

MR. DEPUTY CHAIRMAN: It may be with the Registrar.

SHRI AMOLAKH CHAND: That is what I want to know, what is the idea?

• SHRI P. D. HIMATSINGKA (West Bengal): When a share is transferred, a fee may be charged. It may be on these lines.

MR. DEPUTY CHAIRMAN: It may be even with the banks. Anyway they will lay the rules on the Table of the House.

SHRI AMOLAKH CHAND: But what is the idea? We are giving this rule-making power to the Government without knowing what their intention is. They may say that it is a formal thing. All right, the House, may agree. We will look into it and do whatever we like. That is a different matter, but when they want this rule-making power, what is the intention? That is what I wanted to know.

SHRIMATI TARKESHWARI SINHA: There are so many things that can come within this, but I cannot explain all these things within the scope of this Bill. It will depend on the particular thing which has to be registered. How can I say?

SHRI BHUPESH GUPTA (West Bengal): He has asked a very simple question.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

THE GOVERNMENT SAVINGS CERTIFICATES BILL, 1959

THE DEPUTY MINISTER OF FINANCE (SHRIMATI TARKESHWARI SINHA): Sir, I beg to move:

"That the Bill to make certain provisions in respect of Govern-

ment Savings Certificates, as passed by the Lok Sabha, be taken into consideration."

Sir, the sale and discharge of National Plan Savings Certificates, which are issued from the post offices, are at present regulated by the Post Office National Savings Certificates Ordinance, 1944. This Ordinance has remained in force by virtue of the India and Burma (Emergency Provisions) Act, 1940. Section 4 of the Ordinance provides that payment on death of holders of Savings Certificates should be made in accordance with the provisions of the Government Savings Banks Act, 1873. Thus, payment of Certificates exceeding Rs. 5,000 can be made only on the production of letters of administration, probate or succession certificates. For the reasons already explained to the House in regard to the amendment of the Government Savings Banks Act, 1873, it has been decided to allow the holders of Savings Certificates also the right to nominate the persons to whom payment can be made in the event of the death of the holders without the production of any of these legal documents. In seeking for this purpose an amendment of the Ordinance opportunity is being taken also to replace it by an Act of Parliament.

The provision for nomination follows generally the amendment accepted by the House in the case of the Government Savings Banks Act. While the nominees acquire the title to receive from Government the amounts due to the deceased holders, this does not in any way prejudice the right of the third parties to recover from the nominees, under the normal processes of law, the debts against the estate of the deceased. The sale and discharge of the Savings Certificates to which the Ordinance applies are at present confined to post offices. With a view, however, to providing larger coverage, it has become increasingly necessary to allow the sale and discharge of these Certificates through other suitable agencies

also such as scheduled banks, co-operative banks, etc. The Bill, as framed, will enable the Government to prescribe agencies for this purpose. In all other respects, Sir, the Bill follows closely the provisions of the existing Ordinance except that the provision for payment on the death of the holder has been delinked from the Government Savings Banks Act, and made self-contained. As recommended by the Committee on Subordinate Legislation, provision is being made here that the rules framed under the Act will be laid on the Table of both Houses of Parliament, I would like here to draw the attention of the hon. Member who raised the point about the registration fee. Now it is clearly mentioned here, Sir, that the provision is now being made for laying down the rules. The actual working of the rules or the actual implication of the rules, Sir, will be decided when the rules are made and are placed before the House. So the point raised by the hon. Member at this stage has not much validity. It is only after the rules are made and their implications are known that this question of registration or the charging of fees for the registration of the nominations or any such thing will come to us.

With these words, Sir, I move.

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill to make certain provisions in respect of Government Savings Certificates, as passed by the Lok Sabha, be taken into consideration."

SHRI BIBUDHENDRA MISRA (Orissa): Mr. Deputy Chairman, Sir, I am in full agreement with the very laudable objects of the Bill, but I am constrained to remark that though it aims at removing certain difficulties that exist in the present Ordinance, it creates certain other difficulties for the successor of the certificate holder.

SHRI AMOLAKH CHAND (Uttar Pradesh): The hon. Member is not audible. Has this amendment created more difficulty?

SHRI BIBUDHENDRA MISRA: As stated in the Statement of Objects and Reasons, the main aim of the Bill is to simplify the law so as to avoid the production of legal proof of succession because it involves both spending of money and also waste of time. I may say that it creates other complications, whereby—thought it will not be a legal proceeding—proceedings have to be adjudged upon at some stage. That has been provided here which, so far as it appears to me, is unnecessary and could have been avoided. That is my point.

Sir, I have very carefully gone through the Ordinance that this Bill seeks to replace. It is better that an Ordinance should be replaced by an Act of the Legislature, but at the same time I must say that the Ordinance was more clearly worded and more understandable than the present Bill.

Sir, first of all I will draw the attention of the hon. Deputy Minister piloting the Bill—unfortunately, she is absent-minded in the House and would not be able to give an answer to me.

SHRI AKBAR ALI KHAN (Andhra Pradesh): She is not absent-minded, she is absent from her seat.

SHRI BIBUDHENDRA MISRA: It has been stated in the Statement of Objects and Reasons:

"The Post Office National Savings Certificates Ordinance, 1944 (XLII of 1944), issued under section 72 of the Ninth Schedule to the Government of India Act, 1935, as originally enacted and continued in force by virtue of the provisions of the India and Burma (Emergency Provisions) Act, 1940." . . .

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I would request the hon. Minister to tell us whether it continues up to date by the provisions of the India and Burma (Emergency Provisions) Act, 1940, or by the provisions of the Constitution of India, that is, the supplemental provisions.

SHRI AMOLAKH CHAND: It is continuing.

SHRI BIBUDHENDRA MISRA: Under what provision? Because it has been stated here that it is continuing under this provision.

SHRIMATI TARKESHWARI SINHA: Under the India and Burma (Emergency Provisions) Act, 1940, which allows the Ordinance to continue.

SHRI BIBUDHENDRA MISRA: Not up till now.

SHRIMATI TARKESHWARI SINHA: If the hon. Member looks into the India and Burma (Emergency Provisions) Act, 1940, he will find that the time bar was removed from that.

SHRI BIBUDHENDRA MISRA: That is true. The time bar was removed upto the date when the proclamation of emergency ceased to exist. But it is being continued thereafter by the provisions of the Constitution of India.

SHRIMATI TARKESHWARI SINHA: After the emergency ceased to exist you could not issue an Ordinance. But whatever Ordinances were declared and they had the authority of law, they were continuing.

SHRI BIBUDHENDRA MISRA: What I mean to say is that it was continuing till the coming in of the Constitution, and now it is continuing under the provisions of the Constitution of India.

MR. DEPUTY CHAIRMAN: The Constitution is adapted. It means it has got life and unlimited jurisdiction.

SHRI BIBUDHENDRA MISRA: I do not say it has no life. What I mean to say is it is continuing by virtue of the provisions of the Constitution of India.

SHRI AMOLAKH CHAND: Yes, under Article 372.

SHRI BIBUDHENDRA MISRA: Sir, so far as the second aim is concerned, it has been stated in the Statement of Objects and Reasons:

"The certificates to which the Ordinance applies are at present being issued and discharged only through Post Office. It is, however, becoming increasingly necessary that facilities should be provided for the sale of the certificates through agencies other than the Post Offices as well."

