

COUNCIL OF STATES

Monday, 4th August 1952

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

PAPERS LAID ON THE TABLE

(1) ESTIMATED CAPITAL AND REVENUE RECEIPTS AND EXPENDITURE OF THE DELHI STATE "ELECTRICITY BOARD FOR 1951-52 AND 1952-53.

(2) SUPPLEMENTARY STATEMENT FOR 1951

THE LEADER OF THE COUNCIL (SHRI N. GOPALASWAMI) : On behalf of my hon. colleague, Sri G. L. Nanda, I beg to lay on the Table, under subsections (3) and (5) of section 61 of the Electricity (Supply) Act, 1948, a copy each of the following papers:—

(r) Statement of estimated capital and revenue receipts and expenditure of the Delhi State Electricity Board for the years' 1951-52 and 1952-53.

(2) Supplementary statement in respect of 1951.

[Placed in Library, see No. P#48/52 for both.]

**ESSENTIAL GOODS (DECLARATION AND REGULATION OF TAX ON SALE OR PURCHASE) BILL, 1952—
*continued.***

MR. CHAIRMAN : Further consideration of 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.

The general consideration is over. We shall now take up clause by clause consideration of the Bill.

Motion moved.

There is no amendment to clause 2.

Clause 2 was added to the Bill.
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MR. CHAIRMAN : There are amendments to clause 3. So far as they are concerned, Mr. B. Rath is not moving his amendment. There is an amendment by Shri K. B. Lall and there is another by Mr. Kara-yalar. Both of them are not in order in view of the explanation given by the Law Minister that this cannot have retrospective effect. So we have only the amendment given notice of by Shri Bimal Ghose.

That amendment may be moved at this stage.

He is not here.

SHRI RAJAGOPAL NAIDU (Madras) : May I move the amendment on his behalf ?

MR. CHAIRMAN : Have you been authorised by him ?

SHRI RAJAGOPAL NAIDU : No.

MR. CHAIRMAN : Then I am sorry. So since there is no amendment, I will put the motion to the House.

Motion moved.

SHRI P. SUNDARAYYA (Madras) : Sir, I would like to point out that in the List of Business circulated for August 4th, the Essential Goods Act was not put down as the first item. The Salaries Bill was to come first.

MR. CHAIRMAN : Here I have got it in the Revised List of Business.

SHRI P. SUNDARAYYA : I am referring to the agenda that was circulated for today—I mean the brown paper that was circulated. I would like to give a copy of it.

MR. CHAIRMAN: I will attend your point. You say in the List of Business circulated for August 4th, the Salaries Bill was put down first.

SHRI P. SUNDARAYYA : The Revised List may take any order but here is the agenda for 4th August and the first item given is the Salaries Bill.

[Shri P. Sundarayya.] Because of this most probably our friend Mr. Ghose thought that he could come a little later.

SHRI H. P. SAKSENA (Uttar Pradesh) : The agenda for the 4th was circulated on the 2nd and the revised agenda was received on the 3rd. So, the latter one takes precedence over the former.

MR. CHAIRMAN : As a matter of fact, yesterday when there was a change in the Order of Business the House made a mild protest and I said it would not serve as a precedent. Hereafter we would follow the Order of Business that is prescribed. That is what I said. In the Order of Business we had the consideration of this particular Bill. It was half completed. We have completed only one stage. So, unless the House itself alters it, this has to be gone through. That is the assumption. I am sorry for Mr. Ghose. We cannot help.

Clause 3 was added to the Bill.

MR. CHAIRMAN : Motion moved.

There are amendments to the Schedule. Shri K. B. Lall. (*Absent.*)

The Schedule was added to the Bill.

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

THE MINISTER OF STATE FOR FINANCE (SHRI MAHAVIR TYAGI) : Sir, I move :

That the Bill be passed.

MR. CHAIRMAN : Motion moved : That the Bill be passed.

SHRI B. GUPTA (West Bengal) : Mr. Chairman, when sponsoring this Bill in this House the hon. Shri Mahavir Tyagi gave a number of arguments and he also referred to the turnover tax in the Soviet Union, possibly to buttress his case a little better than otherwise he could have done. I fear that his rather casual reference to the turnover tax might have created some misunder-

standing in this House. Therefore before I touch on the general features of this Bill I should like to say a few words on the turnover tax only to show that the analogy drawn by the hon. Shri Tyagi was totally misplaced.

Sir, the turnover tax in the Soviet Union is based on the accumulation of the socialist enterprises. Under no circumstances is that tax shifted on to the shoulders of the consumers or the people. This is the most distinguishing feature of the turnover tax. How this tax is collected is very briefly stated in this little pamphlet which our Deputy Chancellor of the Exchequer, I hope, would be kind enough to read before he comes to dilate upon such subjects.

MR. CHAIRMAN : Please give the proper name, not the Deputy Chancellor of the Exchequer.

SHRI B. GUPTA : I am sorry, the Deputy Minister.

SHRI MAHAVIR TYAGI : I am neither a Deputy Minister, Sir.

SHRI B. GUPTA : He likes to be called, by the British name. I will say the Minister of State for Finance. He would like to read the book 'The Soviet Financial System.' This is what is stated in it :

"The turnover tax is not a price-determining factor, but follows from the prices fixed by plan. In fixing the amount of the tax the prime consideration is the price of the commodity in question. Hence, the technical process is roughly as follows."

I hope the hon. Shri Tyagi will carefully listen to these words :

"The tax on a certain commodity is fixed in proportion to its price. For example, if it is planned to market a given commodity at 150 roubles per unit, its production cost being 100 roubles per unit, the turnover tax may be fixed at 30 per cent.—45 roubles—thus leaving 5 roubles for profit. If considerations of economic policy dictate a lower price, the turnover tax is lowered accordingly. Increase of price is accompanied by an increase in tax. In other words, the turnover tax is both a method of controlling the accumulation of reserves by

State-owned industry and at the same time is a very flexible instrument for carrying out a definite price policy. That is why turnover tax rates vary widely."

SHRI MAHAVIR TYAGI : May I just have that booklet for reference ?

MR. CHAIRMAN : The only point about this is that when the hon. Minister referred to the turnover tax, he was as irrelevant as you are now when you are referring to it.

SHRI B. GUPTA : I am only trying to enlighten the hon. Minister a little on the implications of the turnover tax and also to see that the House is not misled by this analogy.

SHRI MAHAVIR TYAGI : I am thankful to the hon. Member.

SHRI B. GUPTA : They are all very enlightened, I know, still I thought it best to say a few words on this question. Though the hon. Minister may have been already benefited, I may repeat that this sales tax can never compare with the tax on the turnover. This sales tax falls altogether in our country on the shoulders of the people and this is admitted not only by people like me but also by Congressmen and their newspapers. Here, with your permission, Sir, I may read a portion from an editorial of the *Hindusthan Standard* of the 31st July, a paper which is a staunch supporter of the Congress and whose owner sits in this House on the Congress benches. This is what the paper says :

"The Minister himself is well aware of the teniency of various State Governments to en'miee their general revenue by imposing sales tax, which is really a levy on the purchaser. The whale of this tasc is collected from the ultimate consumer. The term 'sales tax' is, therefore, a misnomer. It should rightly have been termed as taxation on consumption. And the State Governments have been more inclined to levy taxes on such comaiodities as are consumed by large sections of the people and hence is likely to yield a larger revenue."

Therefore, a tax on turnover and a sales tax are two different things. The sales tax is a tax on the consumption of the people whose standard of living is

extremely low and who live on the starvation level. In the Soviet Union the turnover tax is a tax on the accumulations of socialist enterprises imposed with a view to regulating the prices where the prices have been reduced by big instalments and where the wages have been increased from time to time. Here the opposite process is working. In our country the sales tax affects the people and the people alone and this is something which has been admitted by no less a paper than the *Hindusthan Standard* which is a staunch supporter of the Congress. I will leave this subject at that and I hope when analogies are drawn by hon. Ministers, they will address their minds on all aspects of the proposition and not go by mere terminology.

Now, as far as this particular Bill is concerned, neither the speech of the hon. Minister nor the wording of the Bill itself contains any indication to the effect that these provisions will be used in the interests of the common people with a view to reducing or eliminating the burden of sales tax that is now resting on the people. I do wish the hon. Minister of State for Finance, as he would like to be called, would give us a categorical and public assurance that these regulating powers would be used with the object of relieving the people, the consumers, from the tyranny of these sales taxes that are being arbitrarily imposed in the various States. At least such an assurance would, to some extent, justify the encroachment upon the powers of the States. Otherwise there can be no justification whatsoever for arrogating to yourselves, I mean the Central Government, the power that should ordinarily belong to the State Governments.

The hon. Minister has given us the figures of sales tax in the various States and I take it that they are the latest figures. I wiH refer to these figures and some earlier ones to show that there has been a progressive increase in these percentages. The hon. Minister gave us the information that sales tax accounted for 13 per cent, of the total

[Shri B. Gupta.] revenue in Bihar, 22-7 per cent, in Bombay, 26-4 per cent in Madras and 13-7 Per cent, in West Bengal. Now I take the figures for 1950-51 and I find that in Bihar the sales tax accounted for 7-2 percent, of the total revenue in Bombay 17-02 percent., in Madras* 27-16 per cent, and in West Bengal the case of Madras, in all the State* there has been an increase in the receipts under salts tax during this period and in Madras, as we know, the tax is going to be increased still further in pursuance of the policy of the Government of the day there. That is the position in our country with regard to the sales tax I may also tell the hon. Minister that if he looks into the Soviet Budget he will find that 90 per cent, of the taxation there comes from their socialised enterprises and only 10 per cent, comes from levies on incomes or such other things Sales taxes and taxes like these which affect the consumers, the people generally, have no place in the context of the Soviet financial system. This is something which I would like the hon Minister to realise, for in our country we have the opposite trend, namely the piling up of taxes on the ordinary citizens, increasing such taxes as come from the people.

I would also add that when examining a taxation proposal one has to see not only how much money would be realised, but also how the money is being spent and how it is likely to be spent. Now, I may submit that the State Governments are imposing sales taxes, not for any constructive purposes, not for developing industries, nor for helping the people by extending medical and other facilities to them so as to benefit the people at large, but for feeding their police machine and their administrative set-up. I would give the hon. Minister only a few examples In Bombay, for instance—I do not have the latest figures, but I am taking those of the 1950-51 Budget—Police accounts for 18-47 per cent, of the total Budget of the State. Administration charges come to 20-46 per cent. In other States

words, as much as 38-93 per cent, of the total Budget goes for what they call the security and administration services.

SHRI M. C. SHAH (Bombay) : On a point of order, is this all relevant ?

SHRI B. GUPTA : I don't see any point of order here. I am discussing the policy behind this measure and this matter of a three-clause Bill very much depends on what policy it is based on. Hon. Members of the Congress Party, I hope, would not get impatient when the policy is brought in. After all

SHRI M. C. SHAH : But, Sir

MR. CHAIRMAN : Order, order. You get along.

AN HON. MEMBER : You are getting impatient.

SHRI B. GUPTA : No, I am not impatient. It is not my business to be impatient here since I have come here.

MR. CHAIRMAN : Very well.

