

[Shri S. N. Mazumdar.]

us that it is not his intention to give them any loophole for the avoidance of this duty.

SHRI M. C. SHAH: Ordinarily, the situation or location of a company or corporation is considered from the point of view of where the company is registered. If you just accept this amendment the administrative difficulty will be very great. As a matter of fact, we are providing in section 84(1) that the estate duty will be payable on certain shares if their value exceeds Rs. 5,000, at the rate of 7½ per cent. That is to be taken from the company itself. If this amendment is accepted, it will become very difficult to collect the estate duty from the foreigner. Supposing a shareholder belongs to Canada, and he has a share here, it will be difficult to collect the duty from him. In clause 84(1), we have provided for the collection of the duty from the company itself and if we accept this provision it will become administratively very difficult to work it out. I am sorry I cannot therefore accept the amendment.

MR. DEPUTY CHAIRMAN: The question is:

"That at page 15, after line 3 the following be added, namely:—

'Provided that the assets situated or located in India of the company or the corporation incorporated outside India shall for the purposes of the Act and this section be taken as situated or located in India, namely, within the territories.'

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 21 stand part of the Bill."

The motion was adopted.

Clause 21 was added to the Bill.

PETITION RE THE ESTATE DUTY BILL, 1953

SECRETARY: Sir, I have to report to the Council that I have received a petition in respect of the Estate Duty Bill, 1953, as passed by the House of the People.

MR. DEPUTY CHAIRMAN: It will be referred to the Petitions Committee.

The Council then adjourned till four of the clock.

The Council re-assembled at four of the clock, MR. DEPUTY CHAIRMAN in the Chair.

MR. DEPUTY CHAIRMAN: Clauses 22 and 22A. Syed Nausher Ali is absent. On clauses 23 to 26 there are no amendments. On clause 27 there is one amendment by Syed Nausher Ali. But he is absent.

Clauses 22 to 30 were added to the Bill.

MR. DEPUTY CHAIRMAN: Now we take up clause 31. There are eight amendments.

SHRI H. N. KUNZRU: Sir, I beg to move:

"That at page 19, for clause 31, the following clause be substituted, namely:—

'31. *Exemption in case of quick succession to property.*—Where the Board is satisfied that the estate duty has become payable on any property passing upon the death of any person, and that subsequently within five years estate duty has again become payable on the same property or any part thereof passing on the death of the person to whom the property passed on the first death, no estate duty shall be payable on the second death in respect of the property so passed.

Explanation.—For the purposes of this section, deaths occurring

within a period of five years after the death of any person in respect of whose property estate duty has become payable shall be treated as one death and no estate duty shall again be payable on the same property by reason of the subsequent deaths occurring within the said period of five years.' "

SHRI J. S. BISHT: Sir, I beg to move:

"That at page 19, line 4, for the words 'five years' the words 'nine years' be substituted."

"That at page 19, line 10, for the words 'fifty per cent.' the words 'ninety per cent.' be substituted."

"That at page 19, line 12, for the words 'forty per cent.' the words 'eighty per cent.' be substituted."

"That at page 19, line 14, for the words 'thirty per cent.' the words 'seventy per cent.' be substituted."

"That at page 19, line 16, for the words 'twenty per cent.' the words 'sixty per cent.' be substituted."

"That at page 19, line 18, for the words 'ten per cent.' the words 'fifty per cent.' be substituted."

"That at page 19, after line 18, the following be added, namely:—

'where the second death occurs within six years of the first death, by forty per cent.;

where the second death occurs within seven years of the first death, by thirty per cent.;

where the second death occurs within eight years of the first death, by twenty per cent.;

where the second death occurs within nine years of the first death, by ten per cent.' "

SHRI S. N. MAZUMDAR: Sir, I beg to move:

"That at page 19, after line 32, the following be added, namely:—

'*Explanation 3.*—Notwithstanding any provision in any other section of the Act, 'property' for the purpose of this section includes agricultural land and implements, one family dwelling house not exceeding the value of Rs. 5,000 and such industry as Parliament may by law prescribe.' "

MR. DEPUTY CHAIRMAN: The clause and the amendments are now open for discussion.

