoured—I beg to bring them to the notice of the hon. Minister who may find his way to accept them or who may see whether uniformity can be brought about, at least with regard to these items that are really very very essential for the community. The other amendments may be controversial, but about the one which is with regard to food articles which are surely essential there cannot be two opinions. I wanted to say one thing about sweetmeats. Of course, they may not be so essential for the ordinary commoner but, when we have provided meat, fish and egg for the non-vegetarian, the vegetarian may feel a pinch that they are being deprived of the little of luxury which may compensate for meat, egg and fish. At least having regard for that feeling of the vegetarians, sweetmeats should be brought up under the category of essential goods (*Interruption*) and I have proposed another amendment that instead of making it an exception, it should be brought in the list by the substitution of the word "and" in place of the words "but excluding." This is a very small thing and I think the hon.

[Shri K. B. Lall.] Minister will see his way not to differentiate between the two sections, vegetarian and non-vegetarian. It may be that non-vegetarians are overwhelming in number.

HON. MEMBERS : 'No' 'No'.

MR. CHAIRMAN: Order, order.

SHRI K. B. LALL : I may accept the contention of my friends, but my own reading is perhaps in the country the non-vegetarians would be more in number.

MR. CHAIRMAN : Proceed with the Bill.

SHRI K. B. LALL : I think that we should set right the anomaly and enable the vegetarian not to feel a pinch with regard to sweetmeats.

The third amendment I have put down requires only a clarification. If the hon. Minister clarifies in his speech that "bread" includes "paratha" and "puri" that will set the matter right.

SHRI J. R. KAPOOR : 'Roti' also.

SHRI H. P. SAKSENA : "Kach-ori" also.

MR. CHAIRMAN : Order, order.

SHRI K. B. LALL : Of course, it may be said that "puri", as it is prepared from ghee, is a luxury...

KHWAJA INAIT ULLAH : Yes, yes, surely it is.

SHRI K. B. LALL : _____ and the commoner may not use it. But, with regard to "paratha" I am sure that the hon. Minister will not grudge this little of the poor man's luxury. 'Ghee' is essential for the life of the community and 'paratha' is made out of a sprinkling of 'ghee' which the poor man takes. This should not be denied on the ground of luxury. I only make an appeal to him so

that, if he finds any difficulty in accepting the amendment he may clarify, in his speech, and that will settle the matter, that "bread" includes "paratha" as well. I will also appeal to him to see his way to including "puri" in that ; this too is made of flour in the same way as "paratha" but is a little of luxury and a little bit richer. Nevertheless, both are in the category of "bread".

AN HON. MEMBER : "Sattu".

MR. CHAIRMAN : No prompting-!

SHRI K. B. LALL : I may mention that my friend was mentioning "Sattu". Of course, I as a Bihari take pride...

MR. CHAIRMAN : Address the Chair.

SHRI K. B. LALL : I beg your pardon, Sir in "sattu" because it is essential for the whole of Bihar and most people in Bihar and in the Eastern U. P. live on that kind of food. You have mentioned "pulses" and "cereals" and so, perhaps, "sattu" need not be mentioned specially. The hon. Minister can also clarify this, if it is at all necessary. I think *sattu* is also an essential thing. It is being sold in the market and, who knows, one day some hungry States may come down upon *sattu* also. So it is better if he can clarify or if he can include that among the essential commodities. I hope the hon. Minister will clarify all these points and will see his way to accept my amendment with regard to this interesting piece of legislation because that will set right the anomaly so that it will go a great way with regard to these items of food articles. With these few words, I support the Bill.

SHRI B. G. GHOSE : Sir, I listened with great attention to the hon. Minister's defence of State interests and his appeal that this House should safeguard the interests of the States as this is the Council of States.

As I was reading the proceedings of the Constituent Assembly, I found that he was not so much enamoured of this tax and had himself brought in a resolution that it should not be more than.....

SHRI MAHAVIR TYAGI : I wonder if it is in order to quote back speeches.

MR. CHAIRMAN : We are quoting each other too much nowadays.

SHRI H. N. KUNZRU (Uttar Pradesh) : My hon. friend is not in the Chair. So he cannot claim any exemption from being criticised on the score of his previous speeches.

9 a. m.

SHRI B. C. GHOSE : In so far as the interests of the States are concerned, we are perfectly aware of them, but there are two aspects to this issue. First, that we not only represent the States but we have been elected by delegates who are representatives of the people and that we also have certain obligations towards the people of the country. Secondly, Sir, as regards the interests of the States, we shall certainly fight for States' interests, but this is not the way in which the States are going to be helped, because as the hon. Minister himself has pointed out the States have great responsibilities in connection with development projects and if he feels that by virtue of this tax alone the States will be largely enabled to finance the development projects, he is greatly mistaken. As everybody knows, the resources that have been given to the States under the Constitution are very inadequate and all the States will come up for assistance. The major sources of revenue like excise and income-tax are Central revenues and even in the matter of the sales tax we are making amendments which are necessary in the interests of the people and that will reduce the States' revenues. And merely by giving this sales tax to the States, the States will not be assisted in financing the development projects. It is very necessary that the Centre should realise the necessities of the

States and make very liberal contribution to the States. Of course, I am aware that the hon. Minister will say that the Finance Commission will be examining that question and will make necessary recommendations, but I was only just re'ferring to that aspect of the question.

Now, in regard to this measure, it has' been recognised that there should be some uniformity and the hon. Minister also has admitted that the question is whether in view of the provisions of the Constitution we can have any retrospective effect. I am not a legal expert and I am not competent to give any opinion on that matter but all I can say is that it was the express desire of the Constituent Assembly when enacting this measure that certain goods which were considered essential for the life of the community should be exempt from sales tax, because while proposing this provision Dr. Ambedkar, who was piloting the Bill, said that it had also been agreed that there are certain commodities which are so essential to the life of the community throughout India that they should not be subject to sales tax by the Province in which they are to be found. That was the object behind Article 286(3) and we now find that, because probably there was some lacuna in the Act, we cannot have legislation which will have retrospective effect. I will leave the matter at that.

But here I would like to draw the attention of the hon. Minister to a small amendment which I have suggested. Of course this is not perhaps the time to speak on amendments but I would like him to consider the object for which I have suggested that amendment so that he may have some time to consider it. Now, as the Bill now stands, it says that 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 has received his assent. But even assuming that we cannot have

[Shri B. C. Ghose.] retrospective effect so far as this Bill goes, it appears to me—I speak of course subject to correction—that if a State were to bring in a legislation increasing a tax which has already been imposed, I am not quite sure if we can prevent that. Supposing a State had already imposed a tax on a certain commodity and then brought in legislation thereafter to increase the rate of the tax, now so far as this Bill is concerned it merely refers to the imposition of a tax, but it does not say anything about the increase of tax by a State. It might be argued by a State even after this legislation is passed that the tax had already been imposed and what the State had brought forward was merely an increase in the rate of the tax and therefore it did not come under the purview of this legislation. But, Sir, as it is our intention that these goods which are considered essential should not be subject at all to taxation, it should stand all the more to reason that if there was a demand on the part of the States to increase the rate of taxes which were already in existence, that should be resisted and therefore with that end in view I have brought in an amendment that the words "or varying or modifying" be inserted. That means if the States were to bring in any measure to increase the tax, that should not also be given effect to unless it has received the assent or has been reserved for the consideration of the President.

SHRI MAHAVIR TYAGI : May I know to which taxes the hon. Member is referring—on other commodities, or on essential goods ?

SHRI B. C. GHOSE : Essential goods.

SHRI MAHAVIR TYAGI : That is included.

SHRI B. C. GHOSE : If it is included, I shall withdraw my amendment. My point is this. Suppose a tax has been imposed on an essential commodity before this legislation is passed. Now, in regard to that tax the State brings a measure to increase the rate of the tax. Supposing it was 3 pies, the State introduces a measure to increase it to

6 pies, the question is whether this legislation would prevent that State from increasing the rate. The State *might* argue that it is a tax which has already been imposed, and that what it is doing is not to bring in fresh goods under its purview, but only to increase an already existing tax and therefore this legislation cannot affect it and you cannot give retrospective effect to this legislation. If the hon. Minister says that under this legislation Government is empowered to prevent States from charging increased taxes ----- because I find that the provision only refers to imposition or authorising the imposition of a tax but not to any increase in a tax which has already been imposed

SHRI MAHAVIR TYAGI : But they are imposing a further tax, and, therefore, that is included. So, there is no fear on that account.

SHRI B. C. GHOSE : If that is included, I shall withdraw my amendment. I shall not press it. I was not very sure as to whether that was included- I have nothing further to add.

SHRI D. D. ITALIA (Hyderabad) : Mr. Chairman, I rise to support this Bill. In doing so, I wish to make certain observations. The object of this Bill, as I understand it, is to declare certain goods essential for the life of the community. That means that they will be exempted from sales tax. The previous speaker has already explained the provisions of Article 286(3) of the Constitution, and therefore I will not say anything more on it. We have no right to say that no retrospective effect shall be given to this Bill. Let me draw the attention of the hon. the Finance Minister to the fact that after this Bill was introduced in the House of the People, in the month of May 1952 some of the States took a bold step in order simply to defeat the fundamental object of this Bill through their Sales Tax Acts and imposed sales tax on certain articles which are sought to be declared as essential for the life of the

community. Even some of the articles which they had previously included in their exempted list were deleted. The States have taken this bold step taking advantage of the provision in this Act, namely, "before the commencement of this Act." I am sure that once the Bill is passed by Parliament and it becomes law declaring certain goods as essential for the life of the community, no State will have any right to collect sales or purchase tax on such essential goods unless they come forward and take the consent of the President. If we allow the States to impose sales tax, after the passing of this Bill I am sorry to say that the object of this Bill will be defeated.

After all, Sir, the tax that will be collected on the essential goods will hit the consumers hard. We know very well that 80 per cent, of the consumers are very poor people, and it will affect them. Some hon. Member said that it is not a direct tax. But I say it is a direct tax on the consumer. In some States they have already introduced a multiple-point sales tax which, according to my calculation, will come to 2 annas in the rupee, which really is a very high rate. Looking to the economic condition of the people, it will hit them hard. I therefore request the hon. the Finance Minister to find ways and means by which at least uniformity in the incidence of the tax on essential goods is maintained in all the States. It will not be fair to say that some articles are essential for the life of the Community in one State and not essential in other States. I would even request the Finance Minister to call a conference of all the State Ministers—which he has already said he is going to do—and find out ways and means of arriving at some uniformity in the sales tax and also in the essential goods. I am not against the imposition of sales tax, as I know well that that is the only important source of income for the States. My request is for some kind of uniformity in all States. With these few words, support the Bill.

SHRI H. N. KUNZRU: Ma Chairman, when Article 286 of the Constitution was passed, at least those Members of the Constituent Assembly who took part in the discussion of this Article were under the impression that action would soon be taken by Government under this Article. The Constitution was promulgated on the 26th January, 1950. More than two years have elapsed since then. In the meanwhile the mischief which the Government wants to control has increased, and Government have come forward with this belated measure now in the interests of the poor people of the country. My hon. friend Shri Mahavir Tyagi explained as clearly as he could the objects of the Bill before us, but did not tell us why the Finance Ministry took so much time to bring forward this Bill. The harm caused by the imposition of taxes on essential articles was well known when Article 286 of the Constitution was passed. Yet Government for some reason did not take speedy action under it.

My hon. friend who is piloting the Bill has given us an explanation of the purpose for which Article 286 was passed that was not present in the minds of those who were either responsible for the drafting of this Article or for its passage through the Constituent Assembly. I know that my hon. friend Shri T. T. Krishnamachari has said in another place on behalf of the Drafting Committee that its object was not to introduce uniformity or to prevent any law that might be passed under this Article retrospectively. I do not know whether he also said that it was not meant to control the imposition of sales taxes on commodities declared to be essential by a Central law by States that had not already imposed such taxes. Whether he said this or not, it is immaterial now. Government have taken the view not merely that any legislation now passed by Parliament under Article 286 cannot be given retrospective effect but also that no State that has not imposed sales taxes on articles that will be declared to be essential if this Bill is passed will be allowed to impose tax.

[Shri H. N. Kunzru.]

on them. All that the Government of India hopes is that it will be able by convening a conference to secure some kind of uniformity of action between the different States and that it may be able to persuade such of the States as had high sales taxes to reduce them. Now I should like to understand two or three points in this connection from my hon. friend Shri Mahavir Tyagi. The spokesman of Government said in another place, when this Bill was under discussion, that the new States, i.e., the States that had not already imposed sales taxes on the commodities mentioned in the Schedule to this Bill would be prevented from imposing such taxes. It would be an injustice to the States, he said, if the Central Government arbitrarily advise the President to prevent them from using their legislative powers to augment their resources as the other States had done. They hoped, however, that the new States would be induced not to impose sales taxes higher than those in force in the adjoining areas. Now I have some difficulty in understanding the effect of this limitation. I shall illustrate my point of view by referring to those States where the multiple point system prevails. Madras is one of those States. Bombay was thinking of introducing a similar system. Whether it has already done so, I cannot say but my impression is that the system has already been brought into force there. Now since the multiple point system prevails in Madras, the adjoining States i.e., the States of Orissa, Travancore and Cochin, Mysore, and Hyderabad cannot in the view of the Government be justly prevented either from imposing sales taxes to the extent that Madras has done or from adopting the multiple point system. Now take, Sir, Bombay. If the multiple point system has been introduced there, it is obvious that according to the views expressed by Government in another place Saurashtra, Madhya Bharat, Madhya Pradesh and possibly some other States cannot be prevented from following in the footsteps of Bombay. Now when the States adjoining these States j

have introduced the multiple point system, the States adjoining them may legitimately ask the Central Government to give them the same liberty as has been given to the States adjoining Madras and Bombay. I put this question. I explained my difficulty to my hon. friend in charge of the Bill in order that he may tell us what Government exactly have in view.

SHRI M*A'H A V I R TYAGI : May I just clarify the point ? The position in the other House with regard to this point was not essentially to allow the liberty to these new States to levy taxes to the level of the neighbouring States altogether. I mean a margin shall be there and it is not that the same multiple point tax may be permitted to them or they should be allowed to go absolutely on the same level with the neighbouring States. Every case shall be dealt with on its merits.

SHRI H. N. KUNZRU : Sir, my hon. friend's explanation is very tantalising. He tells us what might be done and what might not be done. It will give great satisfaction to the House and to the public if he can tell us explicitly whether the multiple point system will be allowed to be introduced by the States adjoining Bombay and Madras. Is my hon. friend ready to answer that question ?

SHRI MAHAVIR TYAGI : Sir, that is rather a difficult question. It is difficult to say

MR. CHAIRMAN : What I would say is you better give all your explanations after the speeches have been made.

SHRI H. N. KUNZRU : Sir, it is somewhat satisfactory to learn that Government do not propose to allow the States adjoining those States where sales taxes are already in force to impose sales taxes exactly up to the limit in force in these States. That is some, thing. But what is of much greater importance from the point of view of the public is that the multiple point system should not be allowed to be

introduced in any State where it does not exist at present. This matter, Sir, was brought to the attention of the Constituent Assembly when Article 286 was under consideration but the

PROF. N. R. MALKANI (Nominated) : Will you kindly explain to us the multiple point system?

SHRI H. N. KUNZRU : The multiple point system briefly speaking means that the same article may be taxed at different stages, i.e. as many times as it is sold. I mean, that is roughly speaking what it means. Now, Sir, there is one other question that I would like to ask my hon. friend. There can be no doubt about the power of the Government of India to prevent States that have not already levied sales taxes on commodities declared to be essential to the life of the community from raising them too high.

Suppose a State reduces the sales tax already in force and adopts some other kind of tax. Now, will the Central Government try to put pressure on or persuade the other States to follow suit? It may not be possible for the Government of India to persuade all the States at once to adopt lower sales taxes, but it may be possible to persuade some States so to adjust their taxation as to reduce at least some of the sales taxes on essential commodities. What will it do in that case? Will it use its good offices at least to persuade the other States to follow the example of this State or not? It may not be possible for the Government of India to do so, but if it means to use its power in order to make the sales taxes less burdensome than they are, then I do not see how it can shrink from the responsibility of constantly asking the States where the sales taxes are higher to adjust their system of taxation as another State has done.