SHRI B. GUPTA : In Bihar the percentage is 43-7 of the total Budget and in West Bengal it is 36-78 per cent. These are very telling figures which show that the revenues collected by these States are being spent not for constructive purposes, nor for increasing social amenities, but for maintaining the bureaucratic administration and for maintaining their security forces whose activities will soon be taken up when the Preventive Detention Bill comes aere for discussion. In West Bengal as much as Rs. 6,67,00,000 are spent for the Police, in their Budget of 1950-51. This sum is something more than the total expenditure on Police of the undivided Bengal. That is to say in respect of Police administration the West Bengal Government is spending more than even the undivided Bengal did. That is the present position, this system of sales tax has become a very convenient resort for the State governments for financing their Budgets, which, on the one hand, means a striction as far as economies are

concerned and on the other hand means additional police atrocities as far as their security measures are concerned. Therefore, Sir, this policy has to be changed. The sales tax should be freed from this kind of policy, if at all it has to be maintained in regard to certain commodities. There are other revenues which are not tapped whereas Government go in for sales tax. In Bengal, I was astounded to find in the current year's Budget, that only a little over Rs. 1/2 crores is coming from the zamindars as land revenue whereas so much is coming from the sales tax. The landlords pay about 5 per cent, of the total revenue, while we find the consuming public paying 13 per cent, or 14 per cent, through sales tax. Yet the five top ranking zamindars between themselves collect over a crore of rupees. That is the position and Government should persuade the State Governments not to proceed with that policy. There are other sources of revenue which should be tapped. For instance, why not they have a turnover tax on the British firms, not by robbing the people but out of the profits which they make? Only then will you be justified in interfering in the internal affairs of the State. This is a very important aspect and I wish to draw the attention of Government because I have my fears that once this measure is passed, there will be a lot of bargain between the State Governments and influential elements will be there to pull strings so that the whole business will be made a farce as far as the people are concerned. Certain adjustments will be made here and there but nothing will come out of these to benefit the people and the plight of the people will continue to be as sad as it is today.

MR. CHAIRMAN : Hurry up.

SHRI B. GUPTA : Sir, as the Bill itself says, it is not going to have any retrospective effect; it is only prospective. Now, that does not hold out very good prospects for us for the simple reason that the States have already imposed many taxes. The question is not one of uniformity of

taxes alone; the question now is one of reducing and eliminating these taxes. This cannot be undertaken, at least for the current financial year, under this enactment. Therefore, I would suggest that the Government should call a conference of the State Finance Ministers on the basis of a publicly declared policy that the sales taxes are going to be revised in consultation with the States with a view to benefiting the consuming public and also the small traders. I don't think any State or representative of any State will come and say that this cannot be done in this current year because they will be hounded down if they take this line. Already many Ministers cannot show their face in public, and if they refuse to reduce the sales tax even when the Government of India ask them to do this they will not, I suppose, be able to show their face even in their own household if they take that line. Therefore, I say, justify yourself on a correct stand and then call upon the States to reduce these taxes and eliminate them. This is very essential, as, otherwise, this measure will not help us very much.

In conclusion, what really is important today is not mere legislation. You have to adopt a very courageous policy in which the people and the people alone, must be given the utmost priority. The whole thing must be adopted for their interest—and not for the interests of some others on top. I hope the hon. Minister of State for Finance, who is present here, will take courage in both hands and chalk out a policy with a view to delivering the people from the excesses and tyranny of these very oppressive and burdensome sales taxes and taking the burden from the overburdened shoulders of the consumer. That is what is facing you, Sir.

SHRI T. V. KAMALASWAMY (Madras) : Mr. Chairman, I support this measure to bring about uniformity in the levy of taxes on essential goods. The previous speakers, unfortunately, have not given due credit to the trading community. The trading community functions as the non-official and honorary collector of these taxes which form

[Shri T. V. Kamalawamy.] nearly i/4th of the total revenue of many of the States.

Sir, talking only about groundnut oil, as an example, this particular trade has to pay a double tax, once when they purchase groundnuts and secondly when they sell oil. There is a provision that if the manufacturer registers himself on payment of Rs. 20 he can get a rebate. Sir, on a total turnover of Rs. 20 lakhs, a small unit having two expellers has to pay a sales tax of Rs. 20,000. There are many instances in which mill-owners having failed to register themselves as registered dealers have had to pay a double tax, Rs. 25,000 as tax and another Rs. 25,000 as penalty since no rebate is allowed to them. It is not really a penalty, but there is a lacuna in the rule and no officer of Government is entitled to condone this default of non-registration by a fine or penalty, with the result that even though there is a turnover of nearby Rs. 20 lakhs, and the merchant loses about one or two lakhs of rupees on account of speculation—he has not only to pay Rs. 25,000 as tax but in addition, for failure to get himself registered within the proper time, has to pay a further penalty of Rs. 25,000. Many such cases are still pending with the Board of Revenue and with the recent Sales Tax Tribunal in Madras. Not only the owners of these mills, but also those who take mills on lease have to pay this. A new interpretation was given that lessees of mills would not benefit by the registration of millowners. This has come after about ten months of working these leases and these people have also to pay double tax. I am mentioning these only to show that the State Governments are very unsympathetic and they enforce these rules with the greatest rigour and harshness, resulting in more hardships to the trading community. Certainly, the merchant community is entitled to greater consideration at the hands of State officials.

Sir, the Chief Minister of the State of Madras takes pride for the fact that he was responsible for introducing this 'Kamadhenu', as he calls it, in the

field of taxation. He is so much enamoured of this sales tax Sir, that, when he took up the reins of office as Chief Minister again, he did not even wait for the Budget to be introduced but issued an Ordinance, a few days before the Budget, imposing sales tax on petrol. I am only showing the way the wind is blowing. When the Finance Ministers of the States come here for the proposed conference, as the hon. Minister said, I hope the Finance Minister will impress upon these foraging Finance Ministers to curb their rapacious tendencies and tell them that even the 'Kamadhenu' in this 'Kali Yuga' has to be milked moderately and not bled to death.

SHRI S. C. KARAYALAR (Travancore-Cochin) : Mr. Chairman, in^{sup}-porting the motion made by the hon. Minister, I wish to make a few remarks. The most important portion of this Bill is the Schedule. This Schedule is supposed to contain a list of goods which, according to Parliament, would be essential for the life of the community. This Schedule is made by virtue of powers conferred upon Parliament under article 286 (3) of the Constitution. The Schedule when it is finalised—that is, after this Bill is passed—would contain a list of articles which, according to the Act, should be exempt from taxation but for certain other provisions. Sir, by merely passing the Schedule, we are not observing the spirit underlying article 286 (3) of the Constitution. Some States have already passed legislation imposing taxes on the purchase or sale of some of the commodities listed in the Schedule. Other States have probably not pass* ed such legislation. So ultimately, the result would be that some of the articles would be exempt from taxation in certain States and in certain other States these articles would not be exempt from taxation. The poor people for whose benefit this list is made out would have to bear the burden of additional taxation in some States, while in certain other States they would not be subject to such taxation. This is an anomalous result flowing from the passing of this Bill. This list is being

made out at this stage ; as a matter of fact this list ought to have been made some time ago before the States undertook legislation in respect of taxation on the sale or purchase of these articles. So the purpose of article 286 (3) is really defeated to a certain extent. On the other hand, there is the claim of the States to make their own laws in respect of the sale or purchase of articles. So here is a case in which there is a conflict between the interests of the States and the interests of the common consumer. So the attempt of the Parliament should be to reconcile these conflicting claims and I would suggest, Sir, that the Schedule that we make out should be such that in respect of the articles listed there should be no taxation at least in future. But as we have been trying to make out a list, it has been enlarged to some extent during its passage through the House of the People and here. That means that Parliament is encroaching to a greater and greater extent upon the rights of taxation of the States. Ultimately we ought not to make out a list which would be a dead letter. That ought not to be the object of Parliament. In fact, when we pass legislation making out a list of articles to be exempted from taxation, that ought to be enforced by the States. As I said there are conflicting claims—claims of the States and claims of the consumer. In order to reconcile these claims, I suggest that this list should have been much smaller than what it is, confined to the essential needs of the common man. The Minister who spoke on the introduction said that he was going to convene a conference of the States' Ministers in order to find out the greatest common measure of agreement among the various States. That is a very wise and useful suggestion that ought to be pursued and the attempt should be not to secure a kind of uniformity in taxation but to secure a list which would be acceptable to all the States and in respect of which there should be no taxation in the States. So it will necessarily mean that this Schedule should be cut down drastically so that there might be not only uniformity of taxation, but also there might be exemp-

tion of taxation in respect of those articles. The Minister ought to be able to find out a *modus vivendi* by which this object underlying article 286 (3) of the Constitution could be implemented. There is no point in merely declaring a list of articles which are considered essential for the life of the community while at the same time some of them at least would be subject to taxation in some of the States. That would be against the spirit of article 286 (3)—The spirit of the article should be implemented and for that purpose the list in the Schedule should be narrowed down and it ought to be possible for the Minister to find out a *modus vivendi* by which those articles—at least the smaller Ust than that contained in the Schedule prepared by common agreement— should be exempt from taxation. That should be the approach of the Minister, Sir. Otherwise, we shall be acting against the spirit of the Constitution. It is the spirit, more than the language, that should be implemented and I would suggest, therefore, that the Minister pursues the idea of convening a conference to find out the greatest common measure of agreement among the various States and make out a list of articles which should be at least hereafter, exempt from purchase or sales tax. I want to make this suggestion for the serious consideration of Government.

One more point that I would like to say is this. The Schedule ought to contain a list of articles in the State List only. But as a matter of fact I find that item No. (7) is not really in the State List. It is in the Union List. I do not know how item No. (7) came to be included in the Schedule. Otherwise, it would mean that the States are competent to impose a tax on the sale or purchase of articles mentioned in item (7) of the Union List. With these words, I support the Bill.

SHRI RAJAGOPAL NAIDU : Mr. Chairman, I shall be very brief. Now if this Act is not made retrospective, I wonder what effect this Act is going to have on the poorer classes of the society. For this reason, Sir, almost

[Shri Rajagopal Naidu.] all the commodities that are given in the list attached to the Bill are all taxed. I have very carefully gone through the entire list of articles mentioned in the Schedule and I was not able to find out even one article which is not already taxed by the Madras Government, at any rate. What earthly use is it going to be for the public, if this Bill is not going to be made retrospective? Further, the States are interested only in seeing- that only essential commodities are taxed ; only those articles that are in great demand by the public* it is only those articles that are taxed by them and if this Act is not made retrospective, I wonder, Sir, what effect it is going to have on the public. I wanted to speak on that amendment also but now that he has not moved it I want to say one or two words about it also. Now, take for example a particular item, say, foodgrain. According to the present Act if the State Governments are going to increase, say from three pias to six pias per rupee the levy of sales tax, the Central Government will have no voice in it. The Central Government will have voice only when they levy taxes on commodities in the future. But if those articles are already taxed by the State Governments, the Central Government will have no voice in regulating the sales taxes that are already imposed by the State Governments. So there is a great lacuna in the Act. And surely, Sir, every article that is given in the list as necessary for the life of the community cannot be so. It is only a question of degree of necessity. Some may be of remote necessity, some may be of immediate necessity and some may be very, essential for the life of the community. For example, I had already said in my speech that it may be that iron and steel required- for the manufacture of agricultural implements is essential for the life of the community but what about the beams and other things required for the construction of buildings ? It is only the rich people who make use of these things, not the poor people. So it is only a degree of necessity. I would only suggest to Government to reduce the number of .

articles that are given in the list and to see that only such items as are necessary for the life of the community are included in the Schedule. That will be my only submission.

SHRI KRISHNA MOORTHY" RAD (Mysore) : Sir, I confess that I am not satisfied with the explanation given by the learned Law Minister regarding the constitutional aspect of clause 3, because although this Bill is small, I feel that it has got great financial implications and it may create financial chaos unless we make it fool-proof.

In addition to the arguments that I advanced the other day, I want to invite the attention of the

House to article 254, clause (r) of the Constitution, which reads :

"If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void."

Clause (2) refers to the Concurrent List ; so we are not concerned with it. Article 254 (1) clearly says that any law made by a State legislature, whether before or after Parliament makes a law, will be void so far as it is repugnant to the law made by Parliament. Today in Parliament we are declaring, under article 286 (3) of the Constitution, certain goods as essential goods, and on those goods the States cannot impose a sales tax. But there are already certain laws enacted prior to this by the legislatures of States which impose certain sales taxes on certain commodities. Article 254 (1) does not refer to any enactments made before the Constitution came into force ; so the question of pre-Constitution laws and post-Constitution laws does not arise. The article refers to all laws made by the State legislatures. Whether under article 254 (1) such of the laws as have already been enacted by States will be repugnant to the present Bill that is now being passed

and whether they will not be void, is a matter which the Law Department has to examine very closely. I do not want this house to pass any legislation in haste and leave the States in financial chaos. This involves crores of rupees. The financial set-up and the economic set-up of the States depend upon this question. So let not the Law Department think that we have under clause 3 given sufficient protection to the laws that are already passed. Let them examine the whole question before it is too late. If necessary, we should get the President's assent to the existing laws, or, if it is necessary, we should amend article 254 (f) or article 286 (3) of the Constitution so as to leave the laws which have already been enacted in operation without being declared void by courts. This is my submission and I commend it to the House.