SHRI H. N. KUNZRU: Sir, clause 31 of the Bill lays down that relief shall be granted in accordance with the graduated scale. Where the second death occurs between the fourth and the fifth year of the first death, the reduction will be 10 per cent. Where the second death has occurred between the third and the fourth years, the reduction will be 20 per cent. and so on. The greatest amount of reduction is 50 per cent. where the second death occurs within one year of the first death. Now, Sir, this Bill follows the English law here. This is the reduction that is given in England in the cases mentioned in the Bill. But, as I said, the other day, England is in a very difficult financial position. It has gone through two wars and it is groaning under the heavy burden of an extraordinarily large war debt. It may therefore have to make every effort to get as much money as possible. We happily are not in the same condition and can therefore make a greater allowance in respect of quick successions than England has been able to. America gives greater relief in this matter. In America, any property received by gift or bequest and subject to federal estate tax or gift taxes within the past five years is excluded from the estate. This happens when the duty has to be paid for the second time. The application of this provision prevents an estate from being eaten up entirely by taxation because of a rapid succession of deaths which would otherwise result in

[Shri H. N. Kunzru.]
immediately recurring estate taxes. The ground on which I move my amendment is precisely the same. Need we follow the English system which will result in a heavy diminution of an estate. Would it not be more equitable and desirable that estates that become liable to the payment of the estate duty for the second time within five years should be exempted from it altogether? I am sure, Sir, that it is not normally expected that there will be frequent successions owing to quick deaths in a family. We take it that the State does not want its citizens to be short-lived. If unfortunately many of them die rather young, or say rapidly, is it desirable that the State should take advantage of it? I think, Sir, that we should proceed in this matter according to what is normally expected and not take undesirable advantage of frequent deaths in a family. It is quite possible, Sir, that these frequent deaths may throw heavy obligations on the family concerned. It is therefore desirable that its conditions should be borne in mind. In this connection, it may be said that the relief that has been granted is quite enough. I personally do not think so. I think it will be regarded as a hardship that within five years of the payment of the estate duty, an estate should have to pay the duty again. I therefore move the amendment though I cannot delude myself with the hope that it will find favour with the Government.

SHRI J. S. BISHT: Sir, I support the arguments that have been advanced by the hon. Dr. Kunzru for the amendment that he has moved. The only difference between his and mine is that I do not expect that the Government would be willing to accept or forego the duty altogether for a period of five years. Therefore, I do hope that if the Government is so insistent on having the duty even within one year of the death, then it should be limited to about 10 per cent. i.e., the reduction should be 90 per cent. instead of 50 per cent. and so on till nine years. That is to say, the

State should take its full share of the duty in ten years. I think that even in other countries where this duty has been in force for a very long time, the consensus of opinion is that it acts very harshly in the cases of a few unfortunate families who suffer deaths in the family in quick succession within a period of two years or three years or four years or five years. There are other families that are lucky enough where people survive sixty years and seventy years. When a family has suffered the misfortune of a death, a second misfortune should not visit them in the form of the State taking away 50 per cent. of the duty. I therefore submit that this amendment is very reasonable. And although I did not expect that the Government would accept it, I thought it my duty to move it.

SHRI S. N. MAZUMDAR: I do not want to press my amendment.