In the end, Sir, I shall refer to the conference that the Finance Ministry proposes to convene in order to discuss the question with which the Bill deals. I think that the Government of India should do what it can to have public opinion on its side before the conference is convened. The people in each State

are aware of the system that prevails there. They should have information about all those States as a whole where sales taxes on essential commodities are in force. I therefore suggest to the Government that they should compile the necessary information and issue it in such a form that it may be easily understood by the public. I do not know whether in any States cereals, pulses, fresh milk, edible oils, gur, salt, coarse cloth, or any of them has to pay a sales tax. But if there are any States of that type, I think it will be to the advantage of the Government of India to let public opinion know that even such essential articles are being taxed by certain States in order somehow to add to their resources.

Lastly, Sir, I should like to ask a question or two about some articles excluded from the Schedule. My hon. friend, Mr. Mahavir Tyagi, will, I am sure, excuse me for my ignorance of the reasons for which these things have been excluded. I refer to medicines and paper. I do not understand why medicines have been excluded. The Select Committee must have considered the inclusion of medicines and if still medicines are not included in the Schedule, then there must be a reason for their exclusion, but I confess I am not aware of it.

The next thing to which I should like to refer is paper. Item 15 mentions books, exercise books, slates, slate pencils and even periodical journals as essential commodities. Why has then paper, which is essential for the preparation of books and exercise books and also periodical journals, not been mentioned in this item? Why has paper been excluded from this Schedule?

These are the points on which I should like to have enlightenment from my hon. friend, Mr. Mahavir Tyagi.

DR. R. P. DUBE (Madhya Pradesh) : Mr. Chairman, I stand here to support this Bill, but I am surprised to see that in item No. 16, antibiotics and sulphur drugs have been excluded from the Schedule. I cannot understand why the Select Committee has not

[Dr. R. P. Dube.] to the exclusion of these items. They have allowed hides and skins, iron and steel, etc. A man can do without shoes, but if he wants to live, he must have anti-biotics and sulpha drugs. There are many diseases that could be cured by sulpha and anti-biotics. I cannot understand why these medicines have been excluded. I will request the hon. Minister to see that these medicines are added.

If the hon. Members will see the Schedule of items, they will find that the item No. 16 "anti-biotics and sulphur drugs" has been cancelled and "slates and slate pencils" substituted.

AN HON. MEMBER : Sulpha drugs are included or excluded ?

SHRI MAHAVIR TYAGI : They have been excluded.

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DR, R. P. DUBE : For the child to use the slates and slate pencils, he must be alive and for his life, anti-biotics and sulphur drugs are essential.

PANDIT S. S. N. TANKHA (Uttar Pradesh) : On a point of information, Sir, I want to know whether anti-biotics and sulphur drugs have been added by the Committee or deleted ?

SHRI H. N. KUNZRU : Excluded by the Select Committee,

SHRI MAHAVIR TYAGI : Added by the Select Committee but deleted by the House of the People.

MAJOR-GENERAL S. S. SOKHEY (Nominated) : Mr. Chairman, I am surprised to see that anti-biotics and sulphur drugs are excluded. We are all aware that for tackling the tremendous amount of disease that prevails in the country sulphur drugs are required, also anti-toxins and sera toxoids. I hope all these drugs will be included. Take again the anti-malarial drugs, There are a hundred million cases of malaria in India every-year and about 10 million deaths. I

am sure the Government appreciates that anti-malarial drugs are very essential to bring down the incidence of this disease. Similarly we use vaccines for the prevention of certain other diseases. I urge, Sir, that all the medicines that we use for the prevention of disease are essential for the life of the community I suggest, Sir, that all drugs which are necessary for the terrific incidence of diseases in the country and which are included in the Pharmacopoeia should be included in this list of essential articles for the life of the community. I request the hon. Minister to consider this matter seriously and include all these drugs in the list of essential commodities.

SHRI P. SUNDARAYYA (Madras) : Mr. Chairman, this is a strange Bill because on the one hand the Central Government takes the most profitable taxes—income-yielding ones like the Income-tax, Excise etc.—and on the other starves the States of any financial help. Recently the Hyderabad State has increased the sales tax because it has to make both ends meet in its budget. Similarly the States are increasing the sales tax. In Madras in 1936 when the sales tax was introduced it was stated that it would not fall on the consumer but would be collected from the merchants from their sources of income. In fact, an assurance was given by the Chief Minister Shri C. Rajagopalachari—at that time to that effect, but now it is the practice everywhere for the shopkeeper to pass on the tax to the consumer. In fact there is a specific column for that in the bills. So it becomes a direct charge on the consumers.

The Central Government say that they are bringing this Act to prevent the abuse of the sales tax. For that it is asking the authority of Parliament to declare a number of articles as essential goods. We would certainly support the Government, if it is really serious about exempting the essential goods or banning totally the sales tax on foodstuffs, oil, etc., that are necessary for the vast masses of our people who consume these things just like salt, gur, etc., but I am afraid

the intention of the Government not that. We would have supported the Government even if it had brought a constitutional amendment banning sales tax from being levied on the essential goods which the masses of people use from day to day. Government does not propose to do it. Government only wants to declare these as essential goods so that the Central Government can have the right to control or even refuse the various States, who have not yet got the sales tax, permission to levy any further taxes. Is the Government really interested in stopping sales tax being levied on essential goods which the masses of people consume? Why should they not bring a Bill banning the State Governments from levying any kind of sales tax on those goods? In this Bill they have included certain items which, by no stretch of imagination, could be called essential for the life of the mass of people. It may be essential to a number of other people concerned to increase their profits but to the masses of consumers there are many things which are not so essential. The result of this Bill is that the Central Government will call the Finance Ministers or the Chief Ministers of the various States and tell them "Look here, Parliament has empowered us to declare all these things as essential goods and of course, we are not going to allow you to just increase or decrease unless you are prepared to accept some other suggestion. (Most probably that will be say, iron and steel or say coal). You reduce the sales tax on these or exempt them from the sales tax and we are prepared to allow you to continue the sales tax even on foodstuffs etc' I don't know whether the Government is going to do that. Only future will show it but my apprehension is that when you have so many items like iron, steel, etc., which are not essential for the every-day needs of the people I am afraid this Government is going to bring pressure on the State Governments to exempt these things which are mostly consumed by people who cannot afford to pay some tax or other, and allow the State Governments to carry

on with the taxes in one form or other on the most essential things of the people.

Now, some of the things included here are wonderful items. For instance there are flower-seeds, bulbs and plants which are mere ornaments for the bungalows in the cities and these come in the essential goods whereas, as some friends have pointed out, medicines—anti-malaria medicines— and even sulphur drugs are excluded from the purview of this list. So, our point of view is this. You cannot prevent the misuse of sales tax unless you are prepared to give a large amount of subvention to the States or unless you are prepared to part with 75% of the income-tax revenue you get and also a good chunk from the excise. If the States have to carry on their development schemes, they want finance for them. In fact the States are burdened with education, health, irrigation facilities, agriculture, cooperatives, etc. That means all the day-to-day needs of the people with which any civilized Government has to concern itself, are put in the State list and for that you are not prepared to give the States any scope for raising finance with which to carry on. They are to be at the mercy of the Central Government and we know how the Central Government is managing its budget. It spends mostly on defence and on top-heavy administration. Of course I know the States are getting about 50% of the income-tax but I want it to be much more—say 70% of the income-tax should be given to the Provinces. Similarly a large portion of the excise tax that the Centre collects should be given to the States as also a larger share of the customs duties. We do not see any such proposal being brought forward, but here is a proposal to say that even what the States get by way of their sales tax should be taken away from them. This does not mean that we are for the levy of sales taxes either by the States or by the Centre. But there are certain goods on which we are prepared to totally ban all sales taxes and there are certain other things on which

[Shri P. Sundarayya.]

sales tax at one single point may be levied. But the whole principle of how sales tax should be levied should be carefully gone into. A sales tax should be levied in such a manner that those who can afford to pay it are called upon to pay it. For instance the big industrialists, the big landlords and moneyed persons should certainly be able to pay a certain amount of sales tax to the State Government. But the way in which this tax is now being imposed is rather anomalous. It is of course difficult for us either to totally oppose this Bill or to give our total support to it. We will certainly watch how the measure is working, whether the Central Government will ease the burdens of the mass of the people or whether they will induce the State Governments to fleece the ordinary mass of the people. We will see whether the Central Government give scope to State Government to levy sales tax in such a way that it falls on those who can afford to pay it. We will see what advice or suggestions come from the conference that the Central Government is going to call and what actions are taken and then we will judge whether the Government have really the interests of the people at heart in bringing this measure, or whether the sales tax will be misused against the people, cripple the States in their finances and defend the profiteers, the big industrialists. Take for instance an article like coal. Certainly coal used for domestic consumption should be free from sales tax and it will be an anomaly to impose sales tax on coal used for domestic use. Why not tax the coal bought by the Railways ? Surely the Railways can afford to pay something for the coal they use and thus benefit the States concerned. Take iron and steel. There are many iron and steel implements used by the people in their day-to-day life. You should exempt these from the tax. There is the Tatas concern with huge factories making a lot of profit. Why not they pay something towards the finance of the States ?

Finally," I may say that our fears are that the object of the Government in bringing in this measure is to lower the sales tax on those rich people who can afford to pay the tax and force the State Governments to continue sales taxes on essential goods which are generally used by the mass of the people.

Before closing, I would like to suggest that medicines, especially those that are used for curing a number of diseases like the sulphur drugs, anti-malarial drugs and vaccines should be included in the list of essential goods. So also writing paper must be included in the list of essential goods. It is curious to find iron and steel being considered essential and not paper. They consider petroleum essential for the life of the mass of the people. I cannot understand how petroleum can be essential for the mass of the people. I can understand kerosene being essential for them. Those using petroleum can certainly afford to pay sales tax to the States.

DR. W. S. BARLINGAY (Madhya Pradesh) : Mr. Chairman, I want to bring to your notice one point as regards the interpretation of clause 3 of the proposed Bill. Clause 3 says :

"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 has received his assent."

In this connection, a doubt which I have in my mind is this. The word used in this particular section is "law". "No law made after the commencement of this Act, etc., etc." That is how the clause runs. Now, I want to bring to your notice that there are certain States which have passed legislation authorising the executive Government to impose or, at any rate, to alter, increase or decrease the rate of taxation. I speak from memory and I speak subject to correction ; but I believe that in Madhya Pradesh from which I have the honour to come,

the executive Government is authorised to increase or decrease sales tax on certain commodities, and they can do that not by an amending legislation, but I believe by notification in the Gazette, that is to say, by purely executive action, or it may be by rule made under the Act. Now, it seems to me that the word "law" used in clause 3 here does not cover this sort of a case, and with due respect, I feel that it would be possible for States like Madhya Pradesh to alter, increase or decrease the tax on any particular item included in this Schedule, without passing any new legislation at all. In such a case this clause, namely clause 3 of the Bill will be rendered practically nugatory so far as such States are concerned. I have not proposed any amendment to this particular clause, but I would only like to have some clarification on this point and the hon. Minister might also, if necessary, consult his legal advisers and enlighten the House on it.

The second point to which I would like to draw the attention of Government is the omission of all medicines from this Schedule. I am not now referring to sulph drugs at all. With due respect to my friends the doctors, with whom I have no quarrel, I would submit that sulph \ drugs and antibiotics and other such things are mostly in use among the richer classes of the population and are \ irtually confined to the urban areas of our land. If you argue that sulph drugs and antibiotics ought to be exempted from sales tax, then surely I would appeal that Homoeopathic drugs and also Ayurvedic drugs, which are more in use today among the vast population in this country, should also be exempted.

These are the two main points to which I wanted to draw your attention.

SHRI KRISHNA MOORTHY RAO (Mysore) : Sir, I am in full agreement with the view that the taxes already imposed should be left to the States. I think the sales tax is the only elastic source of revenue that the States have

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at present. If you look into the history of sales tax, you will find that after the First World War, almost every State in Europe and also in America relied on sales tax to augment their resources. Wi*h the attainment of independence the demands made on the States in our country are tn ch greater thin before. They have taken up large development projects, they want more schools and colleges, more reservoirs, more roads and yet their sources of revenue are very limited. Sir, I hav; got my own doubts as regards the constitutional aspects of the provisions of this Bill. The Law Minister is also here and I vvant my hon. friend to be clear about it. I think th? introduction of clause 3 is qiite unnecessary, because cl use 3 of Article 286 says : " No law m tde 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 02 essential for the life of the community shall have effect" —the words are "shall have effect" —"unless it has been reserved for the consideration of the President and has received lis assent". If the hon. the Law Minister and the Government feel no d;mbt that this will not affect previous legislation, then clause 3 would be quite unnecessary. If they feel that there may be a doubt that it may operate against previous legislation, then, I submit, Sir, clause 3 will not be of any avail becaus? it bi3 been laid down in the Constitution itself that no such measure would have effect unless the approval of tne President is taken and a mere legislation like this in a Bill cannot overri.1. the specific provisions of the Constitution. There are businessmen and businessmen and I am afraid this will give rise to a spate of cases and the States and the public at large will be put to unnecessary expense. If they feei that clause 3 cf Article 286 of the Constitution is not quite specific as to cover previous legislation from taking effect after the articles under this Bill are declared essential, then the proper procedure is to amend Article 286 and make the language of clause 3 thereof quite specific. I feel a doubt that a

[Shri Krishna Moorthy Rao.] mere insertion of a clause like clause 3 in this Bill will not be of avail to the Government. I submit that this point may be examined by the Law Department and also by the hon. Minister to avoid unnecessary litigation and expense both to the States and the public.

10 a.m. Sir, I want to submit one other point. In the copy that has been circulated to me, along with the report of the Select Committee, it is mentioned in the Select Committee's Report that items 15 and 16 are new items, while item 16 has been struck off from the Schedule. Several speakers have referred to this matter and feel that they are very essential to the life of the community, especially in a country like India where the poor people are suffering from such pestilence and disease. These drugs should, therefore, be made available to the public and they should be declared as essential articles. Some of the speakers have referred to the question of multi-point tax and the hon. Minister has said that he is going to call a conference of Finance Ministers. I know there has been a lot of complaint as regards the multi-point sales tax. Opinion is divided about this matter and, as I have submitted earlier, the States are feeling that their resources are crippled, and I submit that the hon. Minister may see that the Finance Minister, 'conference rationalises the multi-point tax system, thereby imposing one uniform sales tax throughout the length and breadth of the country. It may be fixed at a high or low figure, considering the necessities of the situation and also the resources of the States, but it should be rationalised in some way so that it may not affect the people of the country. With these remarks I commend this Bill.

SHRI C. C. BISWAS : May I answer the point of law, Sir ?

MR. CHAIRMAN : Later on.

JANAB M. MUHAMMAD ISMAIL SAHEB (Madras) : Mr. Chairman, an impression seems to be going round I

that this Bill, when it is passed, will exempt a number of articles mentioned in the Schedule from being subject to sales tax or purchase tax. We know, Sir, it will be nothing of the sort; this Bill, when it is passed into an Act, will only constitute a first step in enabling the Government to ensure uniformity in taxing at least these articles and also in seeing that these articles are not subjected to undue taxation. How is the Government going to effect this uniformity and exemption from undue taxation? The mover of the Bill, the hon. Minister of State for Finance, has told us that he is going to call a conference of the State Ministers. I think it is only by some such method that the objects in view have to be secured and not by any other method as has been suggested elsewhere by some of our friends. It has been suggested that the Central Government must take up the sales and purchase taxes. Sir, we know, as has already been pointed out by various speakers in the House, that the States have been left, as it is, only with a very meagre resource of revenue. Land revenue which used to be a chief source of revenue for the States a number of years ago is dwindling on account of several things such as agrarian reforms; another source of revenue which began to outpace land revenue in recent years is also disappearing as a consequence of the various States rightly adopting the policy of prohibition. Now, apart from land revenue, sales tax is almost the only important and elastic source of revenue left for the States. Therefore, I do not think that the Centre must take hold of even this one important source of revenue that is left to the States. However, it is essential, it is very necessary that these essential articles which are very necessary for every-day life of the community must be exempt from the sales tax and that has to be secured by consultation with the States and also by giving more liberal grants and subsidies to the States than they are being given now. It is only reasonable that the Centre must go to the aid and assistance of the States when they have appropriated all the important sources of

revenue to themselves. Most of the nation-building departments are in the hands of the States. The States are in direct touch with the people, and, therefore, they must satisfy the demands of the people. For that purpose if the Centre is not prepared to make over any of their sources of revenue to the States, it must at least come forward with more liberal and generous grants.