So far as the Bill is concerned, it does not speak anything about the agencies to be created, but all the same, the rules make some provision about it. Clause 12 (2) (a) says:

"the form of application for savings certificates and the issue and discharge of such certificates;" . . .

So, it is only natural that under this rule the Government contemplates to enumerate the agencies through whom these certificates will be issued. These rules are not before the House now, but I would request the hon. Minister to kindly keep in her mind the peculiar condition obtaining in India, particularly the rural areas, and to be very particular about the agencies that the Government is going to authorise for the sale of these certificates. The agencies must be such as to command the confidence of the people.

Then, Sir, sub-clause (3) of Clause 1 says:

"It applies to such class of savings certificates as the Central Government may, by notification in the Official Gazette, specify in this behalf."

I would have liked the inclusion of all certificates because undoubtedly the

clause, as it is worded, means that it is just possible that some classes of savings certificates may not be included within the provision of this Bill.

So far as clause 3 of the Bill is concerned, it says:

"... no transfer of a savings certificate, whether made before or after the commencement of this Act, shall be valid unless it has been made with the previous consent in writing of the prescribed authority."

Sir, the provision existing under the Ordinance which it seeks to replace says:

"That an officer of the Post Office, who has been authorised by the General or Special order of the Central Government in this behalf..."

That was the wording of the Ordinance which is now being sought to be replaced by the words 'prescribed authority' in clause 3 here. We do not know who this "prescribed authority" will be because this is a matter which comes under the rules to be made later on. I would request the hon. Minister to see that while appointing the prescribed authority, the holders of the Certificates are not put to unnecessary trouble, regional or otherwise. They must take care to see that such an authority is created not only in every State of India, but also in every district so that a person residing in a far-off place or in a far off district need not have to run one thousand or five hundred miles to the prescribed authority in order to get a transfer, thereby spending a lot of time and money.

So far as clause 5 is concerned, I have not been able to follow why if a minor holds savings certificates personally, he can get the amount whenever an application is made by him, and why, if it is held by somebody else in the name of a minor, it should be given to a guardian and not to the minor. Sir, if at all it is provided that a minor can get the amount provided he is the holder of the Certificate, it ought to be pro-

vided for simplicity and convenience that the minor will also get the amount even if it is held by somebody else in his name. If that is simplified, to that extent the subsequent provisions regarding the appointment of guardians will be eliminated. At times, proceedings may be necessary in order to find out who the guardian is. All these troubles may be eliminated because it is just possible that a case may come up where more persons than one can claim to be the guardian of the minor and inevitably, whether it is the desire of this Legislature or not, it has to be ascertained as to who the guardian is. It leads to unnecessary complications. What I would suggest is that if the law is simplified so as to make the payment the moment the minor holds it or it is held in his name, it would be much better.

Then I would urge the same argument so far as clause 6(3) is concerned which says:

"Where the nominee is a minor, it shall be lawful for the holder of the savings certificate making the nomination to appoint in the prescribed manner any person to receive the sum due thereon in the event of his death during the minority of the nominee."

This also would become unnecessary if the minor becomes entitled to receive it.

The same argument—I will not repeat it—is also applicable to clause 7(2) (b) which says:

"Where there is no such person, to any guardian of the property of the minor appointed by a competent court, or where no such guardian has been so appointed, to either parent of the minor or where neither parent is alive, to any other guardian of the minor."

The prescribed authority has to find out from different persons whether any guardian is existing or not. They have to go and find out who the guardian is, and in the mean time, it not

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only takes time, but there may be a possibility of justice not being done in finding out who the guardian is. Apart from that, the minor also will be in difficulty because through all these proceedings, the money is not paid to him.

Then so far as clause 7(4) is concerned, I have not been able to follow the logic. It says:

"... if a succession certificate is not produced within three months of the death of the holder ..."

It proceeds on the wrong assumption that probably a succession certificate can be had within three months of the death of a holder. With the procedure that has been laid down under the Indian Succession Act and the common experience that we have about law courts ...

MR. DEPUTY CHAIRMAN: That is for payment of sums less than Rs. 5,000.

SHRI BIBUDHENDRA MISRA: Yes. If it is not produced within 3 months.

MR. DEPUTY CHAIRMAN: It is a provision in favour of the minor.

SHRI BIBUDHENDRA MISRA: What I say is that this provision regarding succession certificate is not at all necessary because it could not be produced within 3 months. So these words are unnecessary.

MR. DEPUTY CHAIRMAN: If there is no opposition in the court, it can be produced within 3 months.

SHRI BIBUDHENDRA MISRA: I know that, even if it is not produced, the minor will get the money.

MR. DEPUTY CHAIRMAN: If there is no opposition to the petition in the court, it can be produced within 3 months.

SHRI BIBUDHENDRA MISRA: It can never be done within 3 months. The procedure is that it has to be published in the newspapers for a certain time and objections have to be invited etc. So it is never possible. One must consider the time-factor. One takes at least 10 to 15 days after the death of the holder to go to the court for getting a succession certificate. If you do not need a succession certificate, then these words are not necessary. Eliminate it altogether because it is impossible for anybody to get the certificate within 3 months. That is not in consonance with the procedure of the law and other facts obtaining in our country. My objection is that these wordings have become unnecessary in that context.

SHRI AMOLAKH CHAND: They do not know what time is required for securing these certificates.

SHRI BIBUDHENDRA MISRA: I do not understand why this concession that is being allowed should be confined to only sums not exceeding Rs. 5,000. There is no logic behind the argument that no succession certificate is required if the sum is below Rs. 5,000 and if the sum is above Rs. 5,000 a succession certificate is required. The principle is the same that you are going to benefit the minor. We are not concerned with the amount. There is no logic absolutely that you have to give a certificate, whatever be the amount above Rs. 5,000 because that defeats the whole purpose of this enactment. So it ought to have been said that succession certificate is not necessary in any case. That would have been fair, and that would have also been consistent with the aims of this Bill. So I feel that these words 'that does not exceed Rs. 5,000' are unnecessary and if you want to benefit the minor whatever is the amount, it should be paid.

SHRI V. K. DHAGE (Bombay): So long as it is a saving ...

SHRI P. S. RAJAGOPAL NAIDU (Madras): Sub-clause 4 does not

apply only to minors. He argues on the presumption that this sub-clause 4 applies only to the minors. It is not so.

SHRI BIBUDHENDRA MISRA: It does apply to the minor in the sense that the person should take it and administer it on behalf of the minor. If you read the subsequent clause it says 'administer it on behalf of the minor'. Therefore the interest of the minor is involved.

MR. DEPUTY CHAIRMAN: Administer if there is a will.

SHRI P. S. RAJAGOPAL NAIDU: If there is no nomination.

SHRI BIBUDHENDRA MISRA: It says: "The prescribed authority may pay the same to any person appearing to it to be entitled to receive the sum or to administer the estate . . ."

SHRI P. S. RAJAGOPAL NAIDU: You are arguing under the presumption that if the previous holder is a minor, clause 7(4) applies. He need not be a minor.

SHRI BIBUDHENDRA MISRA: I have said that it should be given for the benefit of the minor or you give it to the guardian for administering on behalf of the minor. Why should you place this handicap?