SHRI M. S. RANAWAT (Rajasthan): Sir, I support the amendment moved by my hon. friend, Mr. Bisht. Considering the economic factors in this country, I think special consideration should be given to this question. If you go through the history of this country, death duty is not uncommon in our country. In the Moghal days, so far as the nobility was concerned, whenever a man died, his successor had to pay a death duty. It was also prevalent in many of the Indian States. Where quick deaths occur, it is necessary that the family should be given some consideration. Dr. Kunzru's amendment is that there should be no duty if the second death occurs within five years, but since Government is somehow or other introducing this Bill and wants people to get accustomed to this kind of duty, the amendment of Mr. Bisht is more reasonable and can be accepted. He spreads the duty over 10 years in very reasonable slabs. I think the Finance Minister cannot have much objection to this because after all such cases will be few but it will show that the Government are considerate to the people in distress. In

cases of such deaths, since there is a likelihood of the successor being minor, to ask for the payment of such heavy duties will not be proper.

SHRI B. RATH (Orissa): But then somebody will have to pay the duty.

SHRI M. S. RANAWAT: My difficulty is that you make the rich man poor. You can do it at one stroke by confiscating his whole property during his life-time.

SHRI C. G. K. REDDY: It has got to be done some day.

SHRI M. S. RANAWAT: When you do it, let us see. But you cannot have it both ways. You have accepted the need for concession, that relief is necessary in certain cases. That is very good. The question is that in your judgment it may sound reasonable, while in our judgment something else may sound reasonable. I therefore strongly request the House that they should accept this amendment. Dr. Kunzru said that there was no likelihood of the Government accepting his amendment and if it is so, this debate is only academic. It loses all its strength, but considering that the Government have tried to meet here and there, sometimes reluctantly, viewpoints other than their own, I submit this viewpoint. There will not be much financial loss; because the cases will be few. You can destroy quickly, but you cannot build quickly. The structure of many estates has been built over centuries and they should not be destroyed so quickly. Sir, I support this amendment.

SHRI C. G. K. REDDY: Sir, I oppose this amendment and I am sure the hon. the Finance Minister will also oppose it. Only our reasons are a little different. According to this amendment, if it is accepted, we have to consider hypothetical cases also. Although my hon. friend, Dr. Kunzru, would immediately dub me as being theoretical and hypothetical, what would happen is this: For instance, in a family death occurs every five years. It may happen, just as hon. Members are bringing forward the argument that there will be only a

few instances where such cases will occur, it may also be the case that deaths may occur at very frequent intervals. If this amendment is accepted, what would happen is that even after the second death or the third death the estate would be intact. The question is whether on principle we should accept this. So far as I am concerned, I have already stated that I supported this estate duty because it recognised the principle, at least to some extent, that those who have not earned wealth, have no right to it whatever. This estate duty recognises it to a certain extent. It does not confiscate; it does not completely deny the right of people to inherit what the father or the grandfather might have earned. But what would happen in these cases is that not only would the son be entitled to it but even the grandson and the great-grandson would be entitled to something which he never contemplated even before he was born perhaps and which may have been earned some 30 or 40 years ago. We have gone to some extent in accepting the principle of this Bill whereby not only the State is going to augment its revenues but we are also creating the psychological atmosphere in which people will realise that unless we work, everyone of us, we have no right to the amenities of life, to the pleasures of life. If you accept this amendment, it would mean that generation after generation would get some concession or other, when we might even say that death, at frequent intervals, instead of being a misfortune, would really be a good fortune in some families, if deaths were to occur every five years or six years or 8 years. That is a thing which I cannot accept, because it goes against the very principle of estate duty. The extent to which concession is already being given under the Bill is good enough. It will mitigate all hardships. After all, 50 per cent. is a sizable exemption. I do not think we should accept this amendment.

PANDIT S. S. N. TANKHA: Sir, I support the principles which underlie

[Pandit S. S. N. Tankha.]

the two amendments before the House. Regarding the amendment of Dr. Kunzru, I think that if clause 31 as a whole is deleted and substituted by the clause as suggested by him, omissions of some important portions of the present Bill, which seem to me to be necessary, even after the suggestions of Dr. Kunzru are adopted, will result. I would therefore suggest to to him that the proviso under section 31 and Explanation I, which exists at present should be retained and incorporated in his amendment. The proviso to the existing clause 31 says:

“Provided that where the value on which the duty is payable of the property on the second death exceeds the value on which the duty was payable of the property on the first death, the latter value shall be substituted for the former for the purpose of calculating the amount of duty on which the reduction under this section is to be calculated.”