. Sir, now coming to the Schedule, we find and we are also told that there are several alterations made in the present Bill that is before the House, made by the Select Committee. When I saw the original Bill, I was wondering why there were several omissions. The original Bill proposed to bring under the purview of this Bill only coarse and medium cloth made on handlooms. It was very necessary that all handloom cloth should have been brought even originally by the Government under the purview of the Bill. Now, they have agreed to that step, and so far so good. It is very necessary that all the cloth that is made by handloom must be treated in a concessional way because we know that there are about three million handlooms in the country and those who directly earn their livelihood by these looms number about a crore and a half. That is not a small number. This is another consideration apart from the fact that cloth is essential for the life of the community. The people who make this kind of cloth are poor and mostly illiterate people. They are the poorest of the people in the country and they are in good number, depending upon this cottage industry.

Then, Sir, meat, fish and eggs were also omitted in the original Bill. I do not know whether the Ministers were not aware of the fact that a vast majority of the people of this country take these articles as their food almost every day. I do not know, Sir, how it happened that these articles were omitted from the original Bill. Now they have been reminded of it and they have agreed to bring these articles also under the purview of this Bill. There is also

another consideration in this matter ; apart from these articles being essential articles of food, the people who deal in these articles are—almost all of them—very poor and illiterate and therefore in the matter of taxing these people, a very special concession has to be shown. These articles, like vegetables, are perishable and any undue tax on these articles will subject these poor people to great hardships.

Now I come to another item— hides and skins. That has been included in the Schedule by the Select Committee. Hides and skins include raw hides and skins and tanned hides and skins. Sir, a doubt was expressed by my friend, Mr. Rajagopal Naidu, whether these were really essential articles. I beg to remind him, Sir, of the fact, which he would recollect now. Raw skins and hides, if they are to be used, have to be tanned and these tanned skins and hides are being used by the poor people in the country in different ways—for such things as chappals, water buckets, water containers and also for book binding and other things. There are a hundred things for which these tanned skins and hides are being used. Sir, in our country we do not still have as much electric energy as we would like to have and we do not have many big irrigation schemes also. So very many agriculturists have to resort to their wells. You do not have electrical energy even for pumping out water from all the wells. In such cases thousands and lakhs of people use leather buckets, buckets made of tanned hides, for drawing water so as to facilitate their agricultural operations. Then in the gardens in Delhi and elsewhere we can see the poor gardeners using water containers for taking water from one place to another. Sir, these are things which are essential for the life of the people. Sir, I am not disparaging medicines when I say that even people who could not afford to take sulphur drugs and anti-biotics, are seen wearing chappals. They go without sulphur drugs and anti-biotics—they are people who may not get admission into first-class hospitals—yet those people cannot do without shoes and chappals. This is how people

[Janab M. Muhammad Ifmail Saheb], find tanned skins and hides essential to their life, Sir. (*Interruption*). It is the idea and practice of the people, Sir.

There is another very important consideration in this respect. A very large portion of these tanned hides and skins enter foreign trade. When they enter foreign trade, they must keep to the level of world prices. If we had anything in our country which would force up the prices as compared to the world prices, then our skins and hides which have a large foreign trade will suffer and the foreign exchange which they earn, will also be affected. Now we must take also another point into consideration when we take on this subject of hides and skins. That is, hides and skins are a by-product from animals. Animals are not reared for the sake of taking skins. They are reared for some other purposes—for example, for taking milk, for using them for agricultural labour and so on. When these animals die, then their hides and skins become useful to man. About 90 per cent, of the hides that are brought used in our country are from out of dead cattle. Therefore if anything happens to these skins and hides in foreign countries on account of their being subjected to taxation in our country, they would not ultimately find a proper sale and in that way the poor people in the trade—the primary producers are the poor people—may not find it worth while to collect these skins and hides and so they will be wasted. Skins and hides are a great source of national wealth and they bring crores and crores of foreign exchange. This should not be wasted. Therefore we have to be very careful in the matter of taxing such articles. It will cause a great deal of hardship to the poor people who are using skins and hides in their every-day life and it will cause immense loss to the country in the matter of national wealth and foreign exchange. Sir, I say that skins and hides have advisedly been included in the Schedule.

Now I come to the question of medicines. A number of friends have

already spoken, asking why medicines have been omitted from the Schedule. Sir, medicines are an every-day necessity to the population of the country—particularly Indian medicines. Sir, most of the people, the vast majority of the people of this country either live or die with these indigenous medicines. Most of them cannot reach the costly foreign drugs. Therefore nothing should be done to raise the price of these indigenous medicines. On the other hand everything must be done to popularise them, to help them to carry on for the benefit of the poor people. So, Sir, I think that even now it is not too late for the Government to include medicines, particularly Indian medicines, in the Schedule." With these words, I support the Bill.

MR. CHAIRMAN : We have had two hours' discussion, and I would like Members to be brief here after.

SHRI M. C. SHAH (Bombay) : Mr. Chairman, I wholeheartedly support the Bill which is before the House. I would not have participated in this debate, as I understand that there is complete unanimity in the House in support of this Bill, but for certain observations made in the beginning by the hon. Minister of State for Finance. He spoke about Bombay State. He had brought in this Bill immediately because, he said, Bombay State was in a hurry to pass a legislation on sales tax. I think he was not fair to Bombay State in saying that. The State of Bombay had announced its proposals on the 25th of June last. There was so much time that the Government of India could have brought this Bill earlier. But they want to hasten this Bill today because the Bombay State was rushing through a Bill on sales tax. The Bombay Government, having made their proposals, gazetted the Bill, and the Government of India may not be unaware of those proposals. The Government of India had the power to bring in this Bill after the 26th January 1950. But they slept over the matter till now. When the States want finance for executing

their projects under the Five Year Plan, when they do not get adequate help from the Centre, they are certainly entitled to tap the resources at their disposal. The Government of Bombay was faced with a deficit of nearly Rs. 4 crores. They wanted Rs. 4 crores more to complete certain projects of the Five Year Plan, and so they brought these proposals. The Government of India knew these proposals. As a matter of fact, the State of Bombay is not getting fair treatment at the hands of the Centre. The Centre gets a major portion of all the direct taxes from Bombay State. They get a very good sum from income-tax, excise duties, customs duties, and so on, but they are not given a fair share in the allocation of income-tax. And when the Bombay State is trying to tap other sources of income from the State itself, the hon. Minister says that the Bombay Government is in a hurry to pass that legislation and therefore the Centre should pass this Bill immediately. The only reason why I got up to speak was to protest against the observations of the hon. Minister of State for Finance. I have nothing to say with regard to the provisions of the Bill. All I have to say, as representing the Bombay State, is that we feel that the Bombay State is not given fair treatment.

SHRI H. C. MATHUR (Rajasthan) : Mr. Chairman, the various States have got a right to impose sales tax. That right is there and that right is going to remain there. There is no question about it. The only question at present before the House is regarding certain essential items, and these items have been listed in the present Bill. It is only with these 15 items that we are at present concerned. These items have been considered to be very essential for the life of the community. If it is the intention of the hon. Minister only to put on the Statute Book an enactment which may be handy for him to prove that it is a welfare State, a welfare State wherein we give relief in respect of essential items, it is another matter, otherwise it is a hollow enactment which does not do any good to most of the States. But if

it is the intention that these are the items in respect of which the people of India as a whole must get relief, if that is the honest opinion of the Government, and if that is the honest opinion of all of us here, then I must submit that we realise that a vast majority of the people will get no relief whatsoever. For the vast majority of the people this enactment would definitely remain an absolutely hollow enactment, giving them no relief whatsoever. Coming as I do from a State which is in a very difficult position, where the income *per capita* is very low—I mean Rajasthan—I wish it to be understood that that State will get no relief whatsoever. The hon. Minister might say : "Here is a State which has got no sales tax whatsoever". It is an extraordinary circumstance that even without sales tax, the residents of that State are paying much more in taxes than the residents of any other State. We are paying on these very essential commodities, on almost all these essential commodities, a much higher rate of taxation. I wish it to be understood that this enactment is going to give no relief whatsoever to our people. It is a very serious matter, so far as I can see, in the sense that at least in respect of those items which we consider to be most essential for the life of the community there should be uniformity of treatment to people, and particularly to those people who are at a very low level economically. The Finance Minister has been very solicitous regarding the States and their resources, and he appears to be very keen to give the States powers so that they might impose taxes and might meet their demands in respect of development schemes. But the most unfortunate circumstance is that those States, particularly those which we have unfortunately categorised as Part B States, have already been deprived of most of their resources. If the Finance Minister had really any sympathy for those States, he would have shown some compassion for them when he took away their major sources of revenue from them. If you were to look at the budget of the Rajasthan State, if you were to look at the Five Year Plan estimate which they have already drawn up

[Shri H. C. Mathur.] you would find that during the coming five years Rajasthan has got no prospect whatsoever of making any progress with any of the schemes for education, for medical relief, and *so on. There is going to be no expansion whatsoever. We are going to stand where we were. We will go back. That is all that we envisage.

After integration, taxes have been revised in Rajasthan, and we are paying more taxes on all essential articles. For such an essential commodity like water, whereas we used to pay 8 annas per thousand gallons—not that we have got water everywhere—we are now paying one rupee for one thousand gallons. For our electricity we used to pay >6 annas and 4 annas per unit, and now we have to pay 12 annas per unit. This is how Rajasthan is progressing. I say that the hon. the Finance Minister's solicitude for the State is absolutely hollow. If he had had really any consideration for the State, he would have seen that at least the Chambal Valley project insisted upon by Rajasthan was earned out. They say the scheme is sound, the scheme is very good, and so on ; I would submit further that the scheme is more paying than any other scheme which is being executed. And yet Rajasthan and Madhya Bha rat together could not get even one single project in the coming Five Year Plan. That is the solicitude which our Minister has shown for i us. What he means is this. He promises something by way of this enactment and he robs us the other way. He tells us that the States must continue whatever taxations they have got. That is, we are promising something here by way of this enactment but as a matter of fact we are permitting that whatever taxations are there should stay there so that this Act in fact remains infructuous and brings no relief to us whatsoever.

SHRI SHRIYANS PRASAD JAIN (Bombay) : Mr. Chairman, while supporting the Bill I would like to make a few observations. The main purposes of the Bill are firstly to intro-

duce a certain measure of uniformity in the 'evy of sales tax, secondly to prevent State Governments from increasing the prices of essential goods by taxing them unduly and thirdly to curb the State Governments acting in a way contrary to the dec'ared policy and intention of the Central Government. The question now arises as to how far this Bill will meet these objectives. According to clause 3 oi'the Bill the existing sales taxes of the various State Governments will remain as they are and the sales tax already ' imposed will continue to be valid. It means that comparatively more considerate States who have not levied the tax so far or to the extent done by others will be distinctly at a disadvantage with those who rushed through without caring much for the interests and welfare of the community.

Sir, in my opinion the idea of the framers of the Constitution was not to keep the existing Sales Tax Acts intact ; otherwise it would have been specifically provided for in the Constitution as it has been done in the case of clause 2 of Article 286. This will not certainly bring uniformity in sales tax legislation which is one of the basic objectives of the Bill. It is hardly an argument to say that the fiscal position of the States should not be disturbed, unless the financial position of the State is the primary consideration and the welfare of the community is a secondary one. The evil and discrepancies which the Constitution wanted to prevent and remove will remain there and the very object of achieving uniformity and preventing heavy taxation on essential goods, will be defeated.

Therefore, I appeal to the hon. Finance Minister to reconsider the wroding of this clause and make it more intelligible to the average man and not leave it to the courts for interpretation

Now, as regards the Schedule attached to the Bill, I have been trying to understand in respect of certain commodities whether they really fall under the categories of essential goods, and further, why some of those articles

which according to me should have been there, are missing. The principal consideration which has got to be borne in mind in classifying the essential goods is whether these articles affect the family' budget of the common man and the welfare of the community in general.

In my opinion there are five basic heads under which more or less all goods essential for the life of the community are covered. These are food, clothing, shelter, education and medicine. We have to see whether these are covered in the Schedule fully or there is any article missing or there is any article superfluous.

One of the items included in the Schedule is iron and steel. This covers a very wide range of articles including heavy girders, heavy structures, bridges, etc., I do not think that the idea is to include these in essential goods. In my opinion only lighter sections of iron and steel like bars, flats, nails, hinges, agricultural implements, etc., which are commonly used should have been named.

When iron and steel is there, it is not understood why cement, bricks, lime and other similar articles have been left out. In one way lime and cement are rather more essential to the life of a community. If these items are left to the discretion of the State Government, so could the food articles which no State Government is likely to tax. Therefore when an item like food is not left to the discretion of State Governments, these articles like lime, cement etc., should also be specifically included in the list.

Next I find that coal and petroleum with all their derivatives are included. Derivatives of coal and petroleum include not only coke, petrol and kerosene but they include also all sorts of things such as perfumes, cosmetics, drugs, dyes and what not. Surely all these are not essential for the life of the community. I suggest only coke, petrol and kerosene should be specified.

I see another item, of hides and skins. I would not like to discuss the merit or demerit of its inclusion, but I wonder why tanned leather and shoes which are more essential than hides and skins do not find a place in this list. I hope the hon. Minister will view the matter from this angle.

Lastly I come to medicines. I am rather surprised that instead of including all types of medicines the hon. Minister has taken away even the two medicines that were provided for. Medicine is one of the most essential items for the life of a community. These must form part of the Schedule. I suggest that all medicines of all systems—Ayurvedic, Homoeopathic, Unani or Allopathic—should be there. I can understand the exclusion of proprietary or patent medicine, be it Ayurvedic or Allopathic, but surely quinine mixture—*Banafsa*-, *Arhar* and similar other medicines—should be at par with food articles.

In a nutshell I would say, Sir, if I am permitted to say it that the list has been drawn in a haphazard manner and I earnestly request the hon. the Finance Minister to review or reconsider the list so that it should include necessarily the articles which are essential for the community and which may be beneficial to the community at large. Sir, with these few words, I support the principle of the Bill and commend my suggestions for the consideration of the hon. Minister.

SHRI KISHEN CHAND (Hyderabad) : Mr. Chairman, in opposing this Bill I wish to urge a few points for the consideration of this House. In this country of ours there should be more or less uniformity in the standard of life, and in the conveniences of life. We find that in our country the States are not equal in size, in population and in their sources of revenue and *per capita* income, etc. The States like Bombay, Madras and West Bengal have got big port towns and during the last 150 years they have been the centres of trade and commerce and all the industries and at least a major portion of them are located in

[Shri Kishen Chand.] these places. The other States which are inland States do not have these facilities and for them sales tax seems to be the only source of income. We find, Sir, that the States of Bombay, Madras and West Bengal have taken time by the forelock and have imposed the greatest amount of sales tax ; and still they are complaining of deficit budgets. So I would submit that the hon. the Finance Minister should call a conference of Finance Ministers, as he is going to do and try to find out a solution of this problem so that most of the States get *per capita* income of equal amount and that they can spend equal amount on nation-building activities so as to have the same level of life in all the States.

It has been shown, Sir, that there is a difference between the sales tax and purchase tax. In most European countries after the war a purchase tax has been levied which is paid by the purchaser. On most luxury articles the purchase tax goes up to the level of 25 to 30%. The purchase tax on furniture and motor cars in England is 30%. Similarly, in America it is about 25 to 30% on these goods. Originally the framers of the sales tax in the Madras Presidency intended that the sales tax should be paid by the merchant and the retail seller out of his profits. The intention was that the merchant should pay this 1 1/2% sales tax out of his profit of 10% or so, but in actual practice this was transferred to the consumer by adding this to the Bill. Therefore, Sir, I would suggest that we use a distinction between sales tax and purchase tax. The sales tax should be levied on essential goods only and it should be paid by the merchant or by the retailer out of his profits, while the tax on luxury goods should be called purchase tax and paid by the purchaser ; it should be levied at a much higher rate. In this connection, I would like to point out there is a good deal of controversy about single-point and multiple-point sales tax. The multiple-point sales tax is very hard on the consumers as well as on the petty

J retail trader. In multiple-point sales -1 tax, even a 1 1/2% sales tax becomes very heavy on the rural population because when the goods reach these people, they pass through four or five hands, and this 1 1/2% sales tax actually comes to 7 or 8%. Therefore it is very necessary that on essential consumer goods, the sales tax should be levied at one point only. It should be a single-point tax at a very low rate, while on luxury goods we may even impose a multiple-point sales tax at a very much higher rate. I would suggest, Sir, that the distinction should not be between essential goods and non-essential goods because in that case the list will be very long, but the distinction should be between luxury goods and non-luxury goods. If that distinction is made, we can select a few luxury goods and make a list of them, and the rest can be counted as non-luxury goods, i.e., essential goods for the life of the community, and a lower rate of sales tax should be levied in the case of these commodities.