SHRI M. S. RANAWAT (Rajasthan) : Sir, I am not competent like a lawyer to argue on the constitutional aspect, and I hope the Law Minister will deal with the point raised by the Deputy Chairman. As regards this Bill, I can only talk of my experience in my State. There are other States where probably the administration is in more competent hands; probably the people there have elected a better kind of intelligent or educated people to run the administration. But in my State of Rajasthan we are rather unfortunate. The Congress Party could not really get proper people to stand as candidates. Unfortunately, in a Legislature of 160 they got 82 seats; and among these there are a large number of people who can hardly sign their names, let alone the question of higher education. And even in our Ministries we have got people with no proper education or proper understanding. That being the case, the general law-making or taxing theory is used very shabbily. So, I feel that if the Centre puts some restriction on them, the people of my State will be saved from the mal-administration and mishandling of the economy of the State.

Another trouble with us is that we are a Part B State, and before independence we had a feudal system of tax-

ation. When this new democracy came, we felt that the people at Delhi, the Congress High Command, the people who were in power, would at least bring about a situation in the State which would be as good as in other States—what were called in the old days British Indian Provinces. But to our surprise, they appointed a committee, and the chairman of that committee was one of the Dewans of our State—one of those people whose minds were trained to continue the old system and somehow to defend the old economic system based on princely and feudal laws. So, we were told that for 10 years the present system would continue. Now, in our State the people are paying a customs duty which is unknown to other States. We have got a complete cordon all round, and at every railway station we have got people to check the trains. There is a customs check point inside every village. If my son goes to Lucknow for his education and he takes his bicycle, he has to take a chit from the Customs *nakedar* at one place, and then at another place, and so on. When he goes, he has to preserve that chit. If when he returns from Lucknow the chit is lost, he pays import duty, and when he goes out, he pays export duty. All these things are happening—as if we were still a State within a State. All these taxes are continued. Formerly the economy of Part B States was based on various sources of revenue—railways and so on—but those sources were taken away overnight by the Centre, and in return we have not been able to get enough to replace those sources of revenue. Besides, we had a number of army personnel in Part B States, and a huge number has been disbanded. About 1,000 people have been disbanded and the problem of their settlement has to be solved, but as I said, our own Ministry is very incompetent, and the people there are not able to decide cases for two years. That is another economic loss so far as our State is concerned.

9 a.m.

Now they have introduced village panchayats. I worked as a

[Shri M. S. Ranawat.]
Settlement Officer in Rajasthan. Previously we had in every village various harassing taxes which you now call sales taxes. At that time we decided that, as they hampered trade, we should knock them down. We fought against our Ministry and against some of our feudal lords and said that these taxes should be abolished. And now, after they had been abolished, a new power is given to every village panchayat and on all the essential commodities a tax is levied.

SHRI SHRIYANS PRASAD JAIN
(Bombay) : On a point of order. How is all this relevant to the Bill ?

SHRI M. S. RANAWAT: I will 'prove that it is relevant.

Sir, at the village level there is taxation; at the State level there is taxation ; and then on an all-India basis there is taxation. Therefore, this legislation, which tries to relieve people from the burden of taxation imposed by the States, has my support. But the trouble is that there is nothing left now which the States have not taxed during the last four years. So, to say that they will not do it in future is no relief to us. We are left where we were.

There is a promise that there is going to be a conference where they will decide this question. What will be the result of these conferences and committees? Suppose these taxes are abolished and the revenues of Rajasthan are reduced by so many crores. They will come to the Centre for help, and the Centre will say: "At the moment we cannot make up your loss of revenue ; so continue the tax." That was what the Krishnamachari Committee told us: "The old system will continue till you find the required money." There are two things which the Centre *will* do. This is one thing. If they stop imposition of sales taxes—"mapa" taxes, there are various names of this tax in our parts—then the gap will have to be filled. And the gap, particularly in Rajasthan, is bound to be a very big gap. That gap will be filled

! by the revenue which we have surrendered to the Centre through the merging of Part B States so far as railways are concerned. I do not know whether the Finance Minister has any idea of any particular help to be given to particularly backward States like Part B States. Then there is another branch of the administration in Part B States called minority administration—Coun of Wards. The Centre is responsible for almost complete supervision. They have got a States Ministry and they do believe that they are not able to put a sufficiently competent Ministry and the people are not yet wise enough or grown enough to select the proper people who will be able to run the administration. We have got the Advisory regime. We have got the States Ministry regime. Now if they can really give some relief to the people, then there is something good. The general feeling of the Rajasthan common man is that we have lost, what was given in the previous regime and we have not been able to get anything to replace it and we have not been able to get any financial help. Of course for this I blame my own people. Now, Sir, I do support these two amendments of Shri Bimal Comar Ghose and Shri Karayalar. These are the basic things and if you accept these, you will be able to have much better results. Thank you, Sir.

SHRI K. P. MADHAVAN NAIR
(Travancore-Cochin): Mr. Chairman, at this stage I do not wish to go into any details but I wish to make a few observations perhaps in a tone slightly different from what has been struck by most Members.

I feel, Sir, this is a subject directly concerned with the States and we are here more as representatives of States than the Members in the other House and therefore I feel there was much point when an earlier Member remarked that it would have been desirable if this Bill was circulated to a committee consisting of Members from this House also. Now, Sir, an answer has been given to this remark. I do not want to question it but I wish only to say

that at least on future occasions such I should not be the reply. When there is difficulty to refuse a proper request, sometimes the method of flattery is adopted and we in this House are not quite strange to that kind of treatment. I mean when the question was raised, the answer was : "After all this is a small matter. You are all elders. This House is a House of Elders. This is the Upper House", and things like that. I hope note will be taken of the feeling here that at least in matters directly concerning the States we also should be given a chance to express our opinion at the proper time.

Now, Sir, I said this is a matter mainly concerning the States. There is no use of passing this Act now unless there is the goodwill of the States to implement it. An hon. Member spoke a little while ago that it is not merely the wording of the law which should be respected but the spirit behind it. There were representations that the States have been going ahead with the sales tax law and that more and more inroads were being made into the mmfirts and conveniences which are

necessary for the common people. As a result of that there was a feeling that there must be some uniformity in the administration of the law and that it should not go at the pace at which it was going. As a result, I would say, Sir, article 286 has found a place in the Constitution. Article 286' deals with sales tax in three different ways. First, it deals with foreign trade that is trade outside India. That is 286 (1) which says that with the coming into force of the Constitution all laws relating to such tax in the State become inoperative. Then there is article 286 (2). That also says that after the passing of the Constitution the tax relating to inter-State trade should not remain in force. But in view of the budgetary provisions made and because of great difficulties which would be caused if immediate effect was given to it there was a provision made there that for the remaining 15 months or so the existing laws will be in force. I would sav that the third ovision in article

86(3) is absolutely prospective in iperation and that is : with regard 0 the articles which will be named lereafter the States -will have no nore power to legislate unless it be with the concurrence of the President. Therefore I feel,' Sir, that clause 3 in this Bill is absolutely essential. It may be that this clause may now be able to change the Constitution but

I say it is necessary from my own experience in my State. On competent advice that the wording of article 296 (1) and (2) might give rise to different interpretations, tax has been levied on articles of inter-State trade in our State. The matter had to be taken to the High Court and as some hon. Members might know, Sir, it is now pending in the Supreme Court. This does not help either the Government or the persons who are taxed. Such kind of ambiguity has to be removed. It may be that some people who could afford might take the matter to courts and of course we have to abide by their decisions. But in the meanwhile, I feel the provision there should be retained.

Then, Sir, you were pleased to characterise the reference to the turnover tax in Russia by the hon. Minister and an hon. Member of the Opposition as irrelevant. But, Sir, as the hon. Member took a lot of time to differentiate between the turnover tax and the sales tax and commended the one and condemned the latter, I may be pardoned in making a passing reference to it. The hon. Member of the Opposition gave us an instance of the levy of turnover tax. He said that if an article cost Rs. 100 to make it and if its sale price was fixed at Rs. 150, Rs. 45 would be collected as tax from the manufacturer and that the consumer, the common man had not to pay any tax. What does it matter, Sir, to the consumer whether he pays the tax or the producer pays it if he has to pay the same price? If, however, the article could be had for Rs. 105 instead of Rs. 150 the consumer would be rid of the burden of the tax and that would be welcome to him. Thus I fail to

[Shri K. P. Madhavan Nair.] understand how the turnover tax in Russia is beneficial to the common man and the sales tax in India is injurious to him. Now, Sir, as I said, the States are vitally interested in this matter. My friend who spoke just before me referred to his own State which is a Part B State. I also come from a Part B State. I know the difficulties that the Government are facing in balancing their Budget, because, on account of the financial integration, they have had to give up many of their elastic sources of revenue, and with some of the sources that still remain with them, which are mostly inelastic, their income and expenditure have to be adjusted. Because of this the States have mainly to lay their hands on the sales tax. Of course, there should be some uniformity so far as these taxes are concerned, but this uniformity cannot be arrived at or imposed by a legislation of this sort. The best method of doing it is by calling a conference of Finance Ministers of States as has been suggested to discuss the matter thoroughly and to see what the local conditions and difficulties are. Now I would refer to the Schedule. As I said, I will not go into details, but I feel that the basis of the enumeration of the articles in the Schedule is not quite correct. An hon. Member said that the best way would be to include in the Schedule all those articles which go into the making of the I cost of living index. I think that idea is sound. I fail to understand how iron and steel, or articles like petrol, hides and skins, have come into the picture.

Now, Sir, there has been general condemnation about the administration of these laws in the States. I feel there is a feeling among many of us here that everything that is going on in the States is wrong and everything that is going on here is good. I do not understand how people who come here from the States suddenly be-

I come infallible. I see evidence of this feeling in every legislation that is passed here. Whether it is the Anti-Corruption Bill or the Sales Tax Bill, there has always been the demand, that there should be more power here in the Centre and less power in the States. The hon. Members here are representing the States and are elected by the legislatures in the States. Let us not forget that there are legislatures in the States. The Members there are elected by the common men in the States and they are the best people to know what should be taxed or what should not be taxed in their area. The general policy may be laid down from here but how it should be administered and in what way are really matters to be left to the States. We should not think that we are the people who would neglect the common man and they are the people who would take care of the common man. If we have any points of view to press, we can certainly express them and bring them to the notice of the persons concerned in the States. Uniformity may be insisted upon, but it should not be insisted upon in the nature of the articles to be taxed or in the quantum of the tax to be levied or as to whether it should be a multiple-point or single-point tax.

I find that there is also a sort of feeling here that because an article has been placed in this Schedule it automatically becomes exempted from taxation. That is far from the truth. It only means that the States cannot impose any sales tax on these articles without getting the concurrence of the Central Government, through the President.

I have only to say one thing more. At the ensuing conference of Finance Ministers the local conditions of each State should be taken into consideration and then only in consultation with the representatives of the States concerned should de-

' cisions be arrived at in regard to what articles should be exempted from taxation, and what articles should be subject to taxation, what articles should be subject to single point taxes and what articles should be subject to taxes at different points. An attitude of co-operation with the States should be there, instead of dictation and interference from the Centre. I find the hon. the Finance Minister himself has realised the importance of this and I hope with this background the various points will be discussed in a friendly atmosphere and unanimous decisions will be taken for bringing about as much unanimity as possible for the administration of these laws. Thank you, Sir.