This is necessary even though the second death may take place anywhere within 5 years after the first death because if the second holder of the property has augmented the property and has increased its value, or the value of the property has increased by lapse of time because of other factors, then it is necessary that the property be taxed on the value of the property at the time of the second death and as such it is necessary that the proviso should remain so that when the tax is to be collected on the property at the time of the second death, if the value has enhanced, then duty should be payable on that part of it.

Then Explanation No. 1 as it at present exists says:

“For the purposes of this section every death shall be deemed to be a second death in relation to the death immediately preceding.”

This also is necessary even if the amendment as worded by Dr. Kunzru is accepted. Regarding Explanation

2, Sir, during the course of the first reading of the Bill I had made a suggestion that for the words “In computing any period for the purposes of this section, deaths occurring within a period of three months after the death of any person in respect of whose property estate duty has become payable, shall be treated as one death.....” I had suggested that the period of three months should be fixed at six months and I had given my reasons for it. While we are on this clause, I might again mention that the hon. Finance Minister has already provided in the earlier part of this clause that death occurring within certain periods after the first death will be allowed certain exemptions or concessions in tax would be made. The first period fixed for grant of this concession in tax is when the second death occurs within one year of the first death and the period below this, is three months only and I had suggested that if no other amendment in the Bill can possibly be accepted by the hon. Finance Minister, then this period of 3 months may at least be increased to six months so that deaths occurring within six months of the first death should be exempted from duty altogether. With these words I endorse the principles which underlie the amendments proposed.

SHRI M. C. SHAH: I might inform Dr. Kunzru about the financial position in the United Kingdom. His argument is based on the financial position in the U.K. This may be a good law in the U.K. I may remind him that this section 15 of the U.K. Finance Act existed in the year 1914. So the question about the financial condition of U.K. does not come in here. As a matter of fact India requires more financial resources. It is rather in dire need of financial resources to meet the development expenditure in the States. Therefore there is no justification in India for this clause. But this clause has been liberalized. It is much more liberal than what obtains in U.K. In U.K. there is no provision of three months. There it is 1, 2, 3, 4 or 5 years. At the same time this concession in the

U.K. is given only in respect of property consisting of (1) land, and (2) business, whereas in India all the properties are given concession in this respect and at the same time if I refer to some other countries too, it will be found that in England it is as I have said;

First year	..	50 per cent.
Second year	..	40 per cent.
Third year	..	30 per cent.
Fourth year	..	20 per cent.
Fifth year	..	10 per cent.

In Pakistan also the same position obtains. In Ceylon also the same position as in U.K. obtains. Only in U.S. there is a difference.

SHRI GULSHER AHMED (Vindhya Pradesh): What about Chile?

SHRI M. C. SHAH: It is a small country. In Japan there is no concessional rate. It is not an estate duty in Japan. The tax is succession tax payable on gifts. Then there is no element of quick succession allowance. Now in Canada also the same thing happens i.e., 50 per cent., 40 per cent etc. So we have been more liberal than U.K., Pakistan, Ceylon and other countries and at the same time we have provided three months after a good deal of discussion. Perhaps there may be epidemics and there may be successive deaths. Therefore we thought that a period of 3 months ought to be there where there are certain epidemics and members of family die in succession within three months. Therefore that provision has been included. So I think looking to these circumstances, I hope that my hon. friend Dr. Kunzru will not press his amendment. We regret that we cannot accept those amendments and we press that the clause as it is should be passed by the House.