SHRIMATI TARKESHWARI SINHA: But this does not apply only to the minor. It applies to everybody.

SHRI BIBUDHENDRA MISRA: But the estate would be administered on behalf of the minor.

SHRIMATI TARKESHWARI SINHA: It may be that he may also be one of the beneficiaries.

SHRI BIBUDHENDRA MISRA: Why delay it. You say that if it is above Rs. 5,000 a certificate is necessary. If it is less than Rs. 5,000, no succession certificate is necessary. Why should

you make this discrimination? You should follow one principle, that is the benefit of one person if he is minor or major.

SHRIMATI TARKESHWARI SINHA: It is not a question of benefiting; it is a question of avoiding inconvenience.

SHRI BIBUDHENDRA MISRA: Then so far as clause 10 is concerned, ordinarily the offence would come under clause 10(2). Also it would come under Section 193 of the I.P.C. So, this legislation is unnecessary.

So far as the rules are concerned, the language is rather peculiar. It does not give any meaning. The provision as regards the rules is in clause 12(3) reading as follows:

"Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule . . ."

I am emphasising this portion:

" . . . or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect . . ."

SHRI H. P. SAKSENA (Uttar Pradesh): What clause is this?

SHRI BIBUDHENDRA MISRA: Sub-clause (3) of clause 12.

SHRI P. S. RAJAGOPAL NAIDU: That is usual.

SHRI BIBUDHENDRA MISRA: I am only pointing out the language:

" . . . so however that any such modification or annulment shall be

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without prejudice to the validity of anything previously done under that rule."

It says that if a rule is not accepted, it will have no effect and subsequently it says that if anything has been done under that rule, well, it will be deemed to have been validly done. Does it mean that the Government is competent to act under a rule before it is placed and accepted by the Legislature? That is the question. The ordinary meaning is that even before it is put before the House, they can act under it. That is the provision to which I am objecting, if the meaning is that, because unless the rules are framed and put before the House, whatever be the period, one month or so, and accepted by the House, the Government cannot act under the rule and to say that if it is not accepted, whatever has been done under the rule must be deemed to have been done validly, is not the correct approach. So I would suggest to the hon. Minister—I am not sure what they mean—to put the appropriate words so far as this sub-clause is concerned.

SHRI AMOLAKH CHAND: What are the appropriate words?

SHRI BIBUDHENDRA MISRA: I am only making a suggestion here and I have no amendment. Sir, with these words I support the very laudable aim of this Bill.

SHRI P. S. RAJAGOPAL NAIDU: Mr. Deputy Chairman, while trying to amend the Ordinance by this Bill the Government has come out with certain important improvements in the issue of National Savings Certificates. Among other things, this Bill provides for two very important objects. The first object is that as experience has shown from time to time, in the matter of production of legal proof of

succession there are certain difficulties, delays and expenses involved. The holder of the certificates can now nominate the persons at the time of the purchase of certificates. This was absent in the previous Ordinance. This, Sir, is a very important and welcome provision.

The second provision that is made here is this. Previously only post offices were issuing these National Savings Certificates and now a provision is made in this Bill that there will be other agencies also, like the scheduled banks and the co-operative banks which will be given the power to issue such certificates.

SHRI AMOLAKH CHAND: Co-operative banks also?

SHRI P. S. RAJAGOPAL NAIDU: Yes, that is what the hon. Deputy Minister said.

However, I would like to know, if it is the intention of the Government to issue these certificates not only through the post offices as has been the case all these days till now, but through certain other agencies also, like the scheduled banks and co-operative banks, why no specific provision has been made in the Bill itself, particularly as in the second paragraph of the Statement of Objects and Reasons it has been clearly stated:

"It is, however, becoming increasingly necessary that facilities should be provided for the sale of the certificates through agencies other than the Post Offices as well. The Bill as framed will now enable the Government to prescribe suitable authorities for the sale or discharge of the certificates."

If one goes through the various provisions of the Bill to find out whether such a provision has been made in this Bill, one does not see any. I fail to see any, unless it be said that under the rule-making powers such a provision can be made. If that is so, then it is all right. But if we read clause

2 containing the definitions together with clause 12, it is only then that we are able to presume that certain authorities other than Post Offices can also be given the power to issue these certificates. But even after reading these clauses I am not very clear on the point. In clause 2 we find the definition of the word "prescribed" which means "prescribed by rules made under this Act;". And then if we see the clause dealing with the powers to make rules, that is to say, clause 12, we do not find anywhere in that clause any provision to prescribe the agencies or authorities which will issue these certificates.

SHRI J. S. BISHT (Uttar Pradesh): Will it not come under (j) of sub-clause (2)?

SHRI P. S. RAJAGOPAL NAIDU: It may come under "any other matter which may be prescribed" or something like that which you find in section 151 of the Civil Procedure Code. I am only pointing out that when it is the object of the Bill to provide agencies other than Post Offices, why a provision should not be made in the Bill itself, to say what the other agencies which will be empowered to issue these savings certificates, are.

You will find that these certificates will not hereafter be called "Post Office National Savings Certificates", by which name they were being called all these days and probably in future they will be called "Government Savings Certificates", for that is how the Bill is named. It is called "The Government Savings Certificates Bill, 1959".

SHRI AMOLAKH CHAND: I don't think that will be possible, for under the provisions, any bank, say, the Punjab National Bank, can issue Savings Certificates and they are issuing cash certificates and they are valid under this law. So, they cannot be called only "Government Savings Certificates". Though the Bill may be named like this, the certificates will not be named as such. That is how I think.

SHRI P. S. RAJAGOPAL NAIDU: Whatever it may be, they will not be called 'Post Office Savings Certificates'. They may be called 'Government Savings Certificates' or they may be called by any other name, because other agencies, agencies other than the Post Offices will also in future be issuing such certificates.

Now I come to the important object of the Bill, namely, that a person when he buys a certificate can nominate a person. That is one of the important objects that are provided for in the Bill. This is dealt with in clause 6. But although I read this clause carefully, and especially sub-clause (1), I have not been able to understand whether this nomination is to be compulsory or whether it is to be optional. I would like to have that clarification from the hon. Minister, for as I said, although I read carefully this clause, I could not come to any conclusion whether this nomination should be compulsory or whether it is merely optional.

SHRI P. D. HIMATSINGKA (West Bengal): Optional, I think.

MR. DEPUTY CHAIRMAN: How can it be made compulsory?

SHRI P. S. RAJAGOPAL NAIDU: That is what I want to know and I will be very glad if it is not to be compulsory.

SHRI P. D. HIMATSINGKA: It is optional, otherwise there will be no need for sub-clause (4) of clause 7.

SHRI P. S. RAJAGOPAL NAIDU: Yes, yes. Only if it is compulsory, there will be some difficulty, for every person may not be able to nominate the person who is to succeed him in the event of his death or in any other event. I should be very glad if it is not to be compulsory.