MR. CHAIRMAN : I hope Members will be brief.

MAJOR-GENERAL S. * S. SOKHEY (Nominated): Mr. Chairman, Sir, with your permission I should like to refer to the question of medicines again. As you will remember, Sir, on Saturday every Member of this House who spoke, regardless of the Party he belonged to, requested the hon. Minister to include medicines in the Schedule. I do not have to tell very harrowing tales to this House about the very serious epidemics that rage over the country and which take a very heavy toll of life. In our country where incidence of disease is very high. We all feel that medicines are essential for the life of the community and should be included in the Schedule. The hon. Minister could not accept this suggestion because he said he had some difficulties, but which he did not explain. I can assure him that for including medicines in the Schedule, he is not called upon to draw up a dictionary of drugs. Every country including ours has a national pharmacopoeia or has some pharmacopoeia which is being used as national pharmacopoeia for the time being. All that is required to be done is to say that whatever medicine

is included in the national pharmacopoeia or the pharmacopoeia which is being used as a national pharmacopoeia for the time being, is covered by this Schedule. That will obviate all the difficulties. We have to distinguish between patent medicines and medicines in the pharmacopoeia and proprietary medicines. The adoption of the simple formula that I have mentioned would get over all the difficulties.

In so far as his difficulty about Homoeopathic and Ayurvedic medicines is concerned, all I would say is that, if those systems are recognised by Government, the people concerned should provide their own pharmacopoeia so that they may be dealt with in the same way. I would urge on the hon. Minister again that he should give serious thought to this, because it is a matter of such considerable importance. At least I hope that the State Governments would be civilised enough not to try and impose a sales tax on the drugs that are needed for fighting diseases in the country. I should also request that vaccines, toxoids, antitoxins, etc. which are used for the prevention of disease should also be included in this Schedule. I can assure the hon. Minister that with the technical staff that the Government has got he can make a good job of it.

Another thing that has personally worried me is this : I listened to the hon. Minister very carefully on Saturday. He said that he was present in the Constituent Assembly when this matter was discussed and that he took an important part in the drafting of this article 286. He told us what was in the minds of the framers of the Constitution when they drew up this article. They wanted the prices of certain goods not to be increased because they considered them necessary for the life of the community. He said that this was their intention but they did not use proper language to give expression to their point

[Maj. Gen. S. S. Sokhey] of view. They left loop-holes in their expression and that he was now driving a coach and four through those loop-holes, to use article 28 for a totally different purpose. Though the Constitution desires that certain articles essential for the well-being of the community should not be subjected to sales tax beyond the 1st day of March 1951, the hon. Minister wants to use the present Bill to leave the State Governments free to charge sales taxes as they liked to raise enough revenue to carry on their functions.

DR. SHRIMATI SEETA PARMANAND] (Madhya Pradesh) : We cannot hear the speaker, Sir.

MAJOR-GENERAL S. S. SOKHEY : I was saying that the hon. Minister said that he was connected with the Constituent Assembly and he took a great part in the framing of this article and he was quite sure that the framers had desired that certain articles that were necessary for the life of the community should not be increased in their price by sales tax beyond the first day of March 1951. But he said that the framers of the Constitution did not use sufficiently definite language and left loop-holes in their definitions and now he wants to drive a coach and four through the loop-holes to use the Bill for totally different purposes and that was to leave the State Governments free to raise revenue for running their Governments. Even if we take it from that angle, it surprises me how things like coal and steel figure in the Schedule. If the States want to raise the taxes by sales' taxes, they will get much more money by taxing articles like coal and steel which are used by large firms in large quantities. People themselves do not use coal for cooking or heating. Steel is largely used for large construction works. From that point of view I am surprised to find that coal and steel should be in the Schedule but not medicines.

SHRI R. A. PODAR (Rajasthan) : " Mr. Chairman, much has been said about the various items that have been included and non-inclusion of certain others in the list of the Schedule to the Bill. I feel that the list itself is very big and it should have been as small as possible. Probably under the pressure of the Select Committee of the House of the People so many items have been added. If we go on adding to the list—there are so many other items which can be added if we go on flexibly interpreting the word 'essential'—but by doing so, the very purpose of the exemption for certain items will be defeated. There will be very little revenue to the States. Therefore I think the items in the list should be reduced and the States Governments should be permitted to have sales tax on as many items as possible.

A lot has been said about uniformity in sales tax. It may sound a little surprising but it does not matter much whether the sales tax is more or less in any State. Because it has to be levied, according to the paying capacity of the people living in the different States. There is no State which can today stand on its own legs without resorting to sales tax. If we try to introduce uniformity in sales tax, there will be enormous difficulties. Supposing there is a State which has to depend heavily on sales tax and if we try to reduce the tax to bring it into line with States which don't have sales tax, those which have huge incomes from the tax will have to face huge budget deficits. In the same way if we try to raise the tax rates of the other States which have less rates of sales tax, the people there will not be able to bear the burden. So I feel there cannot be uniformity in sales tax. The only thing that can be done and which the Government has rightly proposed in the Bill is to restrict the powers of the State Governments to levy in an exorbitant manner the sales tax on essential articles, a tax which is the easiest method of collecting tax by the States for

execution of their plans of spending either for development or for meeting the increased expenditure. That should be subjected to central restrictions or in other words, assent of the President. I do think the list requires to be reconsidered and modified but all the same I see that the Government is in a hurry to stop certain States from levying different types of taxes and they want to see that this Act comes into effect before the States' acts or their amendments come into effect. Therefore, I think the Bill should not be delayed but I suggest that if the Government agree, they should bring very soon an amendment to this Bill and see that the list is properly checked up and such items which require exclusion should be excluded and those requiring inclusion should be included.

I wanted to say something about the hon. Member Mr. Gupta's arguments about the revenues from taxation in the communist State of Russia. Of course my friend over there has already replied to many of the points. It was a typical example of hoodwinking communistic propaganda. In Russia all the manufacturing concerns are owned by Government. They are free to fix their price. Government fixes the price according to its requirements of revenue. When they collect 90 per cent, of the Government revenue from the sales through the Government sales organisations and they fix the prices according to their requirements. The rate; of taxes on consumers are fantastic. Supposing there is a thing, the cost of which is Rs. 100, if Government wants to collect a certain amount of revenue from that sale, they may fix the price at Rs. 100 or Rs. 150 or anything higher. In our case the position is this. Supposing there is 10 per cent, sales tax and the retail price of that particular item is Rs. 100, the consumer will get it at Rs. 100 and Rs. 110 will be called the sales tax. But in Russia they fix the sale price at Rs. 100. Nobody knows whether the cost price is Rs. 100 or much less. Another example

may be that if the Government here tries to fix a certain price for things produced in the Sindri Factory which is in Bihar, and if the Central Government wants, say 20 crores for themselves, they may sell it at a price that will get them 20 crores profits or revenue without sales tax or they may sell it at a price which will fetch them 15 crores and allow 5 crores for the State Government by way of sales tax. But the consumer pays the same price.

Sir, I was very much surprised to hear the remarks of my hon. friend Shri Mahendra Singh Ranawat. I was astounded to hear what he said about the administration in Rajasthan and about the Congress Party Members of the Rajasthan Assembly. He said that so many Members of the Rajasthan Assembly could not even write their names. There is no denying that fact for there are a certain number of Harijan Members there who do not know how to write their names. But who is responsible for that sad state of things? I say that is due to the old regime and those rulers who never looked after the welfare of Harijans and never tried to give even this much of education to these down-trodden people. Actually as one who had so loyally served the old administration for a number of years Mr. Ranawat should have appreciated this fact better than anyone else. That apart, the *Samyukt Dal*, which is the largest Opposition Party in Rajasthan Legislative Assembly and 90 per cent. Members of which consist of the Rajput element or the ex-administrative class, could not even set up one single Harijan candidate. They did nothing for the Harijans and so could not set up a single Harijan candidate and the Harijan candidates set up by the Congress succeeded in the elections in most cases without even a contest. It is true that there is not much of literacy among them, but that is a thing for which we all have to be ashamed and more so persons like Mr. Ranawat. It is not a matter for which one should criticise the Congress Party in Rajasthan. He also

[Shri R. A. Podar.]
said that most of the Ministers in Rajasthan, have not got higher education and.....)

MR. CHAIRMAN : All this is not necessary.'

SHRI R. A. PODAR : But, Sir, since he referred to this subject, I wanted to reply in detail to what he.....

MR. CHAIRMAN : Don't bather.

SHRI R. A. PODAR : Very well, Sir. Then I would only end by requesting the hon. Minister that all the suggestions and criticisms made here in the course of the discussion may please be borne in mind when the conference of Finance Ministers meets and the whole of the Bill looked into properly and necessary changes redrafted in such a manner that the measure meets with the maximum degree of support from all concerned.

SYED MAZHAR IMAM (Bihar) :

سید مظہر امام (بہار) : مسٹر چیئرمین صاحب - میں اس بل کو سپورٹ (support) کرتے ہوئے جلد باتیں حکومت کے سامنے سنجیشن (suggestion) کے طور پر رکھنا چاہتا ہوں - سب سے پہلے سنجیشن میں یہ رکھنا چاہتا ہوں اور عرض کرنا چاہتا ہوں کہ اس بل کو جس وقت سائیکٹ کمیٹی (Select Committee) کو بھجوا دیا گیا تھا اس وقت حکومت کو چاہیئے تھا کہ اس سائیکٹ کمیٹی کو جو انلٹ سائیکٹ کمیٹی میں بدل دیتی تھی دہائیوں ہارس ماکر ایک بہتر لسٹ تیار کرنے کیلئے آپ یہاں پر ایسا بل پاس کرتے جا رہے ہیں جس کے ذریعے آپ سارے ہندوستان کے اندر دیکلیر (declare) کر رہے ہیں کہ

ایسٹیشیل آرٹیکلز فار لائف (essential articles for life) کون کون ہیں جس کا نتیجہ یہ ہوگا کہ وہ سب آرٹیکلز ٹیکس سے بری ہو جائیں گے - اس اقدام پر میں حکومت کو مبارکباد دیتا ہوں - اس

سلسلہ میں کئی ایسی چیزیں چھوٹ گئی ہیں جو بہت ضروری ہیں اور جو کہ اس لسٹ میں نہیں رکھی گئی ہیں - لہذا مدرسے خیالیہ میں اس بل کے پاس ہونے کے بعد کورنٹس کے لئے فوراً کوئی ایمنڈمنٹ (amendment) لانا مناسب نہیں ہوگا - اس لئے جیسا کہ ہمارے بہت سے دوستوں نے اور ہاؤس کے ان سب دوستوں نے چاہور نے اس بل کے اوپر تقریریں کی ہیں مہڈیسین (medicine) اور کچھ دوسری اہم اہم اہم (important) چیزوں کو لسٹ میں رکھنے کے لئے مبارکباد کو سنجیشن دیا ہے -

دوسری چیزیں مہڈی سنجیشن میں یہ نہیں آئی کہ آئرن اسٹیل (iron steel) کو نو آپ نے لسٹ میں رکھا ہے اور یہ انڈیا ورگ (V.D. 13) ہے آپ نے اس میں یہ نہیں بتایا ہے کہ آئرن اسٹیل سے کیا مطلب ہے - آئرن اسٹیل سے تو بہت سی چیزیں بنتی ہیں - اس کا مطلب یہ ہے کہ آئرن اسٹیل سے جہازیں بنائی جاتی ہیں اور پورے ڈول ٹیکس (sales tax) نہیں لگایا جائیگا - یا آپ کا مطلب یہ ہے کہ اگریکلچر (agriculture) یا روزمرہ مصروف کے لئے جو چیزیں ہیں اور پورے سہل تھکس نہیں لگے گا - یہ سب ورگ