MR DEPUTY CHAIRMAN: The question is:

"That at page 19, for clause 31, the following clause be substituted, namely:—

'31. *Exemption in case of quick succession to property*—Where the Board is satisfied that the estate duty has become payable on any property passing upon the death of any person, and that subsequently within five years estate duty has again become payable on the same property or any part thereof passing on the death of the person to whom the property passed on the first death no estate duty shall be payable on the second death in respect of the property so passed.

Explanation—For the purposes of this section, deaths occurring within a period of five years after the death of any person in respect of whose property estate duty has become payable shall be treated as one death and no estate duty shall again be payable on the same property by reason of the subsequent deaths occurring within the said period of five years"

The motion was negatived.

MR DEPUTY CHAIRMAN: The question is:

"That at page 19, line 4, for the words 'five years' the words 'nine years' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN. The question is:

"That at page 19, line 10, for the words 'fifty per cent,' the words 'ninety per cent' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That at page 19, line 12, for the words 'forty per cent' the words 'eighty per cent.' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That at page 19, line 14, for the words 'thirty per cent.' the words 'seventy per cent.' be substituted.

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That at page 19, line 16, for the words 'twenty per cent.' the words 'sixty per cent.' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That at page 19, line 18, for the words 'ten per cent.' the words 'fifty per cent.' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: Amendment No. 16 is consequential and it automatically goes. No. 17.

SHRI S. N. MAZUMDAR: Sir, I don't press amendment No. 17.

Amendment No. 17 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 31 do stand part of the Bill."

The motion was adopted.

Clause 31 was added to the Bill.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 32 do stand part of the Bill."

DR. SHRIMATI SEETA PARMANAND: I have to say something about clause 32.

MR. DEPUTY CHAIRMAN: Yes, but there are amendments to be moved, Nos. 80 and 81.

SYED MAZHAR IMAM (Bihar): Sir, I move:

"That at page 19, in line 33, the word 'Hindu' be deleted."

"That at page 19, in line 35, the word 'Hindu' be deleted."

سید مظہر امام (بہار) : جناب
 ڈپٹی چیئرمین صاحب - میں اس
 کے متعلق فرسٹ ریڈنگ میں کافی
 عرض کر چکا ہوں - میرا اماند منٹ
 جو کلاز ۳۱-۳۲ ہے وہ صرف لفظ
 "by any school of law" کو نکالنے کے لئے ہے جس سے
 کہ صرف 'by any school of law'
 رہ جائے - اگر اس کلاز ۳۲ کو جس
 صورت میں ہے ویسا ہی رکھا گیا تو
 اس سے اس ملک میں جو دوسری
 کمیونٹی کے لوگ ہیں نائدہ نہیں آتھا
 سکیں گے - اگر جیسا کہ میں نے
 اماند منٹ تجویز کیا ہے اس طرح رکھا
 جائیگا تو اس ملک میں جو دوسری
 کمیونٹی کے لوگ ہیں وہ اس سے فائدہ
 آتھا سکیں گے - میں اس پر
 زیادہ تقریر نہیں کرنا چاہتا ہوں -
 صرف گورنمنٹ سے یہ عرض کرنا چاہتا
 ہوں کہ وہ میرے اماند منٹ کو کنسیڈر
 کر کے منظور کریگی -

† [SYED MAZHAR IMAM: Mr. Deputy Chairman, I have spoken at length about it during the first reading. My amendment to clause 32 relates only to the deletion of the word 'Hindu' so that it may only read "..... by any school of law" If clause 32 is retained in the present form, the people of other communities in the country will not be able to derive benefit from it. If it is retained in the form suggested in my amendment, the people of the other communities will also be able to derive benefit from it. I do not want to say much about it. I want to submit only this much to the Government that it should consider my amendment and accept it.]

† English translation of the above.

MR. DEPUTY CHAIRMAN: But don't you think it is particularly limited to limited estates which are peculiar to Hindu law? I don't think Muslims have any such limited estates.

KHWAJA INAIT ULLAH: They have.