DR. S. K. BHUYAN (Assam) : Mr. Chairman, I rise to give my support to this Bill. I am not a professional lawyer and therefore I cannot enter into a discussion of the intricacies of sales taxes. But as a layman, I have got some doubts on certain provisions of this Bill, and I would request the hon. Finance Minister to clarify these doubts. The intention behind this measure is not clear because in the copy of the Bill which has been circulated to us, the Statement of Objects and Reasons is not inserted. Therefore we are in the dark with regard to the intention behind this measure. I take it that the ultimate object is to give relief to the consumers and purchasers of essential goods. A list of such goods has been given in the Bill on which the different States in the Union cannot impose taxes without the approval of the President. From Article 286, clause (3), I find that the intention of the framers of the Constitution is that State Governments should act with some caution and restraint with regard to essential goods

and that no tax should be imposed by any State on the goods to be declared by Parliament to be so essential, without the concurrence of the Central Government acting through the President. I think this is the intention behind this measure. I am very thankful to the Select Committee for enlarging the scope of this Bill by adding a number of items in the Schedule of essential commodities.

In item 15 of the Schedule, books, exercise books, slates and slate pencils have been included, to which my hon. friend, Pandit Kunzru, wants to add periodical journals. We are all aware that these articles are very essential for the spread of education. I hope, Sir, that paper also will be included in this list.

I have another doubt. It is provided in clause 3 of the Bill that "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 has received his assent". Nothing is mentioned here about enactments prior to this Act. No doubt, those prior enactments ought to have been reserved for the consideration of the President and received his assent, but since those prior enactments might cover articles which are specifically mentioned in this Act in respect of scope of any sales tax, I submit that all those enactments passed before the commencement of this Act should be sent again to the President for his re-assent, so that the Central Government could examine the validity of the items on which sales taxes are imposed as to whether they are in the spirit of the present Bill. New enactments of States will no doubt come within the ambit of this clause, but "if the prior enactments cover these essential items, then they must be sent up to the President for his confirmation. I hope the hon. Minister will give his best consideration to this point.

Then, I do not see, Sir, that Members of this Council were members of the Select Committee. Many members of this Council have suggested some very useful additions to the Schedule, and if the Members of this Council had been represented on the Select Committee, I am sure the items now suggested here for inclusion in the Schedule could have been expanded by the Select Committee.

PRINCIPAL DEVAPRASAD GHOSE

(West Bengal) : Mr. Chairman, it seems to me that taxes in our country have got a tendency to follow the Newtonian Laws of Motion. Taxes, once started and set moving in any Province or State, continue to move on and on until "they are stopped by external impressed force". I am quoting the exact language of Newton's First Law of Motion. It is rather unfortunate that taxes, set moving at the outset on some pretext or other as a temporary measure generally continue even after and their origin is conveniently forgotten. In this particular case of the sales tax, so far as I remember, it was first introduced many years after the termination of the First World War.

So far as my own State of Bengal is concerned—it was undivided Bengal then—if I remember aright it was said when the sales tax was first introduced that the proceeds of this tax would be entirely used for the purpose of furthering nation-building activities, that is to say, activities like education, health, sanitation and the like. The long-suffering people though tax-ridden thought then that in view of the paucity of the finances of our State if the proceeds of the taxes were spent for the health and education of the people of the land, if they were earmarked for the purpose of promoting nation-building activities, they would not disagree to the measure. But later on, as history has told us, all these assurances were cast to the winds. The proceeds of these taxes were simply made part and parcel of the general revenue of the State ; and the nation-building activities like education, sanitation and the like, were in the same

[Principal Devaprasad Ghose.] primeval darkness as ever. I am not in a position to quote the exact percentage of the State revenue which is used for the promotion of education, sanitation and health in our State of West Bengal but the proportion is a very paltry one—I suppose not more than 10% in any case. That is the sort of thing against which I strongly protest. If a measure is introduced on certain assurance, then those assurances should be stuck to, otherwise it becomes practically a case of false dealing.

As to the merits of this particular sales tax, to tell you the truth, I should frankly say that I am against this sales tax business altogether. These sales taxes, as my hon. friend Mr. P. Sun-darayya very pertinently and truly pointed out, are really not of the nature of sales taxes at all, they are simply passed on to the consumers openly and in an unabashed manner, so that they are really in the nature of purchase taxes, as another hon. friend has pointed out. And it is so openly done that it has been somewhat of a surprise to me to learn this morning that this sort of thing is not legal. Supposing I purchase a thing for Rs. 3, to the price is frankly added in the Cash Memo. 3x3=9 pice making it Rs. 3-2-3, so that whether it is a single-point tax or it is a multi-point tax, ultimately the whole burden of it is passed on or transferred to the poor unfortunate consumer. That is really objectionable.

Then I should like to have some light from the hon. Minister on certain aspects of this Bill. As an hon. friend over there pointed out, in the copy of the Bill which has been circulated to us as Members, there is no Statement of Objects and Reasons for the introduction of the Bill, so that we are somewhat in the dark as to what the Central Government really intends to do. It can intend to do one of two things— either its real intention may be to exempt certain commodities declared as essential from sales tax altogether—that would be a confirmation devoutly to be desired—or it may be that its intention is nothing so radical in its nature,

but is simply to introduce some sort of uniformity in the different rates of sales tax levy in the different States. I am afraid that none of these objectives—if any of these be intended—can possibly be brought about by the Bill as it stands. As to exemption, I suppose it is out of the question. It has been said that any law that was made before the commencement of this Act will remain intact, so that if laws have already been passed, and sales tax in some shape or form has been imposed, they remain intact. They are not affected by clause 3 of the proposed Bill. If uniformity is intended, even that is not effected by this Bill, as many of our friends have pointed out. Supposing Madras, has imposed a sales tax of 3 pice in the rupee, Bengal 2 pice in the rupee and Madhya Bharat 1 pice in the rupee, then those differences or variations will remain, because the wording of clause 3 of tin's Bill is 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 has received his assent."

In these cases, there is no fresh imposition ; so the irregularities or differences will remain intact. So I entirely agree with what has fallen from the lips of the hon. Member from Rajasthan that from both these points of view, the whole Bill seems to be a hollow enactment.

Then I should like to point out one other thing. As my hon. friend Mr. Sundarayya has said, and I am in entire sympathy with what he has said, sales tax is one of the resources available to the not very rich coffers of the States and it is an elastic source of revenue, and if exemption be the real intention of the framers of this Bill, then naturally the States will stand to lose to a great extent, and have to go without a good share of their revenue, which they can illafford to do under the present circumstances. Well, the antidote to that is not the imposition of a tax of this nature, but the antidote is for the Centre to make a much more generous distribution of the Central taxes

to the provinces concerned. For instance, from the point of view of my State, Bengal, I can say that if a much more generous share of the jute duty obtained from Bengal is given or a much more generous share of income-tax levied in Bengal is allocated to Bengal, then much of our troubles would be over.

I should like to point out only one other thing before I stop and that is this. I am not much of a constitutional lawyer, but it seems to me that clause 3 of the Bill is simply an amendment of clause 3 of the parent Article 286 of the Constitution. Article 286 (3) says :

"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."

Clause 3 of the proposed Bill repeats word for word the same thing only with the addition " after the commencement of this Act". I doubt if an amendment of a substantive Article of the Constitution can be brought about in this more or less— I will not say surreptitious, but in this more or less— irregular manner ; because in Article 368 of the Constitution the procedure is laid down for amending the Constitution. It says :

"An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill."

As I have said, this clause 3 is simply a repetition of clause (3) of Article 286 but only with the addition of the words 'after the commencement of this Act'. It is very doubtful whether this attempted amendment of the wording of the Constitution is valid.

Now I have to add only one more point. That is with regard to the

items mentioned in the Schedule. I agree with the very valuable suggestion made by my revered friend Pandit Kunzru that in the list of articles which are declared essential, medicines in general,—not merely antibiotics, sulphadruugs, quinine and other particular drugs,—but medicines in general, and also paper should be added to the list of essential goods.

SHRI B. M. GUPTE (Bombay) : There is unanimity on this point that the law should be uniformly applicable throughout the country. But there is difference of opinion as regards the items to be put into the list of essential commodities. I personally feel that the list should be small and the items should be more or less uniform. Once we come to a decision that these are the items essential for the life of the community, then they should be observed throughout the whole country. It is no use leaving out vast areas of the country from the jurisdiction of the Act and thus depriving them of the benefits of this legislation. It is also clear that this cannot be done under the Constitution as it is today. One way of doing it is, of course, by persuasion and I am glad the hon. Minister is going to convene a conference of all the Finance Ministers of the States. I would request him to concentrate on this point at that conference. Let these Ministers bring their own lists of essential commodities and let our Minister here try to get their consent to a uniform list of articles. Of course, there may be difference of opinion, but ultimately it should not be very difficult to persuade the Finance Ministers to agree to a common list of articles. At least this method of persuasion should be tried. I would even go further and add that if persuasion fails and if some States are not prepared to agree to this, ' then the Constitution may be amend-ed. And that is not difficult either. That part of Article 368 of the Constitution which requires the consent of the States, is not applicable to this case and in my opinion there would be no difficulty in amending the Constitution for this purpose, if it actually

[Shri B. M. Gupte.] comes to that. I hope it will not be necessary to do that. Once it is decided that such and such things are essential, then this decision must be enforced throughout the country. Either a thing is essential or it is not essential. To call it essential would be a misnomer if it is not uniformly enforced in all States.

ii a.m.

But here I would like to add a suggestion. Though I said that if necessary, the Constitution may be amended, I would like to add that this should be done only after considering the report of the Finance Commission and after orders are passed on that report. I say this because I feel that first of all there should be an equitable distribution of the financial resources of the country between the States and the Centre. To day States are burdened with what are called nation-building activities, but the resources available to them are not adequate for the purpose. The States have a legitimate grievance on this score. So have the local bodies. The local bodies and the State Governments have to face the music of popular discontent because it is they who come in daily contact with the population. They give service to the population and if the amenities expected by the people are not there, then naturally there is public discontent and that is primarily directed towards the local bodies and the State Government. The Centre in this respect is far away and removed from the influence of the popular discontent. Therefore I have suggested that this law may be enforced, if necessary, by a modification or amendment of the Constitution, after the report of the Finance Commission has been received and considered and after there has been a more equitable distribution of financial resources among the States and the Centre. I personally feel that it is not possible to secure uniformity in the general Sales Tax law, but as the hon. Minister is calling a conference of the Finance Ministers, he should be able to secure unanimity in the matter of the articles classified as essential. There can be uniformity

on the list of essential articles but there cannot be uniformity in the schemes of sales tax in all the States, because the conditions vary very much from State to State. The hon. Minister was a Member of the Constituent Assembly and I might remind him that this particular Article of the Constitution was put in simply because this uniformity could not be secured in spite of all attempts. It was then decided that at least the glaring defects in Sales Tax Schemes should be removed. Article 286, therefore, prohibited the imposition of tax on goods in the course of inter-State trade, if they are essential commodities and on exports. Otherwise latitude is given to the States and I do not see why this latitude should be taken away from the States. After all, the burden of the Sales Tax falls on the population resident in that State and if I am prepared to be taxed at a higher rate, why should I be deprived of that liberty. The Central Government has no power to dictate to the States whether multipoint or single point tax should be adopted. The Centre can only say that certain essential things shall be exempted. I hope uniformity will not be attempted except in respect of declaring what should be the essential commodities.

One more point, Sir, before I close. I agree with the suggestion made by an hon. friend there that firewood should also be included in the list of essential commodities. If coal can be there, I do not see any reason why firewood should not be included also. Firewood is one of the items the cost of which is taken into account when calculating the cost of living index in industrial areas like Bombay and Ahmedabad. Therefore I do not see any reason why firewood should not be included in the list that we are discussing. Finally I again hope the hon. Minister will be able to persuade the Finance Ministers of the States to agree to a common list when they come for the proposed conference.

MR. CHAIRMAN : Hereafter, we will confine each speech to five minutes.

DR. R. B. GOUR (Hyderabad) : Sir, I should like to take this opportunity to draw the attention of the House to the proportion of indirect taxation that the country has to bear. Increased proportion of indirect taxation does not certainly reflect a healthy economy. I would like to remind hon. Members that the *per capita* income in our country is very low and the indirect tax has to be paid directly by the people which means so much additional burden on the workers, the peasants and the common consumer. This burden must be reduced and that is why the question of Sales Tax and the general taxation in our country must be reviewed fundamentally.

I would like to draw the attention of the House to one State—the State of Hyderabad from which I come. In that State they have got a multi-point Sales Tax system and recently they have doubled the tax from two pies in the rupee to four. I will give the example of Char Minar cigarettes which are popular even in Delhi. A box of these cigarettes costs Rs. 4 at the factory and when it reaches the ordinary consumer's hand he has to pay Rs. 4/5/- for the simple reason that it is taxed at multiple points. This question of multiple-point taxation has been very much discussed in Hyderabad and there is an agitation raging there on this matter. The fact of the matter is, the Government of India is not fair to the States. It is discriminating between State and State, between the Part A States and the Part B States on the question of financing the States from the income that the Centre derives from the States, I mean under the heads income-tax and others. For example, when calculating the revenues of Hyderabad they have taken into consideration the period immediately preceding the police action which were very abnormal years. This was very unfair to Hyderabad because in those years the Nizam was spending a lot on the Razakars and others and the income-taxes and other dues were not properly being collected as they were years of chaos, unrest and revolutionary upheaval. Also while calculating the

income tax returns they have taken the receipts of one year five months and calculated the average as if those were the returns for two years. Such things have been done in the case of Hyderabad. And when subvention is given, Hyderabad is paid only Rs. 16 crores whereas Mysore gets Rs. 35 crores, Travancore-Cochin Rs. 305 crores and Saurashtra Rs. 275 crores. This is how they discriminate between States and States.

I would, therefore, say, Sir, that when such is the position obviously the Sales Tax question has to be seen from a deeper angle and from a broader perspective. The *per capita* income in Hyderabad is far lower than the *per capita* income in the surrounding States. Where there are they to pay the taxes from ? I will draw your attention and through you the attention of the Government to one fact to justify my contention that the basic wage fixed by the Rege Committee for workers in Government establishments is Rs. 26 and less in private concerns whereas that in the surrounding States, Bombay and others, it is Rs. 30 or even Rs. 35. Now, there is difference between Hali and Indian currency, by which it is reduced by 16%. Not only that ; the neutralisation provided by the dearness allowance paid in Government establishments is 50% in Hyderabad, 100% in Ahmedabad, 90% in Bombay and 66% in Sholapur. Private industry pays less*

(Time bell rings.)

One minute, Sir- This is the position and Government must think in terms of allowing more subvention to the States so that it may offset this. One minute more, Sir, if you will allow me. When we are not giving retrospective effect to this legislation, many of the things that you have exempted are already being taxed in Hyderabad and Madras, for instance, text books. Another point is in Madras the tax is on a turnover of over Rs. 10,000, in Calcutta it is Rs. 50,010, in Bombay Rs. 30,000 whereas in Hyderabad it is only 7,500 and above. I would again like to draw the attention of the Government and of the House that the

[Dr. R. B. Gour.] proportion of indirect taxation and the question of the entire taxation principle must be gone into again ; we ' should also go into the question of subventions and subsidies to the States and a system of proper and justifiable Sales Tax levy must be introduced.

SHRI K. B. LALL : May I rise on a point of order, Sir ? It has been pointed out that any amendment to the Constitution requires special procedure and this addition of clause 3 is an attempt to bring about an amendment to the Constitution. The Constitution is very clear that any tax that has been levied by any of the States could continue only up to the 31st March 1951.

MR. CHAIRMAN : The legal point will be answered by the Law Minister at a later stage. That has been brought to his notice already.

(SHRI ONKAR NATH (DELHI)).