ہے۔ اس لئے اس کو واضح کر دینا چاہئے۔

تیسری چیز مجھے آپ سے ہائیڈ (hide) اور اسکن (skin) کے بارے میں کہنا ہے۔ اس کا مطلب بھی سرکار کی طرف سے صاف طور سے نہیں بتلایا گیا ہے۔ ہائیڈس اینڈ سکن سے تو بہت سی چیزیں تیار ہوتی ہیں جو ہر آدمی استعمال کرتا ہے۔ یہاں پر سرکار کی طرف سے یہ نہیں بتلایا گیا ہے کہ وہ کون کون سی چیزیں ہوں جن پر سیل ٹیکس نہیں لگے گا۔ اس طرح سے تو یہ دونوں باتیں ویگ ہیں۔ بہت سی چیزیں شیڈول (schedule) میں داخل کر دی گئی ہیں مگر ان کے بارے میں صاف طور سے نہیں بتلایا گیا ہے۔ اس لئے میں منسٹر صاحب سے عرض کروں گا کہ وہ اس بات پر فور کریں اور جو مناسب سچیشن آئے ہیں ان پر خود امنڈمنٹ لا کر ان کو دور کریں۔

ایک اور بات مجھے آپ سے عرض کرنی ہے وہ سیل ٹیکس کے متعلق ہے۔ اس کے متعلق ہمارے بہت سے دوستوں نے یہاں پر عرض کیا ہے اور ان میں اس کو دوبرہا نہیں چاہتا ہوں۔ آجکل ہو یہ رہا ہے کہ جب ایک پراونس (province) سے دوسرے پراونس میں سامان جاتا ہے تو اس پر ہر ایک پراونس سیل ٹیکس لگاتا ہے۔ سرکار کو چاہئے کہ جس چیز پر ایک مرتبہ سیل ٹیکس لگ گیا ہو اس پر پھر دوبارہ ٹیکس نہ لگایا جائے۔ بعض

صورتوں میں صوبوں کو سیل ٹیکس ملتا ہی نہیں ہے۔ میں چند مثالیں سرکار کے سامنے رکھنا چاہتا ہوں۔ ہمارے صوبہ بہار میں ٹاٹا کا کارخانہ ہے اور اس میں اتنا سامان تیار ہوتا ہے اور یہ سب ہی لوگ جاتے ہیں۔ مگر اس کا ہیڈ آفس (Head Office) بمبئی اور کلکتہ میں ہے۔ اس کی وجہ سے اس کے سامان پر بہار کی سرکار ٹیکس نہیں لگا سکتی ہے اور بمبالی اور بمبئی کی سرکار کو اس کا فائدہ ہوتا ہے۔ اس طرح مائیکا (mica) ہمارے صوبہ میں ہندوستان بھر سے زیادہ ہوتا ہے مگر اس کا ہیڈ آفس کلکتہ میں ہے جس کی وجہ سے سیل ٹیکس کا فائدہ ہمارے صوبہ کو نہیں دو سکتا ہے۔ اس کا سبب یہ ہے کہ گورنمنٹ آف انڈیا کے قانون کے مطابق جس پراونس میں کمیونٹی کا ہیڈ آفس ہوتا ہے اسی پراونس کو سیل ٹیکس لگانے کا اختیار ہے۔ اسی طرح سے بہت سی ایسی اور کمیونٹیاں بھی ہیں جو کہ ایک صوبہ میں مال تیار کرتی ہیں اور ان کا ہیڈ آفس دوسرے صوبہ میں ہے جس سے اس صوبہ کو اس کمیونٹی کے مال سے سیل ٹیکس نہیں مل سکتا ہے۔ اس لئے میں حکومت سے یہ عرض کرنا چاہتا ہوں کہ وہ کوئی ایسا قانون بنائے جس سے سیل ٹیکس اسی پراونس کو لینے کا اختیار ہو جہاں پر وہ چیز بنائی جاتی ہو۔

سیل ٹیکس کے بارے میں میں منسٹر صاحب کے سامنے یہ عرض کرنا چاہتا ہوں اور ان کو یہ سچیشن دینا

[Syed Mazhar Imam.]

چاہتا ہوں کہ آجکل جو سیل ٹیکس سارے ہندوستان میں لگا ہوا ہے اسکا طریقہ بہتر نہیں ہے - جس طرح سے آپ نے انکم ٹیکس سارے ہندوستان کے اندر لگایا ہے اسی طرح سے سیل ٹیکس بھی لگایا جائے - جس طرح سے آپ انکم ٹیکس کی آمدنی کو ہر صوبہ پر تقسیم کرتے ہیں اسی طرح سیل ٹیکس کو وصول کر کے تقسیم کیا جائے - اس سے یہ ہوگا کہ آجکل جو دفتیں سیل ٹیکس کی وصولی میں ہو رہی ہیں وہ دور ہو جائیں گی اور صوبوں کو اپنے حصہ کے مطابق ٹیکس مل سکے گا اور دوسرے صوبوں میں پھر دوبارہ ٹیکس نہیں لگ سکے گا - آجکل ہو رہا ہے کہ جو کچھ بمبئی سے آتا ہے اس پر پہلے وہاں پر ٹیکس لگتا ہے پھر جب وہ دوسرے پراؤنس میں آتا ہے تو پھر وہاں پر بھی ٹیکس لگتا ہے - اس کا نتیجہ یہ ہو رہا ہے کہ ایک ایک چیز پر دوبارہ ٹیکس لگ رہا ہے -

اس لئے میں مسٹر صاحب سے عرض کرنا چاہتا ہوں کہ اس قانون میں اس طرح سے امتدادت کیا جائے کہ ایک تو یہ جو دو دو تین تین بار ٹیکس لیا جاتا ہے وہ دور ہو جائے اور دوسرے یہ کہ جس طرح سے انکم ٹیکس وصول کیا جاتا ہے اسی طرح سے یہ سیل ٹیکس بھی گورنمنٹ آف انڈیا کی طرف سے وصول کیا جانا چاہئے جس سے صوبوں کو اور عام پبلک کو فائدہ ہو - ان چند الفاظ کے ساتھ میں انہیں بل کی تائید کرتے ہوئے ایسی تقریر ختم کرتا ہوں -

[For English translation, see Appendix, II, Annexure N0.63.]

MR. CHAIRMAN : Janab Ismail Saheb. You will please take live minutes.

JANAB M. MUHAMMAD ISMAIL SAHEB (Madras) : Mr. Chairman, certain of the previous speakers criticised the propriety of having certain items on the Schedule, as for instance the item of hides and skins. In my speech on a previous occasion, I have explained how this item of hides and skins constitutes an essential article in the life of the community. The State Governments who are in more direct touch with people know the importance and the special nature of this item and they have already made certain concessions in respect of this item as also of other items of a similar character. Apart from foodgrains, they have shown concession to these items because of the special nature of these articles and because of their importance. They have given some special concession or other in the case of vegetables, flowers, skins and hides, meat and such other things. Now the point is that these articles cannot bear even the concessional levy that is being imposed on them. The State Governments, as for instance the Government of Madras, have been giving consideration from time to time to this question. When even the State Governments which are in bad need of money, since the Centre has taken over most of the fruitful sources of revenue from their hands, feel compelled to grant concessions to certain articles, then I think it is not reasonable for Members here who represent the States, to question the decision and the judgment of the State Governments with respect to such articles.

Sir, I have already explained how hides and skins are essential articles in the life of the people ; how hundreds of thousands of agriculturists for example need them for carrying on their agricultural operations. The people in their every-day life need hundreds of things njjide out of hides and skins.

The special consideration which I placed before the House is that if these articles are taxed in our country, they will not be able to hold their ground in the international markets, that their prices will suffer and if the prices continually suffer skins and hides will not be collected in the country by the primary producers which will eventually result in scarcity of leather, skins and hides in our country. The people will have then to depend upon foreign imports. That would be the position of this country which today produces more than 35 per cent, of the exportable surplus in skins and hides of the whole world. Therefore, that is a consideration which induced the state Government to come to the rescue of this trade.

Articles like skins and hides, meat, vegetables, flowers along with the other articles mentioned in the Schedule, should be exempted altogether from sales tax. I would plead with the Government of India to use their good offices, at the conference of Finance Ministers which they propose to convene and to induce the State Finance Ministers to exempt these articles from sales tax.

Then, there is the question of the States losing their revenue. That has to be met by more generous and liberal grants from the Centre.

(Time bell rings.)

With these words, Sir, I support this Bill.

SHRI K. B. LALL (Bihar) : I promise I will be very brief, Sir. As a matter of fact, I have not much to say. I am sorry I could not be present in the House when the amendments were taken up. I can only say that circumstances conspired against me and I am more sorry than I can express. However, I have only to make a few observations. The hon. Minister said yesterday that he would give a reply to my points but he finished the speech hurriedly and some of the points raised by other Members also remain un-

answered. Perhaps he would do that in the later stage, but I thought I would draw his attention at the amendment stage itself. In the meantime I have to confess that I am a changed man. I have changed my mind in the light of the discussion that took place in the House, and I feel that the Government and the hon. Minister are justified in having solicitude for the finances of the States. I think the opinion of the House is also that, having regard to the crippled condition of the State finances, they deserve a bit more sympathy and it was from that point of view that I think that the Government also were liberal enough to include clause 3 to the Bill, although it was admitted that it may be *ultra vires*. Even if it is declared *ultra vires* the court will do that, but let us do our duty by the States. That was the spirit behind the Government and I concur in that spirit. As it is said that we are the House of the Elders, it is our duty to look to these lacuna? that may pass out from the Lower House and draw the attention of Government to such legal aspects. Only from that point of view I raised a point of order yesterday and I think that there was really a point of order. The question of clause 3 being *ultra vires*, was admitted by others from other sides also. That is past.

My only point is this. There is a long list of essential articles and there is no doubt that all these are essential for the community. But, surely, there are essential and essential things for the community and all essential articles cannot be granted exemption. I stand by my statement made yesterday that those food articles deserve to be regarded as essential and with regard to the others it is better that Government should be liberal so far as the States are concerned. Of course, circumstances might have come in the way of the Government for the inclusion of these articles in the list of essential articles. For instance, by no stretch of imagination can hides and skins and iron and steel be declared essential for the life of the community in the same way as the food stuffs. It is not that life cannot exist without these things. Suppose,

[Shri K. B. Lall.] people require iron and steel for building houses, when they are spending thousands of rupees for construction, they could as well give a few more rupees by way of sales tax. I would only urge upon the Government that in the course of putting the Act into operation these things should be kept in view. They should see that there is very little of exemption in regard to these articles when they recommend provincial Acts for the President's assent.

{Time bell rings.}

Government should be liberal in regard to the other articles. This is the only point that I want to urge upon the Finance Minister so that my simple amendment with regard to food articles may not be misconstrued.

SHRI R. P. TAMTA (Uttar Pradesh) : Sir, I entirely agree with what has been said by the hon. the Deputy Chairman regarding the constitutional aspects of the proposed Bill. The Constitution, in order to relieve people from taxes on goods which may be essential for the life of the community, has laid down that the State will have no power to levy sales tax on such goods that have been declared essential goods by the Parliament without the previous permission of the President. That is, the States could levy sales tax on the goods that have been declared as essential by the Centre provided the President agrees to it. This definitely limits the power of the States in the matter of levying sales tax on the essential goods. Today we are declaring certain goods as essential goods and I am of the opinion that henceforth the States cannot levy sales tax on those goods except with the prior approval of the President. It is said that this Bill will not affect taxes which may be there prior to the passing of this Bill. I humbly differ from this opinion and I submit, whether we say it or not, the proposed legislation shall certainly have retrospective effect and that henceforward the States will not have any power to levy sales tax on the goods which we are declaring today as essential goods

except with the permission of the President. All those Acts which are there in the States, prior to the passing of this Bill, which levy sales tax on goods which we are declaring essential goods, will be *ultra vires* unless the States come forward and seek assent of the President to the continuation of these laws. The States cannot levy sales tax on articles which we are declaring as essential. Therefore, Sir, I submit that it is a very important question. In clause 3 we say : "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." This clause, I submit Sir, is a useless and unnecessary one because no Act of Parliament or of any State legislature can have any effect if it is against and repugnant to specific provision of the Constitution. Therefore, it is a very important question and the Government should consult the law experts in regard to the legal aspect of the question before they get this Bill passed.