MR. DEPUTY CHAIRMAN: All right.

سید مظہر امام - شیعہ کمیونٹی
میں ایشولیمس وڈوز کو میلٹیمنس
ملنا ہے -

†[SYED MAZHAR IMAM: In the Shia community issueless widows receive maintenance.]

DR. SHRIMATI SEETA PARMANAND: Sir, I would like to submit that the clause is rather unfortunately and cumbrously worded. It is rather unnecessarily long and the same object could have been achieved by putting it somewhat like this.

Where a widow dies within seven years after succeeding to her husband's property.....

MR. DEPUTY CHAIRMAN: But have you given notice of any amendment?

DR. SHRIMATI SEETA PARMANAND: No, I am just suggesting that really speaking, the clause could have been dropped. I noticed this clause rather late and I could not send in an amendment. I am pointing this out and suggesting that perhaps it would be desirable to drop the whole clause.

SHRI M. S. RANAWAT: Does the hon. Member want the Finance Minister to bring in an amendment?

DR. SHRIMATI SEETA PARMANAND: Later on, when an opportunity

† English translation of the above.

occurs and when the Bill comes before the House of the People again, the hon. Finance Minister might give consideration to this point and make suitable amendments if he thinks it necessary. But I personally feel that the wording is cumbrous and I would suggest a shorter wording, that is to say:

"Where a widow dies within seven years after succeeding to her husband's property or to the limited interest therein, and on which death duty has been paid, no second death duty shall be paid by her successor to the interest or the property."

Sir, I would like to point out that there is danger, especially in the rural areas where people are generally ignorant and illiterate, that this exemption of duty on her death within seven years might lead to some mischief and to the widow being poisoned. Why there should be such an exemption of duty if she were to die within seven years, I have not been able to understand. What is the purport behind it? Had it been the fact that the successor was the successor to the limited estate which the widow wished to have, one could have understood it. But here it says:

"Where on the death of any person governed by any school of Hindu law, his interest in any property has devolved on his widow, then, if the widow dies within seven years of her husband's death and the interest aforesaid devolves upon the reversioners or any of them, no estate duty shall be leviable etc., etc."

I don't see why if the duty has been paid once, it need not be paid again. In some States in India, the widow gets the full estate and perhaps if the Bill brought by Dr. Mookerji is passed or when the necessary reform is made in the Hindu law, all this would be redundant. And in view of the present position, in view of the ignorant and illiterate condition of our women in the rural areas, this clause is likely to cause some unhappy situations and

[Dr. Shrimati Seeta Parmanand.]
so I would urge that this clause should be entirely omitted.

MR. DEPUTY CHAIRMAN: Where the widow inherits the full estate, there is no question of reversion at all.

DR. SHRIMATI SEETA PARMANAND: Yes, there is no question; but I feel the situation is not clear in the whole of India and for the present, if this clause is deleted, no great harm is likely to result.

KHWAJA INAIT ULLAH: Sir, after passing clause 31 in which we have given special consideration to the death occurring after one year, two years, three years, four years and five years, I cannot understand why this clause which is meant only for Hindu widows should be there. I think that in any joint Hindu family, no property can come into the hands of a Hindu widow except by way of a gift. If it is a gift, then it comes under the clause under which a man is empowered to make gifts. Then what is the need or where is the necessity for having such a clause as this here?

Moreover, I am surprised to see that in the secular State of ours, a special favour is going to be shown to Hindu widows. I think widows are all alike whether they be Hindu widows or Muslim widows or Christian widows.

AN HON. MEMBER: Not always widows.

