

## \*ON THE FINANCE ACT AMENDMENT BILL

*Dr. B. R. Ambedkar (Bombay City):* Mr. Speaker, Sir, having applied my mind to the Bill which has been moved by the Honourable the Finance Minister, I find that the Bill seeks to make three provisions. The first provision which the Bill seeks to make is to make the property tax a first charge; the second provision is with regard to the penalty in respect of the non-payment of the tax and the third is the retrospective character sought to be given to the penalty clause in this Bill. At the outset, I am glad to say that I find an occasion to congratulate the Honourable the Finance Minister on the declaration that he made in the course of his speech to which we have now listened, namely, that he would be prepared to accept an amendment in order to take away the retrospective character of the penalty. So far so good. With all that, it is not possible for me to pass from this point to other points in the Bill without expressing my sense of surprise that a Government which includes in it no less than five eminent lawyers should have thought it fit at the outset to bring in a Bill with a penalty which has got a retrospective character. I think it is a shocking thing. It should never have been brought in that form. However, dropping the matter aside, the two other provisions in the Bill which now call for attention are the two remaining ones, namely, whether the property tax should be made the first charge and whether there should be any penalty with regard to its non-payment.

I will take the second point first with regard to the question of penalty. I think it would be desirable if I draw the attention of the House to one or two points connected with that aspect of the Bill. My learned friend would have noticed—he perhaps has not paid sufficient attention to it—that the Municipal Act itself makes no provision for imposing any penalty for non-payment of the municipal part of the property tax. Section 200 of the City of Bombay Municipal Act provides that as soon as assessment is made, a bill shall be presented to the occupier who has to pay up the tax. Then section 202 provides that such a bill shall be met within 15 days from presentation. Then section 203 provides that if the bill is not paid within 15 days from the date of presentation, it shall be followed up with what is technically called notice of demand. Then section 203 says that if the amount due and mentioned in that notice of demand is not paid within 15 days, the municipality shall have certain rights for the recovery of the

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\*B.L.A. Debates, Vol. VI, pp. 1033-37, dated 28th August 1939.

amount due. Now, under the Municipal Act, there are only two provisions included in it in order to enable the municipality to recover the amount of property tax from the person who has defaulted. The first step is to levy a distress upon the property of the defaulted. The second method permitted to the municipality is to file a regular suit in the ordinary way. But, so far as penalty is concerned, there is none whatever in the Municipal Act itself. Then, coming to other financial measures I proceed to mention the provision in the Income Tax Act. My honourable friend must have noticed that there is a certain kind of penalty provided under the Income Tax Act that might be levied on the persons who are defaulters. That is done under section 45 of that Act. That is a big section and I do not want to go into it. I can mention the gist of it by saying that the scheme included under section 45 for the purpose for a continuing default. That is to say, if you make a default for one day, you will have to pay a certain penalty, if you default for two days then a further amount of penalty. That is penalty in a progressive manner. The maximum of penalty mentioned here is the amount of the tax itself. The provision contained here is not a continuing penalty for a continuing default. Then, I come to the Bombay Land Revenue Code. The penalty is mentioned in section 148. There, the provision is merely this. If there is a person who is a defaulter in the sense that he has not paid his instalment within the period fixed, then the Collector shall either levy a penalty, or interest on the amount due. According to the rules, there is one authorising Government to make a rule in that behalf. Having gone through the rules made by the Government of Bombay under the Land Revenue Code, I find that the Government have made no rules at all with regard to the levy of penalty or with regard to the charging of interest. There is a casual mention in the notice of demand itself which fixes the penalty at a maximum of one-fourth the amount due. Now, Sir, I readily admit that the principle of penalty is new but it is something which undoubtedly exists in many financial provisions. Now, the questions we have to consider are with regard to the manner in which it is prescribed and the amount of maximum penalty that is laid down.

With regard to the other provisions of the Bill, the Honourable Minister has told us that they were merely consequential. Speaking for myself, I should have thought that they are the most contentious part of the Bill. If there is any provision in this Bill which makes me oppose it, it is really section 24B which my honourable friend seeks to introduce. First of all, let me deal with the arguments that this is merely consequential. Is it consequential or is it making the most radical, or if I may say so, revolutionary—

*The Honourable Mr. A. B. Latthe:* I never said that it was consequential—

*Dr. B. R. Ambedkar:* I withdraw—

*The Honourable Mr. A. B. Latthe:* I said that it was for making the provision clear.