One thing more regarding the list of articles in the Schedule. The list of articles termed as essential goods is not, I submit, an exhaustive list. There are certain things which are essential for the life of the community such as medicines regarding which a mention was made by Dr. Sokhey also. The medicines are very essential for the life of the community and I suggest those medicines should be included in the list and I humbly submit, Sir, that when the hon. Minister convenes the meeting of the Finance Ministers of the States to consider this matter of sales tax, I hope he will impress upon them the desirability of including medicines and non-ferrous metal in the list of exempted goods. With these words, I support the Bill.

SHRI V. S. SARWATE (Madhya Bharat) : Sir, during the course of the

debate a reference was made to article 254 (1) of the Constitution and a doubt was expressed as to the necessity of this piece of legislation. I believe this legislation is very necessary, because article 254 (1) only lays down : "If any provision of a law made by the legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact....." So unless Parliament is competent to make a law, that law would not supersede any State law and a reference to Seventh Schedule, State List, item (54)—"Taxes on the sale or purchase of goods other than newspapers" —will show that the State is empowered and the Parliament is not empowered to make any law regarding sales tax. Therefore all laws made by the State legislature would stand, whatever the nature of the Parliamentary law, because Parliamentary law would be void as regards sales tax. Therefore this piece of legislature is very necessary.

Secondly, I wish to point out that article 286 does not take away the power of the State legislature to make any law. It also does not take away the revenue of the State. The revenue of the State from sales tax remains with the State, whatever be the law made by Parliament. So any fear, any apprehension as regards depriving any State of its sales tax proceeds, is not well founded. What article 28.6 lays down is this that the legislature of a State having made any law, it would not come into force unless the President gives his assent. And what is the power of the President ? It is only this that he can make certain alterations. I believe he cannot totally repeal the law ; I mean he cannot withhold his assent. He has to give his assent but he can do it with certain alterations and the law of the State will come into force with those alterations made by the President. That is the effect of article 286. It does not take away the power of a State Legislature to make any law. This ought to be borne in mind while we are considering this Bill.

Then I believe the words "after the commencement of this Act" are

necessary because otherwise as would be noted by hon. Members of this House, the difference between article 286 and clause 3 of this Bill is this. The clause is practically the same but with the addition of these words. If these words are taken away, the economy of a State which have been balanced by the imposition of certain taxes would be destroyed.

Now, I have one word to say regarding item 15 of the Schedule which relates to books, etc. It says : "Books, exercise books, slates, slate pencils and periodical journals." By introducing this item what probably the hon. Minister had in his mind was that educational facility should be given. If that is the meaning, it would be more consistent with that meaning if the words "educational apparatus" are also added here.

{Time bell rings.}

So I would suggest to the hon. Minister to make some such amendment of his own accord, because I have not had the time to move an amendment myself.

MR. CHAIRMAN : I will ask Mr. Mazumdar to speak and then ask the Law Minister.

SHRI S. N. MAZUMDAR (West Bengal) : Sir, I rise to join my voice in support of including medicine in this list. The other day I was astounded to hear the arguments of the Deputy Minister.....,

MR. CHAIRMAN : Minister of State—not Deputy Minister.

SHRI S. N. MAZUMDAR : The other day my hon. friend said that medicines could not be included in the list because of the difficulty of compiling a list. But I think he has been helped to overcome that difficulty by Dr. Sokhey and I do not know whether he is going to accept that. But, Sir, his argument the other day betrayed a very callous attitude towards the lives of people of our country. I do not know, Sir, whether he believes that the world is full of suffering and misery

[Shri S. N. Mazumdar,] and so people should be helped to pass over to the other world as soon as possible in order to get release from their sufferings. I will not accuse him of that for in that case instead of coming here, he would have perhaps renounced this world. So, Sir, this sort of argument that such essential articles were not included in the list because of the difficulty of compiling a list is really extraordinary and it should not have come from the Minister of State.

Secondly, the other day I could not follow another line of his argument. His argument in support of including steel and his argument in support of excluding paper and caustic soda, I think, cancelled each other. As regards excluding paper and caustic soda, he said that those articles were used not only for domestic consumption but they were also used for other industrial purposes and so if these were included, the industrialists might take advantage of that. But in his next argument in favour of including steel he said that steel was used not only for industrial purposes but also for domestic purposes, house building, etc. In these matters I am a layman, Sir, and therefore I seek more enlightenment from him on this.

I shall make only one point here— not about my hon. friend, but another Member who is not here—who spoke on Communist propaganda. I have not much time at my disposal and I will only say this that it is a very convenient method of refusing to see inconvenient truths.

SHRI M. L. PURI (Punjab) : An objection has been raised that clause 3 is *ultra vires* of the Constitution. In my opinion clause 3 is not at all *ultra vires*, but it is very much within the ambit of the Constitution. The Bill reproduces the article of the Constitution i.e. 286 (3) and adds to it the words "made after the commencement of this Act" and therefore there is no question of clause (3) being *ultra vires* of the Constitution.

SHRI J. R. KAPOOR (Uttar Pradesh): Can the scope of any article of the Constitution be limited ?

10 a.m.

SHRI M. L. PURI : The question I however arises if these words " made after the commencement of this Act". I as was pointed out by the hon. the Law Minister, are redundant, what is the use of enacting clause (3) at all ?

With the omission of those words, clause 3 is a verbatim reprint of an article of the Constitution. It is entirely unnecessary to add an article of the Constitution to an Act of a legislature, because an article of the Constitution always governs an act of a legislature. But the Leader of the House was careful to point out that their object in introducing clause 3 is to make it clear beyond doubt that the intention of this legislature is not to affect the existing State Laws on the subject. Now, whether the existing State laws on the subject would be saved or not does not depend upon the wishes of the hon. the Leader of the House, or even on the wishes of the House ; it depends upon the interpretation to be placed upon the article of the Constitution by the courts.

It was urged by the Law Minister that article 286 does not stand in the way of carrying out the object of the Government as put forward by the hon. the Leader of the House. The point is a difficult one and a lot can be said in support of the argument of the Law Minister and I personally agree with his views. But at this stage we need not bother ourselves about it. If any court finds that the existing laws would be affected by this legislation, the local legislature would come to the help of the State Government concerned and would pass legislation reserving it for the sanction of the President. Therefore, in my opinion, we should proceed with this legislation, as pointed out by the Leader of the House, making it clear beyond doubt that the intention of this Parliament is not to affect the existing laws passed by the States. In the opinion of our Law Minister, the existing State statutes are not affected. But if the courts hold otherwise, it would not be difficult for the States to rectify the mistake. It is always done.

I therefore, we need not worry about it at this stage.

MR. CHAIRMAN : Legal doubts have been expressed by many hon. Members, and I am asking the Law Minister to deal with them. If hon. Members have any other suggestions to make, anything fresh to put forward, I will give them a minute or two.

SHRI H. P. SAKSENA : Mr. Chairman, I rise at this late hour to lend my support to this belated measure of the Government which we are discussing. When article 286, clause (3), was being framed by the Constituent Assembly, all those who had been observing and following the proceedings of the Constitution-making body thought that it would prove to be a *Magna Carta* for the poor of this country, a country which abounds in poor people. Now I find that this clause, to which I lend my support, is going to prove ineffective and inoperative, because the States are merrily passing legislation in order to cheat the Bill which we are passing into an Act today, and they are levying sales taxes in their respective areas under the old legislation. I request the hon. Minister of State for Finance to exercise his old dictatorial powers and see that the States do not deprive the poor consumers of the benefit which this Bill seeks to give them, and that the States do not pass any laws by which these essential commodities are taxed. The hon. Minister of State for Finance should remember that the taxable capacity of the poor and the middle class people, whom I represent here on behalf of my State of Uttar Pradesh, has been reached already. There are taxes, direct and indirect. A matchbox which used to be sold for half a pice is being sold for an anna. Passenger railway fares have been increased. A post card costs 3 pice instead of 1 pice. Where is the money to come from ? We say that we are raising the standard of the people. But we are putting the cart before the horse. We are producing no wealth. Our country is proverbially poor, and yet we say that we are raising the standard of life. If we are raising it, we are raising it artificially. There is no substance behind

it, and the whole thing is in danger of collapse.

I lend my support to this measure, but I request the hon. Minister concerned to see that the provisions of the Bill which we are enacting today have effect and essential commodities are actually protected from being taxed by the States concerned.

SHRI J. R. KAPOOR : Mr. Chairman, this Bill in its present form is a purposeless and a fruitless piece of * legislation, running counter to the very objects of the Bill itself. The object of the Bill is said to be to bring about uniformity of sales tax in the country. That is practically the main object of this Bill. But the provisions of the Bill, as contained in clause 3, are such that their effect will be to perpetuate the diversity in the matter of sales taxes. And that sort of diversity is going to be perpetuated not because of article 286 (3) of the Constitution, but because of the intention of the Government as expressed by the Leader of the House. Now, if the intention of the Government is not to remove the diversity but to make it clear that the existing sales tax legislation in the various States shall continue as it is, I ask in all humility what was the purpose in bringing forward this legislation ? If I may be permitted to say so, I find that there is a good deal of confusion in the minds of the hon. Ministers of the Government. The three Ministers who have been participating in this discussion have expressed themselves in three different ways, the statement of one Minister practically being in contradiction to the statement of the others. The hon. Minister in charge of the Bill said that the intention of the framers of the Constitution in respect of article 286 of the . Constitution was that it should apply even to the pre-existing laws enacted by various States prior to Parliament declaring any commodity to be essential for the life of the community. That, according to him, was the intention of the Constituent Assembly when it framed article 286. He also meant that if it were open to the Government, they would have brought within the purview of this enactment

[Shri J. R. Kapoor.] even the pre-existing sales tax legislation in the States. But, then, they are feeling helpless in the matter. And now, as they find that the various State legislatures are rushing through their sales tax legislation, they want to put this Bill on the Statute Book as soon as possible and in a conference of State Finance Ministers to attempt to bring about uniformity by agreement. So according to him it is the helplessness of the Government that compels them not to make this Bill applicable to the pre-existing legislation and not that it is their intention that it should be so. Whereas the hon. the Leader of the House says that it is their intention that it should not be applicable to the preexisting legislation.

Then thirdly, Sir, according to the hon. the Law Minister it is immaterial whether we have clause 3 at all in this Bill or not. He would be content and satisfied even if the whole of this clause 3 goes away. He would still not insist on having in clause 3 the qualifying words : "after the commencement of this Act." So therefore, Sir, we find that there are three different viewpoints expressed by three different Ministers.

Now one point, Sir. It is a very astonishing proposition which the hon. the Leader of the House wants to adopt. And that is this : That the interpretation of an article of the Constitution should be incorporated in any legislation. The scope of article 286 and the implication of article 286 cannot be either extended or limited by anything which we might be enacting. I therefore submit that even at this late stage it would be very desirable for Government to delete clause 3 of this Bill because nothing is to be lost thereby and much is to be gained. It is unnecessary I submit. It is deceptive and thirdly it is confusing.

(Time bell rings.)

I therefore submit, Sir, that to give a proper form to the legislation it is necessary that that clause must go.

MR. CHAIRMAN : Now* Government Members will speak with one voice.

{An hon. Member rises to speak.}

I am sorry. I have had long discussions. Mr. Biswas.