Next I come to clause 7, sub-clause (4). While dealing with this provision, Mr. Misra, I believe, has been

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blowing hot and cold. There was some confusion of ideas about him and that was responsible for his blowing hot and cold when he was speaking on this clause. This clause is very clear. It only says that if there is no nomination—I shall read it;

“ . . . there is no nomination in force at the time of his death and probate of his will or letters of administration of his estate or a succession certificate granted under the Indian Succession Act, 1925, is not within three months of the death of the holder produced to the prescribed authority, then, if the sum due on the savings certificate does not exceed five thousand rupees, the prescribed authority may pay the same to any person appearing to it to be entitled to receive the sum or to administer the estate of the deceased.”

In this connection, I would like to make one or two suggestions. They are only suggestions.

There is some point in saying that this period of three months will be too short and I agree with the hon. Member who said that it will not be possible to obtain a succession certificate within three months. We know the amount of delay that takes place in law courts and the period prescribed for obtaining the succession certificate will have to be extended by another three months, from the present period of three months, so that you will have to say that if no succession certificate has been taken within six months' time and if the amount is within Rs. 5,000 or such other sum as may be prescribed, then it will be left to the prescribed authority to pay the amount to the holder or to any person appearing to it to be entitled to receive the sum. That is one suggestion which I would like to make.

The second suggestion which I would like to make is that it will be better, if before the prescribed authority pays the amount to the person who appears

to it to be entitled to receive the sum, to make a sort of publication in some journal or the local gazette. Before the money is paid by the authority to a person who is entitled to receive it, there should be some kind of a public notice given so that no legal difficulty may arise and nobody can come up later and say that he did not know that so and so had died and if he had known it, he would certainly have made a claim and so on. All these things could be avoided if a public notice is given either by a publication in the local dailies or in the local gazette. That is another suggestion which I would like to make in this connection.

The third suggestion that I would like to make is that this sum of Rs. 5,000 which has been prescribed is, in my opinion, too high and it will have to be reduced to Rs. 1,000. If

the amount is more than one 4 P.M. thousand rupees, I feel that the amount should be refunded to the person who has been nominated, or if no one has been nominated, then the prescribed authority should insist on the production of the letters of administration or succession certificate.

SHRI P. D. HIMATSINGKA: For one thousand rupees?

SHRI P. S. RAJAGOPAL NAIDU: Yes. Opinions may differ but that is my opinion. It is only the poor man who buys these certificates. I think there is a maximum limit prescribed. Under the rules one cannot invest in these certificates a sum more than Rs. 25,000 or something like that. Government looks only to the poor persons to invest in such certificates. Big people do not invest in these certificates.

SHRI J. S. BISHT: You want to reduce this sum to one thousand rupees?

SHRI P. S. RAJAGOPAL NAIDU: Yes.

SRI V. K. DHAGE: Why?

SHRI P. D. HIMATSINGKA: That will reduce the facilities.

SHRI P. S. RAJAGOPAL NAIDU: According to the provisions of clause 7(4), in the case of amounts of Rs. 5,000 and below, if nobody comes forward with a succession certificate or a probate within three months, then the prescribed authority may pay the money if the prescribed authority is satisfied that the person who has appeared before that authority is legally entitled to draw the amount. I feel, Sir, that this amount is too high and the prescribed authority should not be given authority to dispose of amounts of Rs. 5,000. That is why I have suggested that this sum should be reduced to one thousand rupees and below.

I now come to clause 3. Clause 3 reads as follows:

"Notwithstanding anything contained in any law for the time being in force, no transfer of a savings certificate, whether made before or after the commencement of this Act, shall be valid unless it has been made with the previous consent in writing of the prescribed authority."

I have got a fundamental objection in regard to this point. I do not see why the consent of the prescribed authority is necessary even for a transfer. You may say that this is not negotiable but that is a different point. Even conceding that the approval of the prescribed authority is necessary, why should this be made applicable to the case of transfers that have taken place long before the commencement of this Act? In effect, this is being made into a retrospective legislation. I can understand such a provision being made applicable in the case of transfers that would take place after this legislation comes into force but I fail to see why this should be given retrospective effect, and for what purpose? Moreover,

it is said that no transfer shall be valid unless it has been approved by the prescribed authority. I wish it had been the other way about, that no transfer can be effected unless it is approved or ratified by the prescribed authority. This would mean that the approval would be the second act; the first should be the transfer of the certificate and the approval of the prescribed authority should come next. You might say that unless the transfer is approved by the prescribed authority, the transfer cannot be held valid or effective. I wish such a provision had been there instead of saying that even before the transfer is contemplated, one must apply to the prescribed authority saying, "I intend transferring a certificate to so and so. Please give consent". This sounds unreasonable and quite out of the way.

Clauses 4 and 5 deal with holdings by or on behalf of the minors. Notwithstanding any provision in any law, that is, the Minority and Guardianship Act and all that, we find that a minor may apply for and hold Savings Certificates. Probably this is made in continuation of the existing provision of allowing a minor to hold Savings Certificates, though it may be legally objectionable for a minor to hold certificates. From these two clauses, I am unable to make out whether a minor holding certificates can effect transfers also. I find that there is no provision at all. If a minor is to hold certificates, then he should also be authorised to transfer them. Whereas this provision for a transfer is there in the case of an adult, it is lacking in the case of a minor. This is a matter which will need being looked into. I do not know whether this has been omitted intentionally but, whatever it is, if a minor can hold certificates, then the minor should also be empowered to transfer certificates.

I do not think I have got anything more to say. It is only in some of its details that this Bill lacks precision

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and I feel that if some of the suggestions that I have made find a place in the Bill, then the Bill can be easily worked.

SHRI ROHIT M. DAVE (Bombay): Mr. Deputy Chairman, I would like to confine my remarks to clause 3 of the Bill. To my mind, this clause is very important in view of the fact that it is the declared policy of the Government that there should be more and more money invested in this type of certificates. For the purpose of mobilising the small resources lying in the pockets of the poor people, Parliament and Government have always upheld the policy that maximum encouragement should be given to these small holders to invest their savings in the National Savings Certificates. This being the main purpose of the Ordinance and now this Bill, I am not in a position to understand why the transfer of those certificates is sought to be made difficult. One of the reasons why poor people are not investing their money in the National Savings Certificates is that they always want to keep some cash with them. They want some cash to remain liquid with them so that in case some difficulties arise, they may have hard cash to tide over those difficulties. This money thus remains idle in the pocket of the small people and if negotiability is assured for these Certificates, then it will be easier for these people to put more and more of their money in the National Savings Certificates. The Ordinance talked of a prescribed authority, namely, the postal authority. We do not know whether the new prescribed authority would be larger than the previous authority or whether the new prescribed authority would be smaller than that of the old authority. I would plead at this stage with the Deputy Finance Minister that attempts should be made to . . .

SHRIMATI TARKESHWARI SINHA: May I just clarify it? In this case, the prescribed authority may also

include the banks, because they will also be allowed to sell these Certificates. They automatically become the prescribed authorities.

SHRI V. K. DHAGE: How can that be?

SHRIMATI TARKESHWARI SINHA: Certificates will be issued by them. If the Certificates are deposited with them, they naturally get the authority of declaring that such and such transfer has been made to so and so.