श्री श्रीकार नाथ (दिल्ली) : जनाब सदर मोहतरम, जिन जज्वात और उसूल की बिना पर यह बिल यहां पर पेश किया जा रहा है, मैं उनका खैरमकदम करता हूँ और तार्ईद करता हूँ। मैं समझता हूँ कि यह मामला एक ऐतिहासिक अहमियत भी रखता है। जब हम तवारीख पढ़ते हैं और पुराने जमाने पर नज़र डालते हैं तो जब हमें रामराज्य और अच्छे राज्यों की तारीफ़ में यह जगह जगह लिखा मिलता है कि उनकी सल्तनत में रोजमर्रा की किसी ज़रूरी चीज़ों पर, नमक, तेल, ईंधन, काठ वगैरह दूसरी आवश्यक चीज़ों पर किसी तरह का टैक्स नहीं होता था। इसी उसूल की झलक में मैं इस बिल को पाता हूँ। साथ ही साथ-इसका एक मकसद यह भी है कि मुस्तलिफ़ रियासतों और स्टेट्स वगैर सेंटर की इजाजत के किसी ज़रूरी अशिधा पर सेल्स टैक्स न लगा सके।

मगर इसके साथ ही साथ मैं यह महसूस करता हूँ कि इसमें कुछ ऐसी चीज़ें छोड़ दी गई हैं जिनका कि आम जनता और इस देश की ३५ करोड़ आवादी में से ३० करोड़ की रोजाना की

ज़रूरियात से ताल्लुक है और जो बिल बनाते वक़्त नज़रों से बच गई मालूम होती है। इसमें कुछ ऐसी चीज़ें रख दी गई हैं जो कि ३५ करोड़ आदमियों में से ३४ करोड़ आदमी इस्तमाल नहीं करते हैं। इसके लिये मैं मिनिस्टर साहब को या दूसरे अफसरों को कसूरवार नहीं ठहराता हूँ। यह तो उस महौल का दोष है जिसमें वह लोग ऐसे बिल तैयार करते हैं क्योंकि वह लोग नई दिल्ली की धानदार इमारतों में, कोठियों में रहते हुए बिजली की चकाचौंध और पंखों की हवा में, आम जनता की ज़रूरियात को नहीं समझ सकते और वह उनकी असली हालत को मूल जाते हैं। मगर मैं अपना यह फ़र्ज समझता हूँ कि इस तरह की जो बहुत सी चीज़ें रह गई हैं उनकी ओर मिनिस्टर साहब की तबज़्जह दिलाऊं।

इसमें सबसे इम्पारटेंट (important) चीज़ जलाने की लकड़ी है, उपले और ईंधन हैं जो कि आम तौर पर छोटे बड़े सब लोग और सब जगह काम में लाये जाते हैं। चाहे मजदूर आदमी हो या अमीर आदमी हो, सब इसको काम में लाते हैं। इस बिल के उसूलों पर तो यहां किसी ने ऐतराज नहीं किया सिर्फ़ दवाओं, कागज़ और कुछ दूसरी चीज़ों, खास तौर पर सल्फ़ा ड्रग्स (sulpha drugs) और दूसरी दवाइयाँ इत्यादि, जिन्हें ३५ करोड़ में से मुश्किल से सिर्फ़ १ करोड़ जनता इस्तमाल करती है, उनको इसमें रखने को कहा गया है। कागज़ का इस्तमाल शायद ५ करोड़ जनता करती होगी, मगर ईंधन और लकड़ी और बहुत सी चीज़ें हैं जिन्हें प्रायः सारी जनता जो हमारे देश में रहती है इस्तमाल करती है। मगर यहां अभी तक किसी का ध्यान भी इन चीज़ों की ओर नहीं गया मालूम होता है।

दूसरी चीज़ें और भी हैं जिनकी तरफ़ मैं मिनिस्टर साहब की तबज़्जह दिलाना चाहता हूँ। हमारे देश में बहुत सी जनता मिट्टी के बर्तन जैसे सुराही, घड़े और दूसरी किस्म के मिट्टी

के छोटे वर्तन जनता इस्तमाल करती है। इसी तरह से पीतल, तांबे और कांसे के वर्तन हैं जिनके इस्तमाल गरीब से लेकर अमीर तक के यहां बहुत किया जाता है। बच्चा पैदा होने से लेकर चमचा और दूसरे छोटे वर्तन जैसे कटोरे वगैरः आमतौर पर रोजमर्रा के इस्तमाल में आया करते हैं। लिहाजा मैं मिनिस्टर साहब से अर्ज करूंगा कि वह इन चीजों को भी, जो कि गरीब जनता के रोजमर्रा के काम में आती हैं, इस बिल में रखा जाय।

एक और चीज की ओर मैं मिनिस्टर साहब की तवज्जह दिलाना चाहता हूँ और वह है मिर्च, हल्दी, धनिया, नमक और दूसरे किसम के मसाले, जो कि हमारे गरीब आदमी से लेकर अमीर सब लोग इस्तमाल करते हैं। जब मजदूर मिल से या कारखाने से निकलता है तो वह दो पैसे का मसाला लेते हुए घर में चला जाता है। हमारे अफसरों को जो कि कोठियों में रहते हैं इन चीजों के बारे में कैसे पता चल सकता है। अगर वह इन चीजों को खरीदते तो उनको मालूम होता। अगर वह इस तरह का बिल बनाते वक्त अपने चपरासियों और नौकरों से ही मालूम कर लेते तो उनको मालूम हो जाता कि गरीबों के इस्तमाल की खास खास चीजें क्या हैं।

Time bell rings.

I will finish in a minute, Sir.

गो यह साफ़ तो उसमें नहीं होता मगर 'in any form' रखने से मैं समझता हूँ कि डबल रोटी की तरह रोटी, पूरी, परांठे भी उसमें शामिल हैं। इसके साथ ही साथ स्कूलों की और विद्यार्थियों के रोजमर्रा के इस्तमाल की चीजें हैं जैसे स्नाही, पट्टी, कलम, ब्लकबोर्ड और एजुकेशनल एप्लायंसेज (educational appliances) वगैरह हैं उनकी तरफ़ सरकार ने बिल्कुल भी ध्यान नहीं दिया। इसके अलावा लोहे को तो आपने इसमें रखा है मगर आपने दूसरा ज़रूरी इमारती सामान ईंट, मिट्टी, रेती, चूना, बांस, सिरकी, लकड़ी, बधरपुर, सीमेंट और पत्थर इन

चीजों की नहीं रखा है जो आजकल मकानात की कमी को निगाह में रखते हुए निहायत ज़रूरी हैं। लोहा जिससे कि बड़े बड़े सिनेमा हाल और बिल्डिंगें बनती हैं उनको तो आपने इसमें रख दिया है मगर गरीब आदमी को अपनी झोपड़ी बनाने के लिये जो ज़रूरत होती है उसको आपने नहीं रखा। हमारे देश के मजदूरों को अपनी झोपड़ी बनाने के लिये जिन चीजों की रोजमर्रा ज़रूरत पड़ती है उसकी तरफ़ आपकी तवज्जह ज़रूर जानी चाहिये।

इन चीजों के साथ और भी ज़रूरी चीजें हैं जैसे कि बान की चारपाई और चटाई जो कि हर शख्स इस्तमाल करता है। कपड़े धोने के साबुन को आपने इसमें नहीं रखा है, जब कि यह चीज ज्यादातर गरीबों के इस्तमाल की चीज है। इस तरह से बहुत ऐसी चीजें हैं जिनकी तरफ़ हमारी सरकार का ध्यान नहीं गया है। शहद भी एक विशेष चीज है। मेरे पास अधिक समय होता तो मैं आपके सामने वह सब बातें रखता और बतलाता कि जिन जिन चीजों पर टैक्स लगना चाहिये, उन पर तो नहीं लगाया जा रहा है और जिन पर टैक्स नहीं लगना चाहिये, उन पर टैक्स लगाया जा रहा है।

[For English translation, see Appendix II, Annexure No. 61.]

SHRI O. SOBHANI (Hyderabad) : Mr. Chairman, while supporting this Bill, I wish it were possible for the hon. the Finance Minister to delete from clause 3 these words "made after the commencement of this Act". I say this, Sir, because I have just received a letter from Hyderabad to say that in the Legislative Assembly there, a Bill was introduced three weeks after the date on which this Bill was introduced in the House of the People, i.e., on the 16th May, and the Bill was passed in Hyderabad on the 28th July and certain items which were exempted before have now been subjected to taxation. I do not desire to criticise the Legislative Assembly of Hyderabad, but I do hope that when the

[Shri O Sobhani] Finance Ministers meet the hon. the Finance Minister will use his powers of persuasion and persuade the Finance Minister of Hyderabad to bring the list of exempted articles in Hyderabad into conformity with the list of essential articles in the Schedule.

SHRI K. SURYANARAYANA
(Madras) : Mr. Chairman, while I am supporting this Bill of this Government, I would like to bring to the notice of the Government one or two instances that happened recently in Madras State. There is a District Co-operative Marketing Federation in West Godavari District which is dealing in chemical manures and iron and steel on behalf of the Government and supplying only to co-operative marketing societies which are in all 37 in the District. By way of commission from the Government, the Federation is allowed only 8 to 10 per cent. While the Government has taxed the Federation nearly Rs. 22,000, the Federation has got only Rs. 5,000 to Rs. 6,000 as commission. This was represented to the Government of Madras on behalf of the Federation but it has not been relaxed till now. Another instance is this. In the villages there are commission agents who buy the paddy from the *kisans* on behalf of the merchants and who get only half an anna or one anna per bag as commission to bring the paddy to the headquarters or to the mill owners. If a commission agent is able to collect one lakh of rupees worth of paddy, he will get only Rs. 400 or Rs. 500 as commission at half an anna or one anna per bag. That problem also is still pending with the Government of Madras. Government should know that this multiple-point system of taxation should be considered in the forthcoming conference of Finance Ministers of the various States. Especially in Madras State almost all the things which are to be used by each and everybody have already been taxed. As I understand, the total income of revenue of the Madras Government is Rs. 70 crores from which sales tax alone accounts for Rs. 25 crores which is more than one-third of the total

budgeted income. Recently by an Ordinance they imposed an extra tax on petrol. Already there was a tax on petrol but they imposed additional-taxation. It was done by means of an Ordinance by the Governor which revealed the Budget before being presented to the State Assembly, and a point of order was also raised in the State Assembly during the debate. It is all known to my hon. friends of this House and I need not mention about it in detail. I therefore hope that the Finance Minister will discuss all these instances in the forthcoming conference and instruct the State Finance Ministers not to tax the commission agents who are acting as brokers getting only half an anna or one anna per bag and the whole-sale co-operative societies which are dealing in chemical manures, steel and iron etc. on behalf of the Government as agents and who are getting only five or six per cent, on their business. (*Time bell rings.*) One minute, Sir. I understand that in different States different courses are adopted in levying Sales Taxes. I hope the main purpose of the conference of Finance Ministers is to introduce a uniform legislation in respect of Sales Tax throughout the country and I would request the hon. Minister to consider the specific cases which I have raised.

DR. SHRIMATI SEETA PARMANAND
(Madhya Pradesh) : Sir, I support this Bill, but I would like to make certain comments "as it would not be right to overlook these most important items that have been omitted. As a social welfare worker I feel that the most necessary item for a healthy life in our country is washing soap and this, I would request, along with soda produced in the country should be included in this list of articles that are being exempted from Sales Tax. I would suggest that toilet soap which can be considered a luxury could be left in the items to be taxed. Similarly under item (3) fresh milk is mentioned. I would like to include even imported milk powder because milk as it is, is scarce in our country and taking advantage of the scarcity of

milk, prices are going up. Though I had always pleaded for restriction of imports of various kinds and levying of heavy protective duty, I would request that in the interest of the growing children and the nation, milk powder should be included in this Ust. That would encourage its use. Similarly coir rope should be added as it is an object that is very necessary for agricultural use. I would venture to suggest the inclusion matches also though I realise that this gives a lot of revenue to the States; I am aware that when we are requesting that certain items should be included, we are depriving the State of the revenue -and therefore I would like to take away some of the items which are already mentioned in this list. I would like to exclude one item, namely *maida*. It is harmful from nutrition point of view and I may mention that it is not an essential commodity and if that is excluded a little income that it would produce would be helpful to the States. Similarly, Sir, motor spirit should be excluded from this list, because it is a luxury item and people who can use motor cars can afford to pay a little tax which will help the State. I would like these things to be taken away from the present list or necessary alterations made so that the States may derive certain income. For example in medicines, I would like imported medicines to be excluded from the list, while under books all imported books should be excluded from this Ust and books published in the country, not above the price of Rs. 5, should not be included. Similarly all imported pencils should be excluded from this list for the simple reason that you would be surprised that even in very many Government offices, when our Indian pencils are available, foreign pencils are being used. As far as paper is concerned, I would like that all stationery paper which is imported should be excluded from this list. It will thus give encouragement to indigenous paper industry, but newsprint should be specifically included in this Ust. Finally, I would like that steel should be excluded from this list for the simple reason that steel industries which are 28 PfiD.

depending so much on Government for their development can afford to pay that little tax which will help the States in getting revenue. It was mentioned here that States are misusing their power and are increasing their taxes. While we are putting so much restriction on the States as to what items they should tax and what items they should not, I think it is our duty to allow the States this power to decrease or increase taxes. There is another point which I would like to bring to the notice of the Government, (it would be the concern of the Minister for Commerce and Industry also) and it is this, that while we are giving aU these concessions to merchants by restricting the imposition of sales tax, it should be seen that the consumer gets the benefit of it, and that can be done only if some price limitation is generally imposed.

SHRI D. NARAYAN (Bombay) :

श्री डी० नारायण (बम्बई) : माननीय चेरमैन साहब, यह तो मानी हुई बात है कि हमारी स्टेट्स की प्राप्ति का जरिया सेल्स टैक्स (sales tax) बन गया है, मगर देखा यह जाता है कि पास पास की स्टेट्स में भी यूनीफार्मिटी (uniformity) नहीं है और उसका परिणाम अन्तर्प्रान्तीय व्यापार के ऊपर पड़ रहा है। एक प्रान्त से दूसरे प्रान्त के साथ व्यापार करने में बहुत ही दिक्कतें पैदा आ रही हैं क्योंकि आप जानते हैं कि आध आना इधर बढ़ जाता है और आध आना उधर कम हो जाता है, तो व्यापार कतई खत्म हो जाता है। इसलिये मेरा पहला कहना यह है कि जहां यूनीफार्म एसेंसियल कम्पोजिटीज (uniform essential commodities) हों वहां उसके साथ साथ यूनीफार्म टैक्सेज (uniform taxes) भी हों, क्योंकि यदि यूनीफार्म टैक्सेज नहीं होंगे, तो अन्तर्प्रान्तीय व्यापार खत्म हो जायगा।

इसके बाद दूसरी बात जो मुझे कहनी है, वह शेड्यूल (schedule) के बारे में है। शेड्यूल में बहुत सी ऐसी चीजें हैं जो कि बहुत

[Shri D. Narayan.]

मुट्ठीभर आदमियों के लिये ही ऐंशियल कही जा सकती हैं। ऐंशियल कमोडिटीज को निश्चित करते वक़्त यह देखना है कि उनका सम्बन्ध कितनी प्रजा से है क्योंकि ज्यादा से ज्यादा जनता जिन चीजों का प्रयोग करती है वही चीजें ऐंशियल कमोडिटीज कहलानी चाहियें। इस निगाह से मैं कहना चाहता हूँ कि इसमें सबसे पहले कांच की चूड़ियां दाखिल होनी चाहियें क्योंकि जहां तक हिन्दुस्तान में बहनों का सवाल है इससे बढ़ कर कोई ऐंशियल कमोडिटी नहीं है इस वस्तु का इनके जन्म के साथ सम्बन्ध है, मृत्यु के साथ सम्बन्ध है और विवाह के साथ सम्बन्ध है। जब से लड़की पैदा होती है और सुहागवती होकर मरती है, तब तक उसका काम चूड़ियों के बगैर चल नहीं सकता। १७ करोड़ बहनों का जिससे सम्बन्ध है उसको इसमें अवश्य शामिल किया जाय क्योंकि ऐसी कोई बहन नहीं है जिसका काम चूड़ी के बगैर चल सकता हो। मृत्यु के वक़्त भी सुहागिन को चूड़ियां पहनाई जाती हैं। अच्छा होता कि किसी बहन की तरफ से यह सूचना आई होती। मैं सोच रहा था कि मुझे बोलने का वक़्त नहीं मिलेगा और न मिलता तो अच्छा ही था और किसी बहन की तरफ से यह सूचना आ जाती परन्तु वह नहीं हुआ, इसलिये मुझे खास कर इसीलिये आपके सामने उपस्थित ना पड़ा और कहना पड़ा कि चूड़ियों को इसमें जरूर दाखिल किया जाय। कम से कम पांच, छः करोड़ रुपये की चूड़ियां हर साल बिकती हैं। आप कहीं भी जाइये, देहातों के बाजारों में जाइये, हाटों में जाइये, गरीब से गरीब बहन चूड़ियां जरूर लेगी। खाने के बगैर हमारी बहनें रह सकती हैं लेकिन चूड़ियों के बगैर नहीं रह सकतीं। ऐसी हालत में मैं प्रार्थना करूंगा कि अपनी लिस्ट में आप खास तौर से चूड़ियां जरूर दाखिल करें।

मुझे एक खास बात और भी कह देनी है कि आपने इसमें कागज को दाखिल नहीं किया है

खैर, कागज को न करें, परन्तु हाथ कागज को उसमें जरूर दाखिल करें, क्योंकि हाथ-कागज आपसे प्रोत्साहन पाने की आशा रखता है। हाथ-कागज देहातों में बनता है और हमारे कारीगर बनाते हैं। वह वैसे ही महंगा पड़ता है और अगर उस पर और टैक्स लगा देंगे तो और ज्यादा महंगा पड़ेगा। इसलिये यह आवश्यक है कि हाथ-कागज को इसमें दाखिल किया जाय। यह एक काटेज इंडस्ट्री (cottage industry) है और उसका इस्तेमाल होना भी बहुत कुछ जरूरी है। हमारी सरकार तो उसका उपयोग नहीं करती है, हालांकि मुंह से सदा कहती आई है कि काटेज इंडस्ट्री को प्रोत्साहन दिया जाय। अगर हाथ-कागज इसमें दाखिल हो जाय तो मेरी निगाह में अच्छा होगा। कम से कम चूड़ियां तो जरूर ही इसमें दाखिल हो जानी चाहियें।

[For English translation, see Appendix II, Annexure No. 62.]