THE MINISTER FOR LAW (SHRI C. C. BISWAS) : Mr. Chairman, as Law Minister it is my function to interpret the law as I understand it. The hon. Members know very well that even the opinion of the highest law officers of Government may not ultimately be accepted by courts, and even within a court the opinion of, say the Chief Justice himself may not find acceptance, if his colleagues are in a majority and against him. There is no finality in these matters. As I said the other day, whether in the Bill the words in question are retained or struck out, lawyers will always find scope for arguments. The matter can always be taken to Court and decided one way or the other, according to the judgment of the court. We cannot avoid that. In fact this is true not merely in regard to this legislation, but in regard to every legislation that may be enacted. Sir, some of my hon. friends including my hon. colleague here referred to the proceedings of the Constituent Assembly when this particular article 286 (3) was enacted. I need only recall the well-known dictum that the worst persons to interpret a statute are those who had framed it. Courts will refuse to take any notice of any arguments that might have been advanced by any member of the legislature at the time the legislation was before it. They will interpret the statute as it stands. They will not hesitate to dissect the words in the statute as ruthlessly as they like. They will have little regard to what was 'supposed to have been intended by the framers of the Act. The intention has got to be spelt out of the words used in the Act. It will not do to say that this was what was intended. So if we are not able to express our intention in appropriate words we have got to take the consequences and courts will I not be responsible for it. The matter I may have to be rectified by fresh legisla-

tion, but the courts will interpret the law as it stands with all its defects and imperfections. That is the position, Sir. Therefore whatever be my opinion I give no guarantee that that opinion must prevail, if the matter goes to court.

But, Sir, giving the matter my best thought, I am still of the opinion that this particular clause of Article 286 was intended to and will have prospective operation only and will not apply to Acts already passed by the State legislature. That is one thing. Now I should like to draw the attention of the House to the.....

SHRI R. C. GUPTA (Uttar Pradesh) : If article 286 (3) cannot make the Bill retrospective, then why is clause 3 being enacted here ? What is the need for it ?

SHRI C. C. BISWAS : That point I had answered. In my opinion the whole of this clause might have been left out of the Bill without making any difference. Not only the words "after the commencement of the Act" which occur in clause 3 of the Bill, but the whole of clause 3 of the Bill might have been left out.

SHRI J. R. KAPOOR : Why not do it now ?

SHRI C. C. BISWAS : I expressed that view when I spoke last, and it is for the House to decide what it should do. I had given that opinion and I still hold that it will make no difference whether those words are retained or deleted. I wish I had a copy of any book on Interpretation of Statutes, and I would then have been able to satisfy the House that the principle on which I was relying is a well established principle of legal interpretation. Words are sometimes added in a statute by way of abundant caution. There are numerous cases on the point. So it is only from that point of view that in my opinion these words have been inserted in the present Bill, not to provide for anything which was not there already in the Constitution, or which will militate against the provisions of the Constitution. You could not possibly,

by any law made by Parliament, override the Constitution or go against it. The assumption is always there that whatever is enacted by Parliament must be within the four corners of the Constitution.

SHRI R. C. GUPTA : On a point of information, Sir. May I ask the hon. Minister one question? "Are you not really legislating for the State which you have no right to do?" As a matter of fact it would be the business of the State legislatures to say whether an Act should be retrospective or prospective.

JANAB M. MUHAMMAD ISMAIL SAHEB : On a point of order, Sir, The House has already passed clause 3 of the Bill. Now is it in order, Sir, to discuss whether we can have that clause in the Bill or not ? The Law Minister himself expressed at this stage the view that it was left to the House to decide whether to have it or not. Now I want to know, Sir, whether at this stage it is left to the House to decide whether to have the clause in the Bill or not.

MR. CHAIRMAN : This is not the point at issue.

SHRI C. C. BISWAS : I would ask my hon. friends just to appreciate the scope of article 286 and also the scope of the present Bill. Under clause (3) of article 286, what can Parliament do ? Parliament may only declare certain goods as essential goods. What the consequence will be is quite another matter. Parliament has no right to declare that these goods shall not be subject to any tax. The Constitution does not authorise that. The article only says that no law made by the legislature of a State imposing a sales tax on goods declared by Parliament to be essential shall have effect unless a certain procedure indicated here has been observed with respect to that legislation. It lays that only when the State legislation has been reserved for the consideration of the President and has received his assent, such legislation will have effect. What clause (3) of article 286 empowers

[Shri C. C. Biswas.] Parliament to do is to specify certain goods as essential goods and then only, I repeat, an so far as such goods are concerned, the State legislation will take effect, provided the conditions to which I have referred have been fulfilled. That is all.

This takes me to the point which was made by my hon. friend, the Deputy Chairman. He referred to article 254 of the Constitution and suggested that here was a case of repugnancy between a law passed by a State and a law passed by Parliament. If I may say so with all respect, my hon. friend was begging the question. As Mr. Sarwate has already pointed out—I agree with him—there is no question of repugnancy, article 254 says :

" If any provision of a law made by the legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact"

Now, we have first got to see whether Parliament is here enacting a law laying down that certain articles already taxed by a State shall not be taxed, or that the State legislation shall stand repealed. That is not what the present Bill seeks to do. That is not what article 286 (3) contemplates either. Clause (3) of article 286 merely contemplates that except in certain circumstances the State law will not have effect. It does not absolutely debar a State legislature from imposing a tax on these very goods. There is, therefore, no repugnancy and article 254 is not attracted. The question which actually does arise here is different, and is not answered by a reference to the provisions of that article 254. Then, again, before article 254 is invoked, we have to see whether Parliament is competent to enact a law which would affect the effective operation of any pre-enacted State law. On that point article 254 throws no light. Let us see what article 286 (3) contemplates. By a pre-enacted State law I mean a law enacted by a State legislature before the commencement of the Act which is now before the House in the shape of a Bill. '

Suppose, Sir, there was such a piece of legislation enacted in a State. At the time the Act was passed, there was no Parliamentary declaration of essential goods. In point of fact, such a declaration could be made only after the commencement of the Constitution. The Act would therefore be valid. What would happen when such a law is enacted in a State. After the two Houses where there are two-Houses, or the Legislative Assembly where there is one, have passed the Bill, it goes to the Governor, and the Governor gives his assent. Then it becomes law. Would there have been any occasion for the Governor to reserve such a Bill for the consideration of the President? If there was then a declaration of essential goods by Parliament, the Governor would have undoubtedly considered whether or not, having regard to that declaration, he should reserve it for the consideration of or make a reference to the President. Normally he would not do it and the Bill will become law on receiving the Governor's assent. In that way, various sales tax Acts which were passed by different States did become law without any question of reservation for the consideration of the President and of his assent.

SHRI RAJAGOPAL NAIDU : May I interrupt?

SHRI C. C. BISWAS : Normally, I say, when there was no essential goods declaration, the reason for making a reservation for the President's consideration would not be there. That suggests that the framers of the Constitution had enacted this clause in such a way that it would have effect only in respect of future legislation. And if under article 286 (3), Parliament is not competent to make, by law, a declaration of essential goods with retrospective effect, article 254 can have no application.

Now, Sir, another point was made regarding the validity of Acts passed by the State legislatures prior to this measure. At the time they were passed, they were perfectly valid. Now, taxes have been collected under the laws which were valid at the time they were passed. If as a

consequence of Parliamentary legislation later on, those laws are held to be ineffective, what about the taxes we have realised? Would they be refunded? Crores of rupees have been collected by virtue of taxes, and then some day or other you declare these are essential goods. That means that all the taxes which might have been collected in respect of such goods, under what were perfectly valid laws at the time, would have to be given back? Would that have been intended by the framers of the Constitution?

SHRI J. R. KAPOOR : That is not our contention. Hereafter taxes can not be collected.

SHRI C. BISWAS : I say, therefore, that the legislature contemplated that Parliamentary legislation of this kind should have effect only as regards future State legislation.

SHRI KRISHNA MOORTHY RAO : They are valid only till the date of the declaration.

SHRI C. C. BISWAS : Any "law passed by the legislature of a State" cannot possibly be a law before the commencement of the Constitution, because the legislature of the State that passes the measure comes into existence only with the Constitution. Therefore, the pre-existing laws are not covered here. It is only in regard to laws passed by the legislatures of States after the commencement of the Constitution that this article has any application. This is my submission.

MR. CHAIRMAN : There is no doubt that this could have been drafted more clearly.

SHRI J. R. KAPOOR : May I make an appeal to the Chair? Now that it is abundantly clear that there is unanimity of opinion between the Law Minister and the other Members of the House with regard to there being no necessity for clause 3 of the Bill, may I appeal to you just to consider whether it is not a fit case or occasion for the Chair to intervene, in the

interest of bringing about absolute unanimity with regard to this legislation to just suggest to the hon. Law Minister and the Minister in charge of the Bill to agree to the declaration of clause 3. Of course it is the third reading of the Bill but I hope it will not be out of order or irregular even at this stage to delete this clause 3, because, as is now clear enough, both the Government and other Members' of this House are unanimously of the view that it is unnecessary.

HON. MEMBERS : No.

MR. CHAIRMAN : You are assuming unanimity.

SHRI MAHAVIR TYAGI : I am not prepared to make any change.

{Several hon. Members rose to speak.}

MR. CHAIRMAN : Order, order.

SHRI C. C. BISWAS : I am not suggesting that any change should be made on the floor of the House. I am only pointing out that there is a remedy. This Bill will go to the President for his assent, and the President, who is a lawyer himself, will be in possession of all the facts which have been canvassed in this House or the other House and if he thinks that there is anything in any of the points raised which necessitates further consideration, he may send back the Bill with a message to this House.

SHRI P. SUNDARAYYA : I would like to make my position clear. Sir, we have not totally opposed this Sales Tax because there is this assurance that this will not apply to the existing laws. I don't know how the other Members feel but I feel that by omitting that clause, you are putting the whole thing in jeopardy. Let the Supreme Court declare that it is unconstitutional. Then the House has other remedies. The intention of the Bill is that it will apply only to future Acts. If it is going to be extended by some ways even to existing laws, then our party will have to take a different attitude than what it has been.

MR. CHAIRMAN : That does not arise. It applies only to future Bills and not to the past.

SHRI MAHAVIR TYAGI : I must at the very outset make it absolutely clear that I, as representative of the Finance Ministry, am not going to make any recommendation to the President to withhold or change anything in the Bill. The policy of the Government is to have this Bill irrespective of what my colleague the Law Minister may talk about it.

HON. MEMBERS : They speak with different voices.

MR. CHAIRMAN : It is all right. They will speak with one voice.

SHRI MAHAVIR TYAGI : The Members of the Constituent Assembly knew it but for the benefit of this House also I might add that I am semi-literate, as Dr. Ambedkar used to call me in the Constituent Assembly. I have not had much of schooling. I know what practical politics is and my experience has been—my friends will pardon me—it is difficult really to adjust with one lawyer and when they are two, three or four it is impossible to adjust. I am talking of practical politics and I am talking of this Bill from the point of view of practical politics and not legal. As my friends have already said, if there are any difficulties, the difficulties will soon be in the Court. Supposing the Bill goes to the Supreme Court, it will be declared *intra vires* or *ultra vires*. If it is *intra vires* nothing is lost. If it is *ultra vires* then its effect will be only that the clause 3 of the Bill will be *ultra vires*. But the Bill declares certain goods in the list as essential goods. It cannot be *ultra vires* because it is absolutely relevant to the requirements of the Constitution. That part will remain. The effect will be that the States will lose their revenue on their past Acts. They may not realize their sales taxes in accordance with their Acts which they had enacted before the passing of this Bill. That may be the consequence of clause 3 being declared *ultra vires*.

SHRI M. L. PURI: Is it no concern of the Central Government that the States Governments lose their revenue?

SHRI MAHAVIR TYAGI : It is of very great concern. Supposing I find that the States are put in a position of jeopardy and their fiscal position is upset, the balance of their revenue and expenditure is upset, I, on behalf of the Government, say here and now that I will not allow that position to continue. I will see that they are not upset and if their finances are really upset on that account, I will allow them to enact new laws and I shall advise the President to give his assent to those Acts. If it is declared *ultra vires*, let it be declared *ultra vires*. I would not come forward before you for new, enactment and give you the inconvenience. I will advise the State Governments to come forward with fresh proposal which they will do in consultation with the Finance Ministry—because after all it is we who have to advise the President, whether to give assent or not. Therefore it is natural that they will consult us and probably then it will be an occasion when all the States being in need of money, will have to abide by our good advice of taxing these essential commodities at a uniform level. In that case also, the House will not stand to lose. I don't think I should dilate more on legal points.