SHRI ROHIT M. DAVE: Unfortunately, that should make the situation all the more difficult, because in that case the permission will have to be obtained from the very authority from which that particular certificate has been bought. I do not know exactly what the intention of the Government is but I remember the time when many people were authorised by the Government to sell these certificates and they used to go from door to door and sell these certificates. I do not know whether they intend to revive that procedure and if their intention is to revive that procedure it will be very difficult for a person who has bought a certificate from such an agent to go back to the agent in order to get a permission for transfer. Therefore if a permission for transfer is absolutely necessary, at least that permission should be obtainable from any person or any authority authorised in that behalf and it should not be confined only to the authority from whom the certificates are bought. In any case . . .

SHRI V. K. DHAGE: You are in favour of the authority remaining?

SHRI ROHIT M. DAVE: No, no. I am not in favour at all but I have only to move in a particular groove, that groove being that full negotiability should be there so that it would be possible for the small holders to put their savings into these certificates. If, however, the Government thinks that negotiability is not desirable for one reason or another, then at least maximum facilities

should be given so that the holders of these certificates could transfer them.

Finally, I am unable to understand why it is said here that no transfer of a savings certificate, whether made before or after the commencement of this Act, shall be valid unless it has been made with the previous consent in writing of the prescribed authority. If somebody has purchased a certificate which was valid for transfer for certain considerations valid in law for the time being in force, why should the transfer be invalidated suddenly and why should fresh permission be sought? It may happen that a particular certificate might have changed hands many times and perhaps in that case validation will have to be obtained for each one of those transfers. And that might create complications in certain cases. Sir, transfer is absolutely necessary and transfers should be liberalised as far as possible by prescribing authorities which are extensive so that any one can go to any one of the authorities and may have the transfers validated. As far as the past transfers are concerned, they should be validated without any further permission being made necessary, otherwise difficulties might arise. This, Sir, is a very delicate mechanism and the poor people in our country are not still accustomed to this type of savings and to this type of investment. If at this stage certain difficulties are created in their path for transfers of certificates and if they suddenly come to realise that the transfers which have already taken place are invalid, it might create a psychological impact on the mind of these poor people who might fight shy of investing more money in these certificates. I would, therefore, earnestly plead that, keeping in mind the psychology of the people, the habits of our people, they should be given full encouragement for investing their money and no obstacle should be created in their path whereby they might fight shy of making any further investments in these

certificates. With these words, Sir, I generally support the Bill.

SHRI SONUSING DHANSING PATIL (Bombay): Mr. Deputy Chairman, Sir, while supporting the Bill before us, I have a few observations to make. Now, under clause 4 a minor may apply for and hold savings certificates, though we know the Indian Contract Act prohibited a minor from entering into any contract. So this is a fundamental departure from the Contract Act. This may have been done with a view to attracting more money by way of certificates and perhaps giving minors some sort of a protection because moneys invested in Savings Certificates will be sufficient safeguard to the minor.

Another point is this. How far the minor is entitled to transfer is not clear from any of the clauses. It may be with the intention that once a minor holds certificates he must not be allowed freely to transfer because a minor has not got the necessary capacity to transfer certificates or because a minor may be influenced by certain interests to part with his Savings Certificates. So that is also a safeguard.

Thirdly, a point was raised by Mr. Misra regarding succession certificate. Sir, those who practise law and have the experience know that it is not possible to obtain succession certificate within a period of three months because a number of formalities and procedures have to be gone through. A public notice has to be given and objection has to be invited. Then the objections have to be disposed of in a legal manner. Naturally, when an application for succession certificate is made to a court, it takes some time and it is not possible to produce it within three months. I do not understand also when certain concessions are given, why that particular provision relating to succession certificate should be there in sub-clause (4) of clause 7. There is no necessity for it.

[Shri Sonusing Dhansing Patil.]

One thing Mr. Misra made out was that he did not see any logic in putting the sum at Rs. 5,000. Sir, one can very well understand that the bigger the sum, the greater is the risk involved. If the sum is big and if it is given to a wrong person, a person who is not entitled to claim the amount, the risk is naturally greater. And it is only in order to avoid delay and expenses in cases involving smaller sums that the sum has been put at Rs. 5,000. This is in conformity with the practice adopted by the various banks also. This in practice operates in the interests of the holder and commensurate with the risk involved various formalities have been prescribed in clause 9. So I think putting it at Rs. 5,000 is absolutely reasonable.

Now, I find it difficult to understand this sub-clause (3) of clause 7. It says:

"Where the sum due on a savings certificate is payable to two or more nominees, and either or any of them dies, the sum shall be paid to the surviving nominee or nominees."

Here we are departing from the normal law. We are making the nominees as if they are members of a coparcenary. The idea of survivorship always accompanies the limited sense of coparcenary. If there are more than one nominee and if one of them dies the heirs of the deceased nominee should have been classed along with the surviving nominees. Suppose a person nominates a wife and a son and if the wife dies there may be daughters. Here the son will become the sole surviving owner. This is something which also offends against other laws.

Then there is another point. Since we are trying to step up small savings, we should not put any limit to the holdings. At present a single individual can hold only certificates to the extent of Rs. 25,000 and if it is a joint holding up to the extent of Rs. 50,000. Clause 12(2)(b) says that

Government may make rules to provide for the maximum limits of holdings. I think there is no necessity for that. Government may perhaps be thinking that since sufficient amounts are not forthcoming, there could be some limit on the holding. But if there are public spirited persons or people who want to invest more money in savings certificates, they should not be handicapped in any way by such inposition of limits. So, if that goes away, I think there will be some persons at least coming forward for this venture.

Then, the other point is that other agencies are now being created, besides the post office, to sell Savings Certificates and this is going to be created under the rule-making powers. It would have been better if certain prescribed authorities had been given in a separate schedule to this Bill prescribing at least certain co-operative banks or certain scheduled banks, etc. so that one could have known the number of authorities. Now, under the rule-making power, it may be prescribed. It is elastic enough to extend and limit the scope of the authorities. But it would have been better if we had known definitely and positively as to what the authorities which the Government contemplate were. There may be panchayats or even co-operative societies, but since it is not there and since it is now to be done under the rule-making power Government should as far as possible, under the rule-making power, prescribe definitely the authorities which can deal with these things.

The rest of the Bill is all an enabling and procedural one, and I support the Bill.

SHRI P. D. HIMATSINGKA: Mr. Deputy Chairman, I have followed the debate carefully. Although I am not much familiar with the procedure of issuing Savings Certificates, I take it that the Savings Certificates are issued from particular post offices, and those particular post offices keep the accounts of the certificates that

they issue, and they are also payable by the same post office. Any particular authority may be prescribed by the Government under the present Bill and that particular authority will also pay the amount of the certificates that they may issue from their offices. Therefore, there is not much difficulty, if permission has to be obtained from the office which issued the particular certificate, in making it negotiable. But certainly the point made by the hon. Member, Mr. Dave, should be kept in view and negotiability should be encouraged, so that people may be more inclined to put in money in Savings Certificates. If my assumption is correct, that the issuing authority and the authority from whom money has to be taken is the same, then there should be no difficulty. Permission also has to be obtained from the same authority.