MR. CHAIRMAN : I will allow one hon. Member on the Government side and one on the other side, and then I will call upon the hon. Law Minister to answer the legal points, and then the hon. Minister of State for Finance will reply.

SHRI B. P. AGARWAL (West Bengal) : Mr. Chairman, I find that there is a good deal of misunderstanding about the scope of this Bill. From the list of articles which have been mentioned one after another by the various speakers, it would appear as if we were getting exemption from sales tax for all these articles. So far as I have been able to understand, this is not the position. What this Bill will provide is that there must be no further anomalies arising in various States regarding sales tax. Of course it is not possible by this Bill to bring about the equality which is desired in the case of taxes which have up till now been imposed. But in future, in imposing sales tax on these commodities, all the States will be required to refer the matter to the Centre for the President's sanction. Thereby these

anomalies will be avoided. But it does not mean that where it is thought essential that the President should sanction the tax, there will be no tax at all. Only anomalies will be avoided. To that extent it appears to me that there is misunderstanding.

Further, arguments have been advanced regarding multiple tax, but I do not understand how this Bill will in any way affect the imposition or otherwise of such a tax. It may be that only in respect of those articles which are declared essential, such taxes will not be allowed. There are, however, other articles. The sales tax does not apply to one article only, but to so many articles. In some cases there are multiple taxes. So, this Bill will not affect multiple taxes. It appears to me that there is some misunderstanding, which hon. Members will be well advised to get cleared.

It is agreed that there must be, as far as possible, similar taxes throughout the country. The requirements of the States also vary from State to State. I do not think it will be possible through a simple Bill like this to bring about a situation in which there will be one tax. I think the best solution will be, as the Finance Minister has stated, to convene a conference of all the States wherein the requirements of the States and the rates of taxes in the various States will be discussed and an adjustment will be brought about through an understanding between the States and anomalies avoided. After all, this is a matter of finding money for various purposes. It is wrong for us to assume that we are the only representatives to look after the interests of the States and their welfare and that the State representatives in the State Legislatures and the State Governments are not imbued with the same desire as we are. The State Governments are as much responsible to their people as we here are. Therefore, the only way in which we can bring about a solution of this problem is to bring about some sort of understanding at a conference where there will be consultation between the

States and the Centre. This should have been done long ago. Unfortunately a good deal of time has been lost, but it is not too late to bring about a solution of this problem.

SHRI B. RATH : Mr. Chairman, I am afraid of nothing but your bell, and so I shall try to conclude without allowing you to ring the bell.

MR. CHAIRMAN : Very good.

SHRI B. RATH : What strikes me most in this Bill is the use of the word " community ". I have not been able to understand what the framers of this Bill mean by the word " community ", because if it is used in a restricted sense, they might understand the meaning, but I cannot understand it. But if it is used in the sense in which we generally use it, then the Government should have given a little attention.....

SHRI K. B. LALL : It is not a society of Communists.

SHRI B. RATH : to the various surveys that are undertaken by them, and those surveys should have been taken into consideration while framing the Schedule to this Bill. We have had various surveys into family budgets in the rural areas and also in industrial areas in order to find out the minimum requirements of the people. Those requirements of the community should have been taken into consideration in drawing up the list of essential articles.

Sir, I will not go much into this Schedule. But some other hon. Members have also raised the question of medicines. Sir, I would like to know whether medicine is not an essential commodity in the present circumstances. Everybody has admitted that because of starvation, of hunger, and of absence of preventive health services, the number of people suffering from diseases is increasing. Is it not justified and right that medicines should have found a place in the Schedule instead of hides and skins which our community does not consume? So while making the list

[Shri B. Rath] in the Schedule some consideration should have been given to the various services that may be essential.

And then my second "submission is that really some of our friends apprehend that perhaps they want to increase the list because they expect perhaps that with the passing of this law the State Governments will be restricted from imposing sales tax. I do not see anything of that sort. Rather I find one thing. In my State some of these essential commodities are not being taxed because of the pressure of events, because of the pressure of the Members of the Legislature. Take for example cereals. They are never taxed. The State Government has not taxed them and cannot tax them. And also text books were last year taken away from the list of taxation measures. All that they are required to do is to send the Bill for the assent of the President after which they can impose a tax. And I wish that if really there was any intention on the part of the Central Government to bring uniformity with respect to the taxation, then they would have made the position clear and they would have persuaded the State Governments through conferences to make a uniform law telling them "Don't tax these things and tax these things." The State Government has to come to the President to get the sanction. Sir, you are feeling restless, so I would stop here.

SHRI GOVINDA REDDY (Mysore): Sir, I would suggest the inclusion of the article—woollen blankets. In South India, Sir, nearly half a crore of people are getting their living mainly by weaving the handloom cloth into what are known as *kambhis* and it is a great source of income for them. In any case the Schedule will have to be amended and so I do not think the hon. Minister will feel any difficulty. On the other hand this iron and steel is such an article that even very rich men who pay taxes to the Government have been finding it a very secure investment in building houses.

SHRI J. R. KAPOOR : Does it not come under item 8 ?

SHRI GOVINDA REDDY : It doesn't.

PANDIT S. S. N. TANKHA : Sir, I ask for your leave to discuss the constitutional and legal aspect of the case before the hon. the Law Minister speaks. I just want to express my own views on this subject.

SHRI J. R. KAPOOR : May I suggest, Sir, that the legal aspect might be discussed when we are at clause 3 of the Bill because it is that clause which has a special bearing on the subject ? I would particularly request you to direct that that discussion should be held when clause 3 is considered because I am sure there are certain Members of this House who have not participated in the discussions so far because they thought that they were particularly interested in that aspect of the question and that they would have their say only when clause 3 would come up.

MR. CHAIRMAN : May I say that the Law Minister will now at this stage make a statement on that issue ? If after that, doubt still persists, when clause 3 is taken up you will have an opportunity of discussion.

PANDIT S. S. N. TANKHA : A doubt has been expressed by many of the hon. Members that the wording of clause 3 of the present Bill offends against the provisions of the Constitution. Now, Sir, Article 286(3) of the Constitution says "No law made by the Legislature of a State...; shall have effect unless it has been reserved for the consideration of the President and has received his assent."

And, Sir, clause 3 of the present Bill says "No law made after the commencement of this Act." Or in other words the Constitution says "From today, i.e., after the passing of the Constitution, the States shall not do this and this." This is what the Constitution says. Now clause 3 of the present Bill says "the States shall not do this after the passing of this Act." If you pass the Bill today, then it will mean "The States shall not do this from today." Now Sir, where

is the discrepancy between the two enactments ? While one says that the States shall not do such and such a thing from the date the Constitution came into force, the other says that you shall not do this from today i. e. after the date of the passing of the present Bill. There is thus no discrepancy at all between the two enactments and the present Bill in no way offends the provisions of the Constitution, and as such no question of the amendment of the Constitution arises at all. It is therefore wrong to say that the provisions of Article 368 of the Constitution should apply and that Article 286 of the Constitution should be amended before we pass the present Bill. This is all that I had to say on this aspect of the question.

Then as regards the main provisions of the Bill, Sir, I find that the present Bill says in clause 3 that "after the commencement of this Act the State Legislature shall not do such and such a thing." But if any of the State Legislatures have imposed certain taxes on the articles which we consider under the present Bill to be essential for the life of the community and which we declare to be essential from today, the provisions of the Bill do not give power to the Government to nullify such acts. Therefore, Sir, I think it was in the fitness of things that the Government should have reserved to itself certain powers under this Bill whereby it could nullify those acts or could compel the State Government to remove its taxes on the articles which fall under the present Bill.

Then, Sir, as regards the Schedule to the Bill, I find that under item No. 6 while *gur* has been declared as an essential article, sugar, which is also an essential commodity for society, has not been declared as one of the articles essential for the life of the community and I would ask the hon. the Finance Minister to have this commodity included in this item. Further Sir, I also agree with the point of view of Dr. Kunzru that paper should have been included as an essential article under item No. 15. As regards his suggestion that magazines should also have

been included under this item, my submission is that they are covered by the words "periodical journals", and so they need not be mentioned separately.

THE MINISTER , FOR LAW (SHRI C. C BISWAS) : Sir, so far as the legal aspects are concerned, I do not think there is much difficulty about them.

(MR. DEPUTY CHAIRMAN in the Chair.)

As you were yourself pleased to point out, this law which we are going to enact cannot possibly be repugnant to or inconsistent with the Constitution without being invalid. I submit there is not inconsistency or repugnancy. The words "after the commencement of this Act" which have been used in clause 3 of the Bill have been inserted in the Bill only by way of abundant caution. It is well known that such words are often used in legislative enactments in order to avoid any ambiguity that might give rise to arguments in courts of law. This is one of those cases. I will explain why I say this. Sir, if you look at the words of clause 3 of Article 286 of the Constitution, what do you find ? It says :—

"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."

I would invite your attention to the words "as have been declared by Parliament". This clause proceeds on the assumption that certain goods will have been declared by Parliament by law as essential for the life of the community. Then the question arises, after Parliament has so declared, whether any State legislation shall have effect as regards these articles. It is only after Parliament has declared certain goods to be essential for the life of the community, that it will not be open to any State Legislature to impose a sales tax in the State concerned in respect of

-[Shri C. C. Biswas.] any of the articles covered by the declaration made by Parliament. If the State Legislature does so, then that State legislation shall have no effect, except on one condition, i.e., unless it has been reserved for the consideration of the President, and has received his assent. It is not an absolute bar. If the States wish to have any legislation which shall have effect as regards any articles in respect of which exemption has been granted by law by Parliament by declaring them to be essential goods, then the States must reserve such legislation for the consideration of the President and obtain his assent. I am asking you to compare the language of this article with the language of Article 288. This article is intended to have prospective effect and not retrospective effect. If retrospective effect was intended, the article would have been expressed in other terms.

MR. DEPUTY CHAIRMAN : In that case, clause 3 is superfluous.

SHRI C. C. BISWAS : Clause (3) of the Article is intended to have prospective effect and not retrospective effect.

MR. DEPUTY CHAIRMAN : I am talking of clause 3 of the Bill.

SHRI C. C. BISWAS : Clause 3 of Article 286 will not have retrospective effect, but only prospective effect, and that is also being provided for in clause 3 of the Bill by the express inclusion of the words "after the commencement of this Act." Even if these words were not there, the position would have been the same. When I say that clause (3) of Article 286 is intended to have prospective effect only, I am asking you to compare the language used in that Article with the language used, for instance, in Article 288, clauses (1) and (2). Where the framers of the Constitution intended that something should be provided for expressly in regard to State legislation already in existence, they used a different language :

"Save in so far as the President may by order otherwise provide, no law of a State in

force immediately before the commencement of this Constitution shall impose, or authorise the imposition of a tax in respect of...."

This deals with exemption from State taxation of water or electricity. No State shall impose or authorise the imposition of any tax on these items, and if any State has imposed or authorised the imposition of such a tax, then it shall have, no effect except as otherwise provided ; clause (2) says,—

"The Legislature of a State may by law impose, or authorise the imposition of, any such tax as is mentioned in clause (1), but no such law shall have any effect unless it has, after having been reserved for the consideration of the President, received his assent;..."

It is clear that reference here is to a State law which had been enacted with the consent of the President. The past tense is indicated. In Article 286, however, you will find that no such words have been used. In this Article, the words used are, "unless it has been reserved for the consideration of the President". The words "has been" make it quite clear that the reference here is to something that will take place in the future.

MR. DEPUTY CHAIRMAN : Why repeat it in clause 3 of the Bill ?

SHRI C. C. BISWAS : That might be struck out from the Bill without making any difference. Those words "after the commencement of this Act" are put in here only by way of caution. There is no inconsistency. The fear has been expressed here by some hon. friends that this is an attempt to amend the Constitution to get round Article 348, that we are trying indirectly to enact a law which will virtually have the effect of amending the Constitution, without going through the procedure laid down in the Constitution for its amendment.

MR. DEPUTY CHAIRMAN : By the introduction of this clause.

SHRI C. C. BISWAS : This is not an attempt to amend the Constitution.

MR. DEPUTY CHAIRMAN : It is not, according to you. The introduction of clause 3 in this Bill has

given to rise unnecessary fears. Why" not omit clause 3 ?

SHRI C. C. BISWAS: There is no objection. I agree that it is just possible that the presence of the - words may give rise to arguments in the Supreme Court. It is better that these words are dropped out. It makes no difference.'

SHRI M. C. SHAH : I just wanted to say this that if you omit these words, there is a possibility that another interpretation may be put and the States may be in difficulties. . So, I think that as a matter of caution, as stated by the Law Minister himself, these words should be there.-

MR. DEPUTY CHAIRMAN f The Law Minister has accepted that these words may be omitted.

SHRI M. C. SHAH : The States may lose revenue to the extent of Rs. 50 crores. -

SHRI- C. C. BISWAS : Even if we retain these words, in spite of these words, this, as any other law, may still be open to lawyers' arguments.

SHRI M. L. PURI (Punjab) : The hon. Law Minister himself said that these words have been introduced by way of abundant caution. He is prepared to drop them. It would also resolve the doubt raised by the Chair.

SHRI B. GUPTA : (West Bengal) : My point is this. . I rise on a point of constitutional law. This is a matter which should be considered. In the Bill it says :

"To declare, in pursuance of clause (3) of Article 286 of the Constitution, certain goods to be essential for the life of the community."

SHRI GOVINDA REDDY : Can the hon. Member speak from another seat ?

MR. DEPUTY CHAIRMAN : I have been finding several members changing their seats. Will hon. Members please stick to their seats ? I will not be able to see them if they are not in their seats. I will allow the hon. Member now.

SHRI " B. GUPTA : Clause (3) of Article 286 says :

.. " 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 bylaw 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."

This relates to the action of certain State Legislatures, it does not as such empower the Government to declare certain commodities essential under this particular provision, of the Constitution, There may be other provisions whereby Parliament can declare certain goods to be essential for the life of the community. Once these, goods are declared essential for the life of the community, if any State wants to impose a Sales tax on them, the "State concerned _' comes under" this provision^ It is a provision to fetter the power of the State. It is not a 'provision which ..empowers the Government to "declare certain articles essential. That is my point.

Here it seems they have combined both aspects, in one Bill. They "have taken recourse to this Article for "declaring—if I may take that point— certain goods " essential." for the life of „the„ community, which, I submit, is an impermissible thing under this provision. I would like the Law Minister, to clarify this if L\$m wrong. I would like him to consider that this Article has a specific end in view. The Article relates to certain functions of the States and restricts them in some-respects in these functions It does not empower the Government to come out with this* Bill, if we take the Schedule for declaring certain articles essential for the lifer of the community.

12 noon.-

Therefore I would request the hon. Law Minister- .and other Members of the Government to conr sider whether there has been a great irregularity with ... regard to this matter. This is a matter which calls for further discussion but I would first like to hear his views on the subject.

SHRI GOVINDA REDDY : I would like some clarification. Supposing a State Legislature has passed a law imposing a tax on certain commodities which come under the Essential Goods Bill and supposing some other State Legislature extends or adds to the Schedule some other goods which now come under the Essential Goods Bill, what will be the position ? That Act will have come into effect before these goods were declared essential and now that these goods have been declared as essential, can that law, by adding a Schedule, be in force or will it be *ultra vires* of the proposed Bill ?