Another point that has already been clarified by my friend the Law Minister is about article 254 which was quoted. It says :

" If any provision of a law made by the legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the legislature of such State, or as the case may be, the existing law, shall prevail and the law made by the legislature of the State shall, to the extent of the repugnancy, be void."

The Deputy Chairman stated that this will probably have some effect on the previous enactments of the State

Governments. It will not—as the hon. Law Minister has already explained; I want to make it clear that it will not because it will affect only two conditions. This will affect the previous Acts only if those acts of the Provincial Governments which are in force today or either repugnant to this Bill or if those Bills pertain to items which are in the Concurrent List. Sales tax is not on the Concurrent List and therefore this article will not apply. The question is as to whether those laws will, after the passing of this Act, be repugnant to this. I submit that they will not, because what we are entitled to under the Constitution is to declare certain commodities essential. That is the main basis of this enactment which the House is passing today. What we are doing is, according to the requirements of the Constitution, we are enacting or declaring a list of commodities which we consider to be essential for the life of the community. No previous law of the State Governments is repugnant to that because no law has controverted the list. There is no previous law that such and such articles are not essential. So long as they are not directly repugnant, those laws will have their force. Any way, Courts are made for the purpose of giving final rulings in such matters and I think we will take care that justice is done.

Sir, I do not wish to take more time of the House in replying to hon. Members individually, though courtesy demands it and I am also anxious that I should reply to each one of the points urged by them. There is, however, the time factor and, as we know, every minute here costs and so I think I should not waste public money by taking more time of the House.

There are, however, just a few points to which I would like to refer, Sir, with your permission. Yesterday, when requesting the House to give my Bill preference over other Bills, I remarked that some of the States were racing

with us in the matter of passing enactments about sales tax. Luckily yesterday, the Finance Minister of Bombay was here and he also met me and he resented my remarks. He has, in fact, addressed me a letter from which, with your permission, Sir, I would like to read out some portion so that there may not be any ground for misunderstanding at all. He writes:

" While discussing the Five Year Plan of the Planning Commission, the Bombay Government had never thought of the new taxation measures that Government had in mind to increase its revenue with a view to meet the heavy expenditure on various capital works it had planned, particularly large irrigation and power projects, amounting to Rs. 120 crores—the highest amount any particular State has to spend on such works during the course of the five years. In view of the elections to the new Legislature, the then Government had decided to hold up the taxation proposals till the new Cabinet had discussed them and placed them before the new legislature. The Government of India were also informed of some of these taxation proposals. The earliest time that it was possible to place such measures before the Bombay Legislature was when the new Legislative Assembly met in the latter part of last June. Though I had made references to the new sales tax proposals in my speech before the Bombay Legislative Assembly on 25th June, but the Bill to codify and amend the law relating to the levy of the tax on the sale and purchase of goods was brought before the Legislative Assembly almost five weeks later, that is, 28th July 1952, and the discussion thereon is not likely to be over before the middle of this month. It would thus be seen that the Bombay Government is not guilty of the charge of racing with the Parliament in enacting its sales tax Bill."

Sir, I am sorry that any misunderstanding should have been created as a result of what I said. I do not want to fall into any controversy with my hon. colleagues and friends in the same Ministry, or shall I say, of the same Department of Finance in the various States, and I am really sorry that this misunderstanding should have been created. What I meant to say was that at both places laws were being pursued and the passing of one law might have effect on the passing of the other law, and hence my reference to this matter. I did not mean any aspersion on any one.

[Shri Mahavir Tyagi.] Sir, there were many points to which I wanted to reply, but the time is short. Still some of them are so important that I should be accused of neglecting my duty if I did not say a word about them. Yesterday a point was raised by Shri Rajagopal Naidu that we should enquire into the incidence of the sales tax. I may submit to the House that, as already announced, we are going to appoint a taxation Enquiry Committee and I believe this will be a very relevant point for that committee to enquire. I am sure that they will enquire into the incidence of this tax as well as the incidence of other taxes. And then, of course, we will have the benefit of their considered opinion.

SHRI RAJAGOPAL NAIDU : Especially the multi-point taxation.

SHRI MAHAVIR TYAGI : Yes, naturally when they make their full and complete enquiries, they will look into the multi-point taxation too.

Then my hon. friend Shri Kailas Bihari Lall was very anxious about *parathas*. He does not seem to be living in New Delhi. Probably he is in Old Delhi, somewhere near *Paratha Gait*. He said that *purees* and *parathas* should also be included in the Schedule. I think they will probably all come in when we have allowed for wheat and foodgrains in all forms. *Paratha* is nothing but *atta* mixed with *ghee* or something like *ghee* which is also there. So I don't think he need entertain any fears on that account. He seems to be very fond of *-parathas* and I hope some day he will be hospitable enough to the House or to some Members of the House.

AN HON. MEMBER: At least to the hon-Minister.

SHRI K.B. LALL : I may inform the hon. Minister that I really feel that

parathas are being taxed at present and so he should see his way to.....

MR. CHAIRMAN : Order, order.

SHRI K. B. LALL : See that such articles are not taxed.

SHRI MAHAVIR TYAGI : Dr. Kunzru raised a very important point yesterday and he asked me to explain why the Finance Ministry came up so late. But I believe I replied this question yesterday and so I do not want to waste the time of the House now.

SHRI H.N. KUNZRU(Uttar Pradesh): He has not replied that question. All that the hon. Minister said yesterday was that the Finance Ministry had placed the Bill before the Provisional Parliament in June 1951. But then, the Government had many other Bills, pushed through the House. Why did they not show enough sense of importance and pass this important Bill before some of the other unimportant Bills were passed?

SHRI MAHAVIR TYAGI : Sir, this is a matter of opinion. I cannot say whether the other Bills, were important or unimportant. I may tell the hon. Member that I was then sitting on the side of my hon. friends there. I was not in the Government then. I hold no brief on behalf of that Government, but I suppose they could not come up with any proposals before because there were some other measures before them which they thought should be given preference over this measure.

Then again, my hon. friend asked, " Why not persuade the State Governments to reduce their taxes ?" This is a universal demand and as I have already explained to the House, at the conference of the Finance Ministers from all the States, attempts will be made to come to some uniform level-

in regard to the sales tax incidence, on at least these essential goods. It all depends on what will be the result of the proposed conference, and naturally the decisions of the conference will depend upon the financial implications which the States will have to face in view of the proposals that are put forward. I am one with my hon. friend in my attempts and I shall make my best efforts and if there is any possibility, reduction will be effected.

The hon. Member also wanted me to post the House with all the details regarding the manner of imposition and rates of these sales taxes prevalent in all the States. Although it might be embarrassing to some States—I do not know if this will be misunderstood—I promise I shall give in a short pamphlet details of the manner and rates of sales tax in the various States so that this House as well as the other may have a full picture of the sales taxes in the country. I will do that.

Sir, there were many points raised yesterday and I think I have finished with most of them.

SHRI H. N. KUNZRU : May I ask the hon. Minister to tell us what the policy of the Government is in regard to the multiple-point sales tax.

SHRI MAHAVIR TYAGI : As Dr. Kunzru himself will appreciate, my difficulty is that, if I make any commitment, about this matter here, I shall not be in a fit position to discuss it with other friends who stand deeply committed to multi-point taxation. Therefore, I think it may not be politic if, on behalf of the Government of India, I were to commit myself to any policy before the coming conference is held. He will pardon me for saying that, I really cannot speak on this point, and therefore I purposely avoided it.

SHRI J. R. KAPOOR : Very diplomatic.

SHRI MAHAVIR TYAGI : My friend Mr. Bhupesh Gupta had mentioned about the turnover tax which has been amply replied.

SHRI B. GUPTA : It has not been. If you give me some time, I would explain the position.

MR. CHAIRMAN : You may confer with him in private and have a discussion.

SHRI MAHAVIR TYAGI : This much I will say: there 90 per cent, of the tax comes out of the socialised enterprises. They are everybody's earnings. There nothing can come into the market without first paying the sales tax, not at the rate of Rs. 2 or Rs. 3 but at the rate of Rs. 45 out of every Rs. 50. That heavy tax must first be paid and then only a commodity produced can see the light of the day. Another point, Sir, is that the tax there is realised from the producers, whether they are individual producers or whether it is a co-operative society. I understand that practically the majority of the producers, have been taxed to the extent of 90 per cent, or so. Such is the heavy taxation there and everyone has to pay it, because everyone is a producer there. They have either joined in a farm or into some sort of socialised enterprise, (Interruption;). After carrying that 90 per cent, of tax on the profits, the produce comes to the market. Not only that, the producers when they go to buy the very same things which they produce, have also to pay to the sales tax. That is the position. Now, as the Chairman has pointed out, he does not want me to dilate.

SHRI B. GUPTA : Is the hon. Minister aware that the prices of essential commodities have been reduced there at least five times since the last war ?

SHRI MAHAVIR TYAGI : There, prices are not fixed from the point of view of giving them at the cheapest rate. There, prices are fixed from

[Shri Mahavir Tyagi.] the point of view of realising the taxes first.

MR. CHAIRMAN : Let us go to the next item.

SHRI MAHAVIR TYAGI : Mr. Madhavan Nair has resented my words which I used yesterday. I said that a Joint Committee would not do for I think it is not in keeping with the dignity of this House. He said that these were words of flattery to which he raised objections.

SHRI M. L. PURI : They are sarcastic, and not words of flattery. I wish they were words of flattery.

SHRI MAHAVIR TYAGI : My friend has taken a still worse view. I must admit I was really wrong in having handled that point in such a soft manner. I should have expressed my views as I really felt and I am afraid, as far as Mr. Madhavan Nair is concerned, I have cast my words in a wrong corner. If I were a Member of this House, I would not allow my colleagues to take part in a Select Committee appointed by another House without first getting the approval and the reactions of the Members in this House. After all we are legislators and I would not allow Members of this House to go and participate with the Members of another House on a Bill discussed in the other House. Members should have gone only after my own House had agreed to the objects and principles of this Bill.

MR. CHAIRMAN : Mr, Tyagi, it is not relevant.

SHRI MAHAVIR TYAGI : On this point I felt like that. I am more sincere than my friends take me to be.

I think, Sir, my trend has unnecessarily been thrown into a sort of controversy which I did not want myself to raise just now. The House has been very cordial and kind to me and it has been very considerate to my Bill. I have nothing more to say than to thank

the House for the manner in which it has discussed the Bill. I have noted all the reactions of the hon. Members of this House in my book and I might assure them that at the time I meet the Finance Ministers of the States I will keep this record before me and try to see how far I can accommodate the desire of the House. Thank you, Sir.

SHRI K. B. LALL : On a point of information, Sir. The hon. Minister made some remarks about my residence in Old Delhi. Of course, it may be in joke or it may be innocent in his opinion, to look down upon Old Delhi ; but it has afforded me an opportunity to say that I am not guilty. It is on account of.....

MR. CHAIRMAN : Sit down, Mr. Lall. I am on my feet.

The question is : That this Bill be passed.

The motion was adopted.

**PREVENTION OF CORRUPTION
(SECOND AMENDMENT) BILL, 1952—
continued.**

MR. CHAIRMAN : We now pass on to the further discussion of the following motion moved by Shri C. C. Biswas on Friday, the 1st August 1952 :

That this Bill further to amend the Prevention of Corruption Act, 1947, as passed by the House of the People, be taken into consideration.

Shri Biswas would continue his speech.

[MR. DEPUTY CHAIRMAN in the Chair-
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THE MINISTER FOR LAW (SHRI C. C. BISWAS) : Sir, when the House rose on Friday last I had just commenced and spoken only a few words. It is just as well, Sir, that I begin from the beginning. The other day this House passed the Criminal Law Amendment Bill, 1952, which was based on certain recommendations which had been made by the Committee presided over by