So far as the provisions in the Bill are concerned, they have been made, to my mind, in order to make it more attractive and to remove some of the difficulties which stand in the way of getting back the money. Provision has been made for holdings by or on behalf of minors. Similarly, provision has been made for nomination by holders of savings certificates, as to whom the money can be paid in case of death of the holder. Clause 6 provides for nomination, and even when the minor is there, the holder can nominate as to who should be the guardian to whom the money can be paid, even during the minority of the nominee, and if he is not there, then it can be paid to the natural guardian. Then, if the natural guardian is not there, it would be any other guardian whom the authority thinks to be entitled to receive the money.

Similarly, clause 7 also makes provision for payment on death of holder. Where the nominee is a minor, it has been provided that the payment can be made to the guardian nominated under clause 6 (3) and if there is no such person, then to the parents and if the parents are not alive, then to any other guardian of the minor.

Therefore, the provisions are all enabling provisions and it has been made possible for the money to be paid quickly.

Similarly, the provision in clause 7 sub-clause (4) gives one more facility to the authority to pay even where a succession certificate or letters of administration or probate may not be available. Generally it takes time to get a probate of a will or letters of administration or a succession certificate and if the amount is less than Rs. 5,000 the prescribed authority has been given power, if it likes, to pay it to any person appearing to it to be entitled to receive the sum. The amount has been fixed at Rs. 5,000. Apparently they do not want to take the risk of a higher amount. The other suggestion was to reduce it to Rs. 1,000. I think Rs. 5,000 is quite all right and the prescribed authority will not be bound to pay, if it is in any manner of doubt or in any manner of suspicion as to the correctness or otherwise of the person who comes to take the money. Therefore, if it is satisfied that the money can be paid, the authority can certainly pay it. There is a further provision for guarantee. Under clause 9 the authority can take a certain amount of security. Therefore, I feel that the provisions in the Bill to the extent to which they go, are very healthy and they should be supported wholeheartedly and I hope that they will make these Savings Certificates a little more popular.

SHRI J. S. BISHT: Mr. Deputy Chairman, I find one omission in this Bill. It says here:

"(1) This Act may be called the Government Savings Certificates Act, 1959.

(2) It shall come into force on such date . . .

Now, this Bill purports to carry on what has been an Ordinance under the provisions of the India and Burma (Emergency Provisions) Act, 1940. A

[Shri J. S. Bisht.]

similar Bill was moved for consideration, I think, yesterday by the Law Minister, namely, the Criminal Law (Amendment) Bill, which also was in replacement of an Ordinance passed under the India and Burma (Emergency Provisions) Act, 1940. There they took this precaution that they gave it retrospective effect. They said: This Act shall be deemed to have come into force on the 26th day of January, 1950".

SHRI AMOLAKH CHAND: Not that. The provision contained in the Bill which was passed was deemed to be effective from the 26th January 1950, not the whole Act of 1940.

SHRI J. S. BISHT: The Bill that we passed here gave it retrospective effect from the 26th January, 1950. Now, the point is that I have very grave doubts about the validity of this law being in force up till now, because under article 395 of the Constitution of India it is very clear that "The Indian Independence Act, 1947, and the Government of India Act, 1935, together with all enactments amending or supplementing the latter Act, but not including the Abolition of Privy Council Jurisdiction Act, 1949, are hereby repealed." So, not only was the Government of India Act, 1935 repealed, but all other Acts which amended or supplemented that Act were also repealed. I looked into this Act. It is a British Parliament Act: "The India and Burma (Emergency Provisions) Act, 1940." What that Act did was to amend the Government of India Act. It deleted certain provisions. It deleted the time-limit that such and such Ordinance passed by the Governor-General or Viceroy shall have only a life of six months. It gave it a long life and all that sort of thing. Now, when it says here that any Act which either amends the Government of India Act or supplements the Government of India Act is repealed, I do not see how that particular India and Burma (Emergency Provisions) Act, 1940, which merely amends the Govern-

ment of India Act, 1935, remains in existence. And if it is not late, I would still suggest that this Bill also should be given retrospective effect so as to come into force from the 26th January 1950, because I have very grave doubts about the legality of that particular provision.

With regard to clause 3, I agree with my friend Mr. Dave that we want to make these National Savings Certificates very popular specially in view of the paucity of funds. So we should do all that lies in our power to make the negotiability of these securities easy and not very difficult. I think there is a limit of Rs. 20,000 or Rs. 25,000 for holding the National Savings Certificates, and we want that most of the holders should be from the rural areas. Because of the high prices of the cash crops that they raise now they have got enough to spare to invest in these certificates. But what frightens them is all these lengthy legal procedures, difficulties of going here, there and everywhere, and so on. Therefore, if we can provide facilities in purchasing it and in also disposing of it without much difficulty, that will facilitate the programme of a larger investment in the National Savings Certificates by people living in the rural areas.

Then, Sir, I come to clause 4. Now, against the provisions of all other laws, the minor here has been given the right to hold these certificates, and under clause 5 he can also get back the money if he has personally bought them. But I find that there is some conflict between this provision and clause 7. Clause 7(1) says: "If the holder of a savings certificate dies and there is in force at the time of his death a nomination in favour of any person, payment of the sum due thereon shall be made to the nominee." But where the nominee happens to be a minor, again the same difficulty arises. In this law you have recognised the right of a minor to purchase a National Savings Certificate, and you have further recognised his right to

cash it so to say, because under clause 5 it is said that "payment of the sum for the time being due on a savings certificate held by or on behalf of a minor may be made to him personally if he himself applied for the savings certificate". That is to say, if a minor can buy a certificate, the minor can also cash it. If he can do it, then why do you put this nominee, where the nominee happens to be a minor, to all this trouble of payment being made to a guardian and all that? It is more logical to fix a particular age. Not every minor, but a minor exceeding the age of 14 years should be entitled to purchase these certificates and to cash them, also to cash them in case he happens to be a nominee of some other holder. But here the minor has not been defined at all. It means a minor from the age of 5, 6 or 7 right up to 18 or 21 under the guardianship of someone.

Then I come to clause 6. Here also I find the same provision repeated as under the Public Debt Bill which would be coming up for discussion very soon. The same provision is repeated here: "Notwithstanding anything contained in any law for the time being in force, or in any disposition, testamentary or otherwise", and so on. I do not know why the word 'testamentary' has been introduced in clause 6, as it has also been introduced in clause 2, new section 9B(1) of the Public Debt (Amendment) Bill. With regard to the National Savings Certificates, if I have to make a nomination in favour of somebody, this nomination has to be made in the prescribed manner probably before the prescribed authority or something like that. But in the case of a will, a man can make a will before he dies. He may not have time enough to go to the prescribed authority or to make it in the prescribed manner. So, if he makes a testamentary disposition of his National Savings Certificates, that should ordinarily supersede all the other dispositions that he has made before, because a testament is the last thing that a man can make before he

dies. In that case the argument that ordinarily a man has to go to a court of law and has to go through the various formalities in order to encash them does not arise. He has to go to a court in order to obtain a probate. So there is no additional difficulty for him. This little certificate is an additional thing. So I do not think that it is a very happy thing to include 'testamentary' in clause 6.

Now, Sir, with regard to clause 7, a point has been raised by Mr. Misra here, and Mr. Rajagopal Naidu wants to reduce the sum from Rs. 5,000 to Rs. 1,000. I do not agree with him because, as I said, most of these people are in the rural areas who have got small investments, and they should be given the maximum facility, and Rs. 5,000 is quite a reasonable sum for this purpose.