SHRI C. C. BISWAS : I will answer the last point first. If certain goods have been declared by Parliament to be essential goods it will not be open to any State to pass any effective new legislation or effectively include in any legislation already passed any of these goods. Those articles will escape taxation, unless of course the State legislation had been reserved for the consideration of the President, following the procedure contemplated in clause (3) of Article 286 and received his assent, before the Act was passed. In that case the State legislation will have effect as regards these goods, notwithstanding that they are declared to be essential goods by Parliament.

Then as regards the other point which was raised by my friend who has again shifted to his seat—I am glad to find—he seems to think that because there is no separate article in the Constitution which expressly provides that Parliament may declare certain goods to be essential goods, therefore Parliament is incompetent to do so. This very clause of Article 286 gives that power. Parliament has got to declare certain goods to be essential goods. If that is done, then any State legislation enacted thereafter shall not have effect unless that legislation has received the assent of the President after being reserved for his consideration.

DR. P. C. MITRA (Bihar) : Past tense is used here. It says 'No law made by the Legislature etc' No law can take effect after the Parliament has passed this.

SHRI J. R. KAPOOR : Mr. Deputy Chairman, as is obvious, this point is a very intricate one to which you yourself have been pleased to draw the attention of the House. The question even at this stage is not merely whether the words 'after the commencement of this Act' in clause 3 should remain or not but the wider question, of what really is the intention of the Government and what really, according to us, is the interpretation of Article 286(3) of the Constitution. I would not like the assertion of the hon. Law Minister at this stage to go unchallenged that this Bill which we are now going to enact shall not affect the existing State legislation with regard to the sales tax. I would submit that in view of the intricate nature of this question, we will be well-advised even at this late stage to request the hon. the Attorney General of India to attend this House and to express his views on the subject.

In the first place, I would suggest that the whole of this clause 3 might be deleted, as you yourself had hinted. But even that would not settle the question. As you had rightly observed, this clause 3 of the Bill is absolutely unnecessary and I would also add that if left to remain there, it would not only be unnecessary and redundant, but it would be deceptive and even confusing. It would be deceptive in the sense that the Government and we ourselves would go away under the impression that the existing sales tax laws will not be affected by this law. I submit that the position is not like that. Article 286 of the Constitution, if we read the whole of it and particularly clauses (2) and (3) of that Article, will make the point absolutely clear. There is one proposition to which I am sure the hon. Law Minister would not take exception, and that is that any existing law which is repugnant to the Constitution shall go off. That is the position, whether we say so expressly anywhere or not. And so, if we find that any existing law is repugnant to clause (3) of Article 286 of the Constitution, then surely he will concede that that law goes off and will not be operative even though we may provide otherwise in clause 3 by inserting the words

"after the Commencement of this Act." Now, in order to understand the true implication of clause (3) of Article 286, we shall be well advised to examine the phraseology of clause (2) of Article 286 which relates to the imposition of tax on the sale or purchase of goods in the course of inter-State trade or commerce.

MR. DEPUTY CHAIRMAN : And prior to the passing of the Constitution Act.

SHRI J. R. KAPOOR : Yes, Sir, prior to the passing of the Constitution Act. Now, clause (2) of Article 286 runs thus :

" Except in so far as Parliament may by law otherwise provide, no law of a State shall impose....."

I would invite pointed attention to the word "shall" which means something that may come in the future, in the ordinary sense of the term.

" shall impose or authorise the imposition of, a tax on....."

Obviously it should ordinarily mean hereafter, after the passing of the Constitution :

"on the sale or purchase of any goods where such sale or purchase takes place in the course of inter-State trade or commerce."

And then we have the proviso :

" Provided that the President may by order direct that any tax on the sale or purchase of goods which was being lawfully levied by the Government of any State immediately before the commencement of this Constitution shall, notwithstanding that the imposition of such tax is contrary to the provisions of this clause, continue to be levied until the thirty-first day of March 1951."

From the phraseology of this subclause, in the light of the proviso, it would be clear that even those laws which were passed before the Constitution came into force shall cease to be operative unless the President directs otherwise under the Proviso. Even though the wording here is "no law of a State shall impose" yet according to the proviso, it is clear enough that this sub-clause brings within its purview even laws passed before the commencement of this Constitution and 'shall impose' means also "shall continue to impose". Similarly, just as we have the word

"shall" covering the legislation passed even before the Constitution came into being, the wording of clause (3), which ordinarily would mean as applying to legislation which may be made after the Constitution came into being or after we declared certain articles-to be essential, should cover such legislation as was enacted by any State prior to our declaring any commodity to be essential for the life of the community. Otherwise we shall have-to interpret clauses (2) and (3) of Article 286 in two different ways. The hon. Law Minister has drawn our attention to Article 288 and he wants that we should interpret Article 286' in the light of the phraseology of article 288. But I submit that there is no analogy between these two Articles. Article 288 says :

"Save in so far as the President may by order otherwise provide, no law of a State in force immediately before the commencement of this Constitution shall impose, or authorise the imposition of, a tax in respect of any water or electricity" "

This means that any law which may have been in existence before the commencement of this Act would automatically go away. That is what it amounts to. But here we are dealing with laws-coming within the purview of clause (3) ! of Article 286. It is not a case of any law automatically going off. The existing laws would continue to be in force only so long as this Parliament has not declared any commodity to be an essential commodity. There is a good deal of distinction between the object and the implication of clause (3) of Article 286 and Article 288. That being the case, I should think, in the first place, that the whole of clause 3 of this Bill might go off. That would make absolutely no difference, because the only object of this Bill is and should be to declare what commodities are essential—that much and no more. If you delete the words "after the commencement of this Act" from clause 3 of the Bill, it will only mean bodily incorporating into this Bill Article 286 (3) of the Constitution for which there is no necessity and even if you do not delete them they will not limit the scope or implication of the said Article. ,

[Shri J. R. Kapoor.]

The other point that I wish to submit is that we should not suppose that by deleting the words "after the commencement of this Act " or deleting the whole of this clause, we are committing ourselves to the view that all the existing sales tax laws in the various States shall continue to be effective. If that is the view of the hon. Law Minister, I would very much wish that the Attorney-General may be sent for so that we may be sure about the position. After all, this is a very intricate point affecting the legislations in various States, not only past legislations but also legislations with which they are hurrying through. Neither the States nor the Centre should be under any deception. We should all know what is the exact legal position and it is very necessary that we know what we are doing. Therefore I request that the Attorney-General may be sent for to explain the position.

THE LEADER OF THE COUNCIL (SHRI N. GOPALASWAMI) : I may be permitted to say one or two words in order to get out of this tangle. It seems to me that the only object of inserting this clause 3 in the Bill is to make it perfectly clear that the intention of the framers of this Bill is that it should not have retrospective effect. In other words, if you find a sales tax law already in force in a State which has not been reserved for the consideration of the President and has not received his assent, it should not be declared to be unenforceable.

It should not be said that it shall no more have effect because of the fact that it had not received the assent of the President.

SHRI J. R. KAPOOR : Is it open to us to say that ?

MR. DEPUTY CHAIRMAN : Please hear him.

SHRI N. GOPALASWAMI : It is a different matter. That is the intention of the framers of this Bill. With regard to laws which were made before this Act is passed—I suppose that is so—those laws would not be prevented

from having effect merely because the President's assent had not been obtained. If this is so, I think there is ground for the insertion of the words "after the commencement of this Act". Let me say this. The State legislature includes not merely the Assembly, and not merely the Assembly and the Council when there are two Houses, but it also includes the Governor. Now, the Governor's assent is necessary for completing the task of legislation, that is the task of making a law, and under Article 200 a Governor has got the discretion to reserve a law which has been passed by the two Houses, or one House, of the legislature and submit that to the President for assent. He has got the discretion to reserve it for consideration by the President. You assume with regard to the law which has been passed before the coming into force of the Act that the Governor had not exercised that discretion but had given his assent. By the law as enforced by virtue of passing of this Bill, we do not want to upset the finances of State Governments. Those laws would continue to be in force and as the Governor has already given his assent he cannot now reserve that law for the consideration of the President and get his assent. He can exercise that discretion only in respect of laws which are hereafter to be passed by the House or Houses of the Legislature of a State. That is the only reason they have repeated the provisions of the Constitution. They want to make an exception as regards the validity or the capacity of being given effect to of the laws so passed. They do not want to take away what is already in existence, what is being enforced and so on. I think, Sir, the House may well leave this clause alone though, perhaps, if I was drafting it again I might do it differently. Also I think we ought to get rid of this side heading "Regulation of Tax on sale or purchase of Essential Goods". That I think is wrong and does not describe the content of this particular clause. But, that is not a matter which the House need go into ; we can ask the Draftsman to modify it suitably. I would appeal to the House to let the clause go through as it is.

SHRI K. B. LALL : May I rise on a point of order, Sir? The Chairman was pleased to tell me that this point of law had been taken note of by the Law Minister and he would clarify it.

MR. DEPUTY CHAIRMAN :
What is your point of order ?

SHRI K. B. LALL : That this would be *ultra vires* of the Constitution and it may create trouble in course of time and it may lead to litigation. I will only clarify what was said before. Of course, the Leader of the House has made it quite clear and I will only supplement what he has said.

HON. MEMBERS : It is only an expression of opinion and no point of order.

SHRI K. B. LALL : Why should my hon. friends presume, before hearing, that there is no point of order ? It is my right to say what I feel and you should not be impatient or pre-deter-mine things.

MR. DEPUTY CHAIRMAN : When you are supporting the Minister, what is the point of order ?

SHRI K. B. LALL : It is said that it is only to validate certain laws that have been framed by the State legislatures. That is quite true. What the law supposes here is—of course we have not been supplied with information—that the President, by order, validated any of the Acts.

MR. DEPTUY CHAIRMAN : You need not explain the provisions, Mr. Lall.

SHRI K. B. LALL : We do not know whether the President validated by any order

MR. DEPUTE CHAIRMAN: Order, order. You cannot make any speech. You have already spoken once.

SHRI K. B. LALL : ----- whatever law was passed.

MR. DEPUTY CHAIRMAN: Please come to the point.

SHRI K. B. LALL : I want to know whether any Bill that we pass here, over and above the provisions of clause (3) of Article 286 of the Constitution, can validate the laws passed by the States for the period between the 31st March 1951 and the passing of this Act and whether it would not have the effect of amending article 286 of the Constitution.

(Time bell rings.)

MR. DEPUTY CHAIRMAN: Have you finished ?

SHRI K. B. LALL : If we pass this clause 3, against the Constitution, it may create trouble. That requires the ruling of the Chair as to whether we can proceed with this.

MR. DEPUTY CHAIRMAN : There is no point of order. The Minister of State for Finance.

(Dr. Radhakumud Mookerji rose.)

I have called upon the Minister to reply.

THE MINISTER OF STATE FOR FINANCE (SHRI MAHAVIR TYAGI) : I am grateful to the House for the indulgence that they have shown and the interest they have taken in the Bill. The legal points have been explained by my colleague, the Minister for Law. He has just now said : there is some talk about my deleting a few words, e.g., "after the commencement of this Act, etc." As the leader of the House has explained, the intention is not to leave any scope for litigation on this issue and let me make it clear that the intention of the Government is exactly as has been interpreted by the Leader of the House. It is not the intention to let the old laws become ineffective by the passing of this Act.

PRINCIPAL DEVAPRASAD GHOSH (West Bengal) : Will the hon. Minister kindly say whether the insertion

[Principal Devaprasad Ghosh.] of these words does not involve amendment of clause (3) of Article 386 of the Constitution ?

SHRI MAHAVIR TYAGI :
No, Sir. It is not an amendment because clause (3) of the Article only expects that the Parliament would declare a certain number of goods as essential to the life of the community. That has been done. If at all anything goes wrong and the courts take a view which some of my friends here have taken, only clause 3 of this Bill would be declared *ultra vires*, but the Schedule will remain as it is because Parliament has got the right to declare the Schedule. Therefore, those goods which, in the opinion of Parliament, are essential for the life of the community will remain as declared by Parliament. The salient part of the law will not in any way be declared *ultra vires* of the Constitution or of this Bill. The risk, if at all, falls on clause 3, according to my hon. friend, but according to me, the risk falls nowhere, neither on the Bill itself nor on clause 3. Even if some of the highest courts, like the Supreme Court or High Courts, take the view which is taken by my hon. friend, my submission is that Parliament will not suffer in the salient part of the Act, namely, the Schedule,

/ would like to hear my friend (pointing to Mr. B. Gupta).

SHRI B. GUPTA : The title of this Bill is "Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Bill." The word "declaration" is there. While the Bill is introduced, it is said "to declare, in pursuance of clause (3)". I do not contest that Parliament has power to declare certain goods as essential and it is not my intention. I want to say, and I hope the hon. Minister will admit his mistake, that he has, in trying to get over that, got into a wrong bus.

Sir, the moment you say "in pursuance of clause (3) of Article 286 of the Constitution to declare certain

goods essential for the life of the community", the moment you say this thing, I would say that you are abusing Article 286 of the Constitution which does not at all relate to this point, which does not at all give you powers to declare certain goods essential for the life of the community.

SHRI MAHAVIR TYAGI : It is not abusing. I thought it was only a casual remark. My friend has already said in his speech what he is repeating now. I have followed what he means and I think he is abusing the meaning of the word "pursuance". I think I have rightly used the word "pursuance" because I draw whatever little authority, whatever little sanction, from that Article to which I have referred. In fact if there were no mention in that Article of Parliament declaring any goods essential, then Parliament could never declare any goods essential. It is only on account of the powers sanctioned either explicitly or implicitly by that Article that today Parliament is in a position to consider the question of declaring some goods essential, otherwise according to this Constitution Parliament had no right to touch the sales tax at all except of course where authorities have been conferred by means of other Articles.

Now, I was trying to explain the policy of the Government. Sir, as has already been explained by the Leader of the House, we do not want to interfere with the previous laws passed by the various State Governments before the passing of this Bill. That is the intention of the Government and I want to clarify it. Even if the meaning could be that the previous laws were to be abrogated, well that was not at least our desire. If the Supreme Court abrogates the other laws, then things will take their own shape. Then the State Governments will have no grouse against the Centre for having done any wrong to them. My feeling is that the position of a Finance Minister whether in a State or at the Centre is always precarious. It is he, who

has to foot the bill of all the schemes howsoever essential they are—goods are essential no doubt—but the schemes for the well-being of the community, for the progress of the society and for the running of the Administration are also essential and those needs have to be met and it is difficult, sitting here at the Centre, to just act in a particular manner without knowing the fullest financial implications here and in the States. As I said in my speech in the beginning, since the time the Federal Court had given fullest authority to the Provincial Governments to have a complete monopoly over this item of taxation—sales tax—they have resorted to all sorts of taxes as and when they felt there was need for additional revenue on account of the tasks they had taken up themselves. They had to find out fresh avenues of revenue ; they could not take more from the income-tax because the Central Government would not spare their own revenues to a large extent. Therefore to supplement their resources they had to resort to these taxes. And now I will give you just a few statistics. Bihar is depending on this revenue from the sales tax to the extent of 13 per cent, of its total revenue ; Bombay—22·7 per cent ; Madras—26 · 4 per cent, and West Bengal—13·7 per cent. So this is a major item of their revenue. After all the interests of State Governments may vary from the interests of Central Government but it is for this supreme body in the country to look after the well-being of the State Governments as well. This House is not only the guardian of the purse of the Centre, but this House has a moral duty to see that the units on which the whole structure of Government depends, viz., the State Governments are also getting on smoothly with their work. If they fail, we fail. The whole success of the scheme for the improvement of the well-being of society in the country depends on the well-being of the State Governments. Having that in view, I do not want to interfere with their fiscal policies or their fiscal possibilities without consulting them.

PRINCIPAL DEVA PRASAD GHOSH : Are all the proceeds of the taxes being utilised by the State Governments for the promotion of nation-building activities ?

SHRI MAHAVIR TYAGI : Sir, as I said at the beginning, I know at the Centre—I have only a limited experience of Central finance—whatever money I receive goes to the Consolidated Fund and once the money goes into the pool, it is difficult to say which rupee came from where. So the whole revenue becomes one. If there are nation-building activities, surely the contribution from Sales Tax revenue towards those activities should bear the same proportion as the sales tax income bears to the total income of the State.

PRINCIPAL DEVAPRASAD GHOSH : But the expenses on the nation-building activities in the States of West Bengal do not come up to even 10%, whereas the hon. Minister has just now said that the sales tax proceeds in that State are over 13%.