*Dr. B. R. Ambedkar:* By trying to make the position clear, I have no doubt my Honourable friend the Minister has placed the Municipal Corporation of Bombay City in the issue. What is the position at which we

are now ? The position seems to be this, whether the amount due to the Bombay Municipal Corporation in respect of the urban property tax should be the first charge or not. You will recall one point of attack levelled against the Bill when it was first discussed in February was this, that the Government by taking the urban property as a basis for provincial taxation was really invading the domain which by tradition and by common consent had been reserved for the municipality for taxation. One of the points of criticism which was given expression to by many members on his side, and particularly by my honourable friend Mr. Jamnadas Mehta, was this, that by trespassing into the domain of their taxation Government had crippled the municipality. That is one point of criticism. Another point of criticism against this Bill was that it was very wrong on the part of this Government to use the Bombay Municipality as an agent for the collection of those taxes. One of the points made was, just as the Central Government use their own machinery for collecting such taxation as it levies—for instance, excise revenue, income-tax, salt duty, similarly the Government of Bombay should collect this levy by agencies belonging to itself. My honourable friend departed from that well established principle, from that most efficient practice, and utilised the services of the municipality for the purpose of collecting this revenue. Fortunately, he did not then add to the troubles of the municipality which he is now doing. He did not have the courage then to say that the tax collected by the municipality on behalf of the Government of Bombay under the urban property tax was to be the first charge. That he did not say. I have gone through the Bill. I do not find any provision to that effect at all. Therefore, I contend that this is a new ground we are travelling.

What was the position before this Bill ? If one refers to section 212 of the City of Bombay Municipal Act, the position was this : according to that section, the land revenue was the first charge on the property situated in the City of Bombay and which is subject to the municipal tax leviable by the municipality. After the land revenue, the first thing that came in order of priority was the municipal claim. That was the position. What is going to be the position now ? The position is going to be this. Land revenue will be the first charge ; the urban property tax due to Government is the second charge ; and the municipality which has an integral interest in this property tax is to come last. Sir, is that an enviable position from the point of view, of the Bombay Municipality which is to carry on its shoulders the burden of the welfare of practically 13 lakhs of people ? Is it right and fair that we should consent to a Bill which places the municipality's claim last ? My honourable friend is responsible for the levy of this urban tax. As he himself stated in the course of his opening remarks this measure is being opposed by the people—

*The Honourable Mr. A. B. Latthe:* I said, by a section—

*Dr. B. R. Ambedkar:* That is enough for me. (Laughter.) He said that there is opposition to this measure. If there is opposition to this measure, what kind of opposition is it ? We must realise it. I do not think I am making a false statement or one which is not within the knowledge of the Honourable the Revenue Minister. And the statement is this—and I think my honourable friend the Leader of the Opposition will bear me out that

apart from the small sections of landowners opposing the Bill, the whole of the Mahomedan community is opposing it. I think there is not the slightest exaggeration in that. They are : rightly or wrongly, I do not care to examine at this stage. Therefore, it is not the case of a single recalcitrant individual not being prepared to pay; it is a whole community which is opposed to it. Now, Sir, what is the position that we are going to have as a result of this Bill ? The position is this. The municipality is called upon to recover both its own tax levied on properties and the tax levied by the Government of Bombay and to be collected by the municipality on behalf of the Government of Bombay. Now, my honourable friend will not find it agreeable if I state that like a robber he comes forward and pounces upon the money collected by the municipality irrespective of the fact whether the amount collected by the municipality is collected on his behalf or whether it is collected on behalf of the municipality itself. The moment he sees with his open eyes that the bank balance of the municipality is inflated, without examining what the debit side of the municipality is, he issues a warrant to the bank quite at home. The municipality is left high and dry. What is the municipality to do ? The municipality, according to the scheme of the Bill, is to proceed against the whole community and to collect the tax. Now, the point I am putting to my honourable friend is this. If he has the courage, let him collect the tax himself. How can the municipality collect this tax, if it has to come against organised resistance—resistance, let us all be aware of it, coming from the Muslim community, who observe purdah ? Who will have the courage to enter their houses and find out what trinkets they have and what jewels they have ? What is the municipality to do in this case ? It has not an army of police ? It has no material and no means of forcing people. After all, as he has to levy the tax, then let him come but and as a courageous man employ his own agency and hook it from those who do not want to pay Why put the municipality to any difficulty ? That is my point. The rest of the thing I do not care to discuss; I do not mind. But the point really is this : Should the Government of Bombay be allowed to put the municipality of Bombay in so difficult a position, for reasons for which the municipality is not responsible ? Why should you shirk your responsibility ? It is no exaggeration to say, and I have no hesitation in saying, that this is a most cowardly Bill. If you say your tax is popular, why are you shirking the responsibility of collecting it ? Why are you throwing the burden on the municipality ? Why are you employing their resources ? From that point of view, I certainly think this is a cowardly Bill which ought not to be supported.