Sir, these are the only suggestions that I have to make. Otherwise the Bill is quite welcome and I support it.

SHRI AMOLAKH CHAND: Mr. Deputy Chairman, I rise to support the Bill as it has been introduced in the House. Sir, you are aware of the objection we took the other day in respect of the International Monetary Fund Ordinance. My particular complaint then was that if you want to change an Ordinance into an Act, the right and proper procedure is to re-enact the whole thing as an Act, and I am glad that the Law Ministry and the Finance Ministry have agreed with that view and brought it like that, though in some cases they have not done so.

Now, Sir, Mr. Bisht has raised a point as to whether the Ordinance which is going to be replaced, namely the Post Office National Savings Certificates Ordinance of 1944, stands as a good law today. We have discussed all this threadbare on the floor of this House. We have to recapitulate that this Ordinance was in force in the year 1944 when the powers vested in

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the Viceroy and Governor-General under Section 72 of the Government of India Act of 1935 which continues under article 372 of the Constitution and so this is a valid Ordinance and has the force of law.

SHRI J. S. BISHT: But the hon. Member has not referred to article 395 which I just read out, which repeals the Government of India Act of 1935 and also all the Acts which amended or supplemented it?

SHRI AMOLAKH CHAND: But if the hon. Member reads article 372, it will be clear to him. The very important thing is to understand that the Ordinance has the force of law today, and that Post Office Savings Certificates are being purchased, cashed and the like. If this Ordinance had not been in force, probably all the post offices would now be doing an illegal act, taking deposits from people and knowing full well that the Ordinance is not in force they have to discharge the certificates issued, etc., etc. So, I do not think that the point that has been raised by Mr. Bisht is quite right. Probably he may feel that this Ordinance has no force of law and probably that the persons who have deposited their money in post office cash certificates have lost their money, and the like. But I have no apprehension like that and I feel that the Government also knows that it is a valid Ordinance which is continuing, and that is why they are going to replace it.

Now, Sir, let me come to the scheme of the Bill. I have failed to understand up till now even after listening to so many speeches what actually a Savings Certificate means. If you look at clause 1(3), it says: "It applies to such class of savings certificates as the Central Government may, by notification in the Official Gazette, specify in this behalf." Now we do not know what this class of savings certificates are. We do not know who

is going to issue it, whether it is going to be issued by the post office or by the State Bank of India or by the Reserve Bank of India or the banks which are so many in number who issue their savings certificates; nor do we know at what rate of interest it will be issued, whether the rate of interest would be the same or not. I want to understand this because this Bill is going to repeal the Ordinance. If you look into the Ordinance of 1944, you will find a similar definition there.

"2(b) 'savings certificate' includes a Post-office Twelve-Year National Savings Certificate referred to in clause (a) of sub-section(2) of section 1 and a savings certificate of any other class to which the provisions of this Ordinance have been applied by a direction in pursuance of clause (b) of that sub-section;

What was the purpose of this Ordinance? It says:

"An Ordinance to make certain provisions in respect of Post-office Twelve-Year National Savings Certificates and other classes of Savings Certificates.

Whereas an emergency has arisen which renders it necessary to make certain provision in respect of Post-Office Twelve-Year National Savings Certificates and other classes of Savings Certificate;"

Sir, now we do not know the exact position. Perhaps the other hon. Members who have participated in the debate may be knowing it. But I have tried to understand and get an idea of what is going to be the effect of this Act. The Ordinance which is going to be repealed relates to Post Office Savings Certificates. If I recollect correctly, it was in the year 1940 after the outbreak of the Second World War that these Post Office Cash Certificates were introduced. I am not sure about it, but I recollect like that. What was the idea? The idea was to get as much money as possible from

the people by asking them to deposit their money in these certificates so that the war efforts might continue properly. After that, as we find from the Ordinance, there were Post Office Cash Certificates of five years and three years of the denominations of Rs. 5, Rs. 10, Rs. 50, Rs. 1,000, Rs. 5,000 and the like. Then came these Twelve-Year Certificates as mentioned in the Ordinance of 1944 and if I recollect correctly, so many banks also issued certificates—cash certificates for six months, one year, two years, three years and the like. As a matter of fact, if you go further you will find that there are also National Plan Savings Certificates and other kinds of certificates, and we do not know what the complete list is or what new types of certificates are there. There might be the First Five Year Plan Certificates, the Second Five Year Plan Certificates or the Third Five Year Plan Certificates.

As Shri Rajagopal Naidu was trying to point out, what would be the name of these savings certificates? The Bill is entitled "The Government Savings Certificates Bill". As a matter of fact, can those savings certificates which will be issued by private banks or other bodies also be called 'Government Savings Certificates'?

What is the purpose of issuing these certificates? We should be able to understand the idea of issuing these certificates. I have tried to explain the idea which was in the year 1944. For the prosecution of the Second World War, more money was needed and so those certificates were being issued. In the present days there is no danger of war, but we are fighting another war against ignorance, poverty, etc. and we want to fulfil all our plans, and for that purpose, naturally we do wish that anybody who has got any money should deposit it and get the certificates. Here, Sir, another point arises. If you want to enthruse the people to deposit their money in these certificates, well, you have to give them some attractive

terms, and here we are reminded that there are cash certificates which are free of income-tax. I do not know what would be their position. It would be essential for us to understand what the scheme of these cash certificates actually is. And what would be the competition between a private bank, the State Bank, these post offices and the other scheduled and co-operative banks which are going to act as agencies? I am only dealing as far as the sale of these certificates is concerned, because first a man must deposit his money and secure a savings certificate. Thereafter, the question will arise whether it should be in the name of the person who is depositing the money, whether a nominee should be there, how it is to be discharged and whether that is to be treated as a cheque or a negotiable instrument. In this Bill we find that all these problems have been tried to be tackled in one and probably that is the reason why we find so many confusing things coming together.

Sir, we do not know who is going to be the prescribed authority. We have no idea about that. If you see the Ordinance, the prescribed authority was the post office—any officer of the post office.

"...an officer of the Post Office authorised by general or special order of the Central Government in that behalf."

Just imagine, Sir, how many organisations in the City of Delhi will be issuing these certificates. There are the post offices; there is the Reserve Bank; there is the State Bank; there are so many other banks—the scheduled banks and the co-operative banks—this, that and the other. India is not so literate as other countries. If you walk on the roads of London, you will find—as I said the other day—that just like the grocers' shops there at every corner, there are banks at each and every place. I was on

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my second visit to London and I was rather thinking how they managed these banks. I may tell you, Sir, that there are one-man banks and two-man banks. You go and give them a cheque of anywhere; they do not bother much about it and you get it cashed within two or three minutes at the most. Here what is the idea of the cash certificates which are being issued? I am raising this point in view of the transfer mentioned in clause 3 of this Bill, which says:—

“Notwithstanding anything contained in any law for the time being in force, no transfer of a savings certificate, whether made before or after the commencement of this Act, shall be valid unless it has been made with the previous consent in writing of the prescribed authority.”

That means, there is a right of transfer, but that right of transfer cannot be exercised until and unless a person follows the procedure laid down in clause 3. Now, if you look at clause 6(4), it says:

“A transfer of a savings certificate made in the prescribed manner shall automatically cancel a nomination previously made.”