SHRI MAHAVIR TYAGI : Well, my friend is criticising, his own State Government, his own constituency. It is for him—he knows more about his State since he is here as a representative of West Bengal—it is for him to guard their interest. I really cannot defend West Bengal. It is my friend's constituency.

Sir, I would like to make it absolutely plain that the present intention is not to interfere with the old Acts, though I must confess, since I was one of the makers of the Constitution, that our intention then was that even the previous Acts would be affected. Those Members of the Constituent Assembly who are also Members here will recollect that the intention then was, as far as I remember, that even the previous Acts must become ineffective as far as essential goods are concerned. That, I must confess, was, according to my memory, the intention, but then the wordings are, as hon. Members have already appreciated, not so very clear about

[Shri Mahavir Tyagi.] it. Any change could have been effected at that time, because that was the occasion when the Constitution was being made. And the States were fully represented in the Constituent Assembly and we were having a close contact with their Ministers as they too were coming here. On this Article we had a lot of discussion with the Ministers of various States and it was in consultation with them that this Article was inserted. They were consulted in various stages: Therefore I might say that it was more or less an agreed sort of solution then. But today much water has flowed underneath the bridge and it is not possible to go back to those old days and upset their budgetary adjustments of today unless the ministers were again brought back together, and there was a fresh opportunity to discuss with them. One of our friends has suggested that this could well be done if they were told to find out some other avenues from where they could supplement the losses which they would incur on this account. He hopes for a solution to be worked out in a conference. I agree. But to decide it now behind their back would not be fair. Therefore, our meaning is, as I have said, not to interfere with the previous laws.

Sir, I do not want to enter again into the legal controversy raised by my hon. friends, because, as some of my friends have said, they will again discuss it on the occasion of clause by clause reading.

Dr. RADHA KUMUD MOOKERJI (Nominated) : May I make a suggestion ? Since it is felt there is some defect in the drafting of this piece of legislation

MR. DEPUTY CHAIRMAN : It has been sufficiently discussed.

DR. RADHA KUMUD MOOKERJI : There is a defect in the drafting of this measure. Therefore, I propose that we take this up on Monday. The Leader of the House himself has said that if it were left to him, he would

have suggested another draft. What I mean to say is this, that if it is possible, the Government may reconsider the draft and make it free from the objection that has been taken. (*Interruption.*) While doctors differ, the patient dies. On Monday the Government may be able to produce some kind of draft. There can be no possible objection to that. In fact you, Sir, also suggested that there might be some scope for improvement.

SHRI MAHAVIR TYAGI : Doctors have not differed. It is only when diagnosis is asked for that doctors say that such and such is the position. My hon. friend has set out virtually the legal position. Now I on behalf of Government am explaining the policy. My hon. colleague has given the factual interpretation of law. Now, within that interpretation the policy of the Government is framed, and I have to explain it, because I am in charge of the Bill. I submit that the intention is exactly as it is expressed. My hon. friend has drawn attention to certain lacunae in the provisions of the Constitution. No amount of consideration, no amount of words, will be able to remove those lacunae in the Constitution unless the Constitution itself is amended.

Sir; I must thank my hon. friend Mr. Sham Sundar Tankha. He has been of great help to me in giving the legal interpretation. My hon. friend Mr. Gdvinda Reddy has suggested that blankets should be included in the Schedule. I believe they will come under "cloth". If blankets are cloth—woollen or cotton—that is included. If blankets are textures that come through handlooms, at least those blankets probably will be included.

SHRI GOVINDA REDDY : The word "cloth" is used there. The authorities interpret it by saying that blankets differ from cloth. That is the difficulty.

SHRI MAHAVIR TYAGI : Legal terms always be interpreted legally. "Cloth" means much more : it cannot mean only the cloth which is worn as dress and not cloth which is used to wrap oneself in.

SHRI GOVINDA REDDY : The textile authorities have not given that interpretation to blankets.

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SHRI MAHAVIR TYAGI : That was the textile law. That is another matter.

Sir, my friend Mr. Rath was surprised at the use of the word "community". He said he did not follow the meaning of the word "community". I thought he was a Communist. "Community" means what it really is. It does not require any further explanation. "Community" means the people as a whole.

SHRI B. RATH : But the hon-Minister is not looking to the interests of the community in the Bill.

SHRI MAHAVIR TYAGI : I say that that is the meaning. That is the explanation of the word.

Sir, my hon. friend Shri Deokinan-dan Narayan was anxious that we should include glass bangles in the Schedule. Glass bangles generally remain included in a way, because the sales tax does not generally affect those peddlars who sell small goods. The tax is realised from wholesalers and retailers, whose turnover is more than Rs. 10,000 or Rs. 15,000 or so. So, these small bangle-sellers do not come in, and, therefore, ladies can well enjoy the luxury of having glass bangles freely without paying any sales tax. My friend need not be very anxious about them. They are now alert enough to look after their interests. He also referred to handmade paper, and suggested that is also should be included in the schedule. The same argument applies to hand-made paper. My friend Shri Kunzru also said something about paper. I submit that paper was discussed in the Select Committee—I was a member of the Select Committee—and the consensus of opinion among members there was that paper as a commodity should not be included, because it is used not only for reading and writing and for book making purposes, but also widely used in many industries, commercial activities and

so on ; it was therefore, felt that they would all take unintended advantage of this concession. It was for this reason that paper was not included. In the case of hand-made paper, the question does not arise, because, here again, it is only small people dealing in hand-made paper as a cottage industry, and the turnover is hardly more than Rs. 10,000 or Rs. 15,000.

The hon. Member Dr. Shrimati Seeta Permanand wanted tinned milk to be included. Tinned milk was also the subject of consideration. We discussed it, and the general opinion in the Committee was that it was only the richer families who used tinned milk and therefore we should exclude it. Besides, it is always of foreign make. Therefore, that was excluded. Then there is another suggestion to include caustic soda because soap is an article of daily use. But caustic soda is not always used only in soap. Its uses are various. Therefore, caustic soda was left out. Soap has not been included, because we thought that mostly raw materials should be included as far as possible, and so we did not go into those articles which are manufactured. Soap is a good industry, and a big, thriving industry in this country, and we feel that States should not be deprived of income from sales tax on this commodity.

My friend Shri Suryanarayana was anxious about small agents and cooperative societies who go out to purchase food grains for procurement as agents of Government. I think they will not be affected, because grain as a commodity is included and therefore the cooperative societies would not be affected if they deal in food grains.

SHRI K. L. NARASIMHAM (Madras) : But you are not interfering with the Acts of the Madras State.

SHRI MAHAVIR TYAGI : That matter has been discussed. There should be no additional load added to the food grains purchased by cooperative societies or agents.

[Shri Mahavir Tyagi.]

Shri Subbiah said that a Bill was passed on the subject in Hyderabad on the 28th July. I have a grouse as regards that. The Hyderabad Government did it in a hurry. They seemed somehow to be in a hurry to secure their revenue. I assure my hon. friend that by passing this Bill I or the Government would not have done any injury to Hyderabad, because it is a young State which has come into the family only recently, and the Central Government have a soft corner for Hyderabad. It was never our intention to do any injury to such States. So they were unnecessarily in a hurry. Anyway, they passed the law on the 28th July.

Shri Onkar Nath advocated the inclusion of cow-dung cakes. These generally will be sold by petty sellers and they would never be covered by the sales tax law.

Shri Venkat Rao suggested that Hyderabad was not being fairly treated in the matter of subsidies and that partiality was being shown to the States. I must admit that there is partiality— but partiality in their favour always. We have really been favouring those States, because most of them had their customs barriers and were realising customs duties from inter-State trade. Those have now been lifted, and they were at a loss to know from where to meet their demands, and therefore they were given the power to levy sales tax as an avenue. To the extent to which they suffered revenue losses on account of integration, their short falls are being made up by the Central Budget, and special care is taken to observe minutely and see what their losses are, what their budstret balances are, and then a subvention is given.

Then Principal Ghosh said that he protested against the Government of West Bengal not keeping their promise of working out some schemes of welfare, I think Mr. Ghosh being their own representative can use his influence and I am afraid that perhaps from the Centre it will not be possible for us to force the States to take programmes of our choice. He also said that in

this Bill the Statement of Objects and Reasons was not given. I am very sorry for that but in fact this Bill did not mean much elaboration from the point of view of the Statement of Objects and Reasons, because the very fact that it was being enacted in pursuance of an Article of the Constitution was enough. No other motive was behind it except to act in pursuance of the article of the Constitution. That reference, I thought, was enough and no further explanation in the form of that Statement was necessary.

Then Dr. Broyan said that the Members of this House were not in the Select Committee and they could have suggested many other important goods which could have been included in the Schedule. I should say that on these less important Bills it is *vo* customary to have Members from this House in the Select Committee. The Lower House considers these simple Bills and then they come to the Upper House for your approval. I think it would not be fair that for every little Bill the elderly representatives of the country should be asked to participate in the Select Committee made by the Lower House. We are a Lower House after all and yours is known as the Upper House. So it is not in keeping with the dignity of the Upper House that they should be asked to sit on a joint Select Committee for every Bill.

SHRI M. L. PURI : Question.

SHRI MAHAVIR TYAGI : Then again Mr. Kishen Chand said that all the States should have uniform level of tax *per capita*. I could understand the fairness of the suggestion if the people were having equal incomes. If Sales Tax were to be levied on the uniform basis of *per capita*, then incomes should also be uniform *per capita*. In the circumstances obtaining in the country it is difficult because after all it will adversely tell on the people of the States where *per capita* income is comparatively much less. So this *per capita* principle is too blind a law.

PRINCIPAL DEVPARASAD GHOSH:
Would the hon. Minister enlighten
us

MR. DEPUTY CHAIRMAN : No
interruption.

SHRI MAHAVIR TYAGI : Then Mr. Jain
made some very good suggestions. He said
that the controversy of interpretation would
arise. Well, Sir, I will again get into the
legal mire if I indulge in them. He said :
"Why was iron and steel included ?" Some
other members also objected to this article
being included in the Schedule. Well, Sir,
it is not that only girders and beams are made
of iron. Iron and steel is used in every industry,
big and small. So iron and steel as a whole
was included. Some of my friends said
that because iron was included, therefore
Tatas and all the big people would take
advantage of it. Well, Sir, generally these big
industrialists, if they have to pay any taxes on
account of their raw material, always pass
them on to their steel merchants and steel
merchants pass them on to the consumer as
a rule. So if this iron and steel has been
included in the Schedule, these big
manufacturers of iron and steel will not be
the beneficiaries. The beneficiaries will
generally be the consumers of iron and
steel, *i.e.*, those people in smaller industries.

Then Mr. Harish Chandra, as usual with all
friends of Rajasthan, said something. The
uppermost idea in their minds is that perhaps
Rajasthan is not having a fair deal as far as
financial distribution is concerned. And they
always—in the Lower House also—complain
that some of their most important projects
were not included in
the Five Year Plan.

SHRI H. C. MATHUR : Not even one.

SHRI MAHAVIR TYAGI : Yes, that is
what my friend says. We are really
unfortunate, though moneys were granted by
the Finance Ministry for tube wells for water
purposes. Any way, I might just by way of
explanation
speak if « nrr raailr possible for the

Five Year Plan to embrace all the possible,
development projects together because even the
Plan has to be planned. It is to be planned
and already there is criticism that we have planned
rather too much and we had better start on a
slow pace so that we could complete one thing
and then take up another. We have already
planned enough and we have embraced a lot of
things. I should say that the project which my
hon. friend has referred to was already receiving
serious consideration at the hands of the planning
Commission, I believe. . . _

Then my friend Mr. Shah has protested that
I should not have referred to Bombay's
legislation on sales tax in the way I did. I can
assure him that I never made an aspersion on
the Bombay Government. In fact my friend
will see that I have all through these days been
advocating and protecting the interests of the
State Governments. I say they have a right to
proceed with their Bill. I hope the Bombay
members will not get annoyed ; I want to
negotiate with their Govt, and I do not want to
say even a word which would cause a feeling
of bitterness, or annoyance to them. For I wish
we meet all together as friends without any com-
plaint or grouse against each other and
dispassionately decide upon these questions of
the interests of the country as a whole and for
that matter, Sir, my anxiety has been all through
these days not to say anything unpleasant even
at the insistence of some of my friends because I
do not want to spoil the atmosphere of cordial
relationship which we have today. I want to
take the best advantage of mutual understanding
and as I have mentioned, we will call a
conference for this purpose. If the House agrees
to pass this Bill as it is, it will be of very great
help to the Central Government to negotiate
and arrive at conclusions which this House
would very much like us to arrive at. There
was therefore no aspersion meant.

But, for the information of the House, I will
just say something. My hon. friend Dr. Kunzre
has also raised an objection as to why the
Finance

[Shri Mahrvir Tyagi.]

Ministry had delay Well, Sir, the Finance Ministry naturally had to consult the State Governments in this matter. After consulting the State Governments for the first time the Finance Ministry introduced the Bill in the previous Parliament on 7th June 1951—I may remind my hon. friend—on account of the busy time of the Parliament the Bill could not have its chance. Now again we introduced it on 16th May 1952 but in the meanwhile the Bombay Government came out with their proposals on 25th June 1952. So my friends will have to carry this little information to them that they could just wait, till new articles were going to be declared as essential and while the Bill was under consideration of Parliament. Any way I have no objection and I hope Mr. Shah will neither have any.

Now I must thank Janab Ismail Saheb for his undiluted support, so to say. He gave me a very good support in the House and I am very grateful to him for that. It came by surprise from strange quarters.

Dr. Barlingay just raised one suspicion that perhaps because the C.P. Government has passed an Act whereby the Government could raise the sales taxes by means of notifications only, there was therefore, no chance left for any Acts to be reserved for the assent of the President.

For the information of my hon. friend, I might also say that there is another Article in the Constitution, Article 25*5. That will allay all suspicions on that account. It reads like this :

" The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose."

Therefore, even by means of notification they may not be able to exercise that liberty. My friend need not have any fears on that account.

Mr. Sundarayya said that the sales tax was a direct tax on the consumer. It is really so unfortunately, but is realised in an indirect manner. I wish it can really be a direct tax so that its incidence could be made progressive. He also said that coal should be dropped out of the Schedule. Coal has been included on its own merits, because it is used as fuel in towns and villages, as well as for many industrial purposes. It is a raw material for many industries. I may submit here that when we got up this list of essential commodities for the life of the community, we never took the word "community" to mean the lives of all individuals, but the life of the community as a whole, their mutual relationship, the relationship of men and men, their commercial relationship, in short the entire life of the Community social, moral, etc. This list should not therefore be looked at from the point of view as to whether an article is useful to a certain individual. We are taking into account all those goods which are essential for the life of the community as a whole. Therefore it is that coal has come into the Schedule. It is a raw material essential for most of the industries.

Then Dr. Sokhey—I always love to listen to him—said that millions and millions of people die from malaria. It is really very unfortunate. He is quite relevant and I cannot meet his reasoning. I can only submit before him my difficulties. So far as his reasoning goes, he is absolutely correct. Medicines should have been included. But there are medicines and medicines and there are diseases and diseases. Diseases are very bad and medicines are important no doubt. If, however, I agree to include medicines, I would have to make a distinction, almost a Materia Medica, from allopathy, homeopathy and so many other "pathies", and the list would be too big.

MAJOR-GENERAL S. S. SOKHEY : It is to get over this difficulty that I suggested that whatever medicine is required for the treatment of disease and included in the National Pharmacy List should be included in the

Schedule. If you put it that way, the difficulty mentioned by the hon. Minister would be obviated.

SHRI MAHAVIR TYAGI : I have always had really more trust in his wisdom than in my own. But I confess that my difficulty is still there.

MR. DEPUTY CHAIRMAN : Is the hon. Minister likely to take more time ?

SHRI MAHAVIR TYAGI : I would take ten more minutes, but I will close just now. Dr. Kunzru and other hon. Members put me some questions of importance. I started from the other end, and, some of the most important speeches have thus been left out. I owe an apology to those members. I would like to stop now, but I would take another opportunity to reply to those points when amendments are moved.

MR. DEPUTY CHAIRMAN : Has the hon. Minister concluded ?

SHRI MAHAVIR TYAGI : I have concluded, Sir.

MR. DEPUTY CHAIRMAN : The question is :

That the Bill to declare, in pursuance of clause (3) of Article 286 of the Constitution, certain goods to be essential for the life of the community, as passed by the House of the People, be taken into consideration.

The motion was adopted.

MR. DEPUTY CHAIRMAN : The further consideration of the clauses of the Bill will be taken up on Monday.

The Council then adjourned till a quarter past eight of the clock on Monday, the 4th August 1952.