Not only that. About the transfer, if you see the proviso, there is a condition to negotiability of that cash certificate:

“Provided that where a savings certificate is held by or on behalf of any person as a pledgee or by way of security for any purpose.....”

That certificate can be tendered as security in court or in any contract or anything of the sort.

“.....such holding shall not have the effect of cancelling a nomination but the right of the nominee shall be subject to the right of the person so holding it.”

Now, Sir, what I wanted to impress on the House is that these certificates

which one person owns today or is likely to acquire later on are negotiable instruments, meaning thereby that such a certificate can work just like a cheque provided the person has got the authority from the prescribed authority. Now, Sir, when you are going to make it so flexible, what is the guarantee about its negotiability, if you prescribe such hard things? If the idea is only to give an impression that it would be a negotiable instrument, well and good, but if you want that it should work like that, why should there be so many fetters on the thing?

SHRI V. K. DHAGE: How can it be negotiable if it is subject to the consent of some other person?

SHRI AMOLAKH CHAND: Well, my friend has raised another question and an important question. There is difference between transfer and pledge, as I have tried to say. When you transfer the whole thing to another person, you have to take the previous consent in writing of the prescribed authority. But if you want to give it as a pledge, what happens? Suppose I have got a cash certificate of Rs. 1,000 and I want Rs. 500 on it, and if I go to the post office or to the bank to cash it, they will take more interest probably....

SHRI J. S. BISHT: How will ‘transfer’ include ‘pledge’ also, because it is defined that ‘transfer’ means ‘transfer *inter vivos*’?

SHRI ROH'T M. DAVE: But who will accept it as a pledge?

SHRI AMOLAKH CHAND: Therefore, if that is the idea, then these provisions appear to be rather misleading, because here you find in sub-clause 6(4):

“A transfer of a savings certificate made in the prescribed manner shall automatically cancel a nomination previously made.”

That is one part. So, you cannot transfer it without consent of the

prescribed authority. Agreed. Now you see the proviso:

"Provided that where a savings certificate is held by or on behalf of any person as a pledgee....."

But where is it that a pledge cannot take place without the previous consent in writing of the prescribed authority?

Here you find that no transfer of a savings certificate, whether made before or after the commencement of this Act, shall be valid unless it has been made with the previous consent in writing of the prescribed authority. That is the impression I gathered and I entirely agree with Mr. Dhage who raised this point whether it will be a negotiable instrument or not. A negotiable instrument is a different type of instrument. But the attempt which is being made is to show that you can pawn this cash certificate, because the word 'pledge' is there.

SHRI V. K. DHAGE: Which clause is it?

SHRI AMOLAKH CHAND: It is the proviso to sub-clause 6(4) at page 3 of the Bill.

Now, Sir, I was trying to find out how far these cash certificates are going to function in the market itself.

SHRI J. S. BISHT: Will this pledge or security require the sanction of the prescribed authority?

SHRI AMOLAKH CHAND: I think not; my own reading is that it does not require, because it is not a transfer; it is only a pledge; it is a temporary transfer, a temporary security.

SHRI J. S. BISHT: What will be the evidence of it?

SHRI M. H. SAMUEL (Andhra Pradesh): You may put all these questions to the Deputy Minister when she replies.

SHRIMATI TARKESHWARI SINHA: The scope of 'pledge' is different here; the facility of pledging certificates is only when it is pledged with scheduled banks or co-operative banks or co-operative societies, and so far as the National Plan Certificates are concerned, they can also be placed as security with the State Trading Corporation. So, it is different from transfer. Transfer is transfer from individual to individual, but this pledge may be with banks.

SHRI V. K. DHAGE: But under this provision the question of a scheduled bank or a bank does not arise. It is any person; it is not restricted merely to banks at all. I may go to X and say "Here is a certificate. I pledge it with you". It is perfectly proper.

SHRIMATI TARKESHWARI SINHA: The thing is—as my friend, Amolakh Chandji, has said—pledge is very different from transfer, and in order to distinguish between pledge and transfer I said that so far as pledge is concerned, pledging with a person is not transfer at all.

SHRI V. K. DHAGE: No, no, there can be no pledge without a transfer.

SHRI AMOLAKH CHAND: So I think we should wait and hear the hon. the Deputy Minister. Let us place all the points before her and then she would be in a position to note down all the points together and give the complete picture as she has envisaged bearing on the points submitted by us.

Now, Sir, I was trying to understand as to what impetus a person will have to purchase these certificates. Now they are negotiable because, if it cannot be given and taken under pledge, this proviso would not have been there, and it appears to be very reasonable as I was trying to explain, when Mr. Dhage was pleased to intervene. I was trying to explain it this way. Suppose I have a cash certificate of the value of Rs. 1,000 and suppose I have purchased it for Rs. 900.

[Shri Amolakh Chand.]

It will mature and I will get Rs. 1,000, say, after ten years. Now, if I want, say, Rs. 500 today, after it has matured for, say, three years or four years, the position will be that if I go and cash it, I will get less money than which I would get otherwise, as I do not need the whole amount. Supposing I want Rs. 400 or Rs. 500, I will go, as suggested by the Deputy Finance Minister, to a scheduled bank or to a co-operative bank, pledge it there, take a loan of, say, Rs. 500 and do away with the work which may be on my hand at the moment and then pay it back and get the certificate back. Now the other post office certificates, which you had till today, are not negotiable until and unless you get them sanctioned by the prescribed authority. That is why I referred to the Ordinance and the provisions therein, because they are trying to borrow the whole thing from the Ordinance, the scheme as it was worked in the year 1944 for war purposes incorporating the new ideas which they have and the new experience which they have gathered in the last fifteen years. With all these negotiable instruments or savings certificates there should be no difficulty for people who deposit money that at the time of getting the money they may not get it. There are the savings certificates and the other certificates also. What they want is that there should be more impetus, more occasions for people to part with their money in return for such certificates and, when the time came, get back the money as easily as possible.

(Time bell rings.)

I would take some more time, because I am just . . .

MR. DEPUTY CHAIRMAN: Take two more minutes.

SHRI AMOLAKH CHAND: I will take more than two minutes. I am just on clause 1.

MR. DEPUTY CHAIRMAN: We have still two minutes to go; you have two minutes more today.

SHRIMATI TARKESHWARI SINHA: You are only talking about clause 1?

SHRI AMOLAKH CHAND: Now, Sir, the idea which I was trying to impress was that these certificates should be very popular with the people and people should invest more and more money in them. But what are the attractions which will make people to part with the money? I was going to refer to the term 'income-tax free'. Here if you see the scheme and the rule-making powers and all that, you don't find any provision that the Government can say that such and such certificates for ten years or for fifteen years would be income-tax free. As a matter of fact, today, Sir, there are certificates which are income-tax free. And what is the reason for making them income-tax free?

So these are the points, Sir, which we have to consider and to see whether it is proper or not to make such provisions in the Bill.

Then, Sir, I was saying something about the definition of the savings certificate itself.

MR. DEPUTY CHAIRMAN: You can continue on the next day.

SHRI AMOLAKH CHAND: Thank you, Sir.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at five of the clock till eleven of the clock on Friday, the 4th September 1959.