KHWAJA INAIT ULLAH: And if any special favour is to be shown to Hindu widows, it should be shown to all widows in India because they are all widows with nobody to support them or help them and they have so many difficulties. Already the exemption of five years has been given and that was for special reasons, but I cannot understand for what special reasons this special favour is going to be shown to Hindu widows only. It may be said that the property of a Hindu widow after her death reverts back to the original heirs of her husband. But

I can prove that in the case of a Muslim widow also after her death the property passes to her sons or heirs to whom it would have gone after the death of the husband. Similar is the case of Christian widows also. Therefore if this special favour is to be shown to any widow, it should be shown to every widow in India. Are there any special reasons for showing this sort of favour and making inequalities which we are trying to remove? Therefore I cannot understand why we should have this provision.

MR. DEPUTY CHAIRMAN: The special reason is that it is a limited estate. In the other cases it is not a limited estate. The widow has full right, I mean a Muslim or Christian widow, has the full right, to the estate. This question of limited estate is peculiar to the Hindu law and it is to provide for such cases that this provision has been proposed.

KHWAJA INAIT ULLAH: The Muslim woman gets her property.

MR. DEPUTY CHAIRMAN: Whatever the property that she may get, the Muslim widow has got full rights over it, she can dispose of it or do anything she likes. It is not the case in the case of a Hindu widow.

KHWAJA INAIT ULLAH: The right over the property that a Hindu widow gets is not like that of a Muslim widow. Is it so?

MR. DEPUTY CHAIRMAN: It is a limited estate over which she has got only this right that she can use the income from it.

KHWAJA INAIT ULLAH: Suppose any other widow gets such property with similar restricted rights?

MR. DEPUTY CHAIRMAN: The Hindu law, the Muslim law and the Christian law are not all alike. This is peculiar to the Hindus.

KHWAJA INAIT ULLAH: If it is a peculiar case, I have nothing to say.

PANDIT S S N. TANKHA: Mr Deputy Chairman the principle underlying this concession which has been granted under this clause, as you have just now observed, Sir, is that the Hindu widow does not enjoy full rights in the property. She cannot give it away; she cannot mortgage the property and she cannot sell the property. She is a mere life estate holder and her husband's property in her hands remains in abeyance in her hands and reverts to the heirs of her husband upon her death and it is for this reason, therefore, that this concession has been granted and I am surprised to find that my hon. friend Shrimati Seeta Parmanand should oppose such a thing. To my mind, Sir, this clause is to the advantage of the women and their property will not be taxed upon their death.

(Interruptions.)

Then, Sir, I fail to understand why my hon. friend thinks that because of the fact that no duty would be charged if such a lady dies within seven years, there will be an incentive to her relations or other persons to poison her. I really cannot understand it. If there can be any incentive at all to poison her then it will be when a woman becomes the owner of the property and she may be poisoned on that account but not because the estate duty will be saved upon her death. Therefore, Sir, I really do not understand what opposition there can be to that provision in the Bill.

Now, Sir, in the opening of the debate, in the first reading of the Bill I had made my submission on this point and I had submitted that it was very equitable that no duty should be charged on the death of a widow, whenever that death might occur. That would have been much more equitable because she is not the real holder of the property and when once that property has been charged to duty earlier at the death of her husband there is no point in demanding and changing duty for a second time when the limited owner of the same, namely, the widow passes away.

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SHRI B B SHARMA: Sir, the lady would already have paid the duty when her husband passed away. I support the contention of my hon. friend, Mr. Tankha, because that is right. The duty has been paid once, probably not by the widow but by the family as the lady holds only limited interest, but, when the limited interest holder dies, why should the family be taxed a second time even though it may be after seven years because there is no property which devolves on the family after the death of the lady. It is the same property; only its usufruct was to be enjoyed by the lady till her death. That makes it doubly improper that the family shall have to pay estate duty twice for the same devolution.

SHRI M. S. RANAWAT: Mr. Deputy Chairman, I only want to clarify a little bit of confusion in the minds of certain friends, particularly my Muhammadan friends. There are, even today, large sections of Muslims who are governed by Hindu law and they all will be getting the exemption under this clause. That is already provided. It is already provided "persons governed by any school of Hindu law...." There are Muslims governed by Hindu law and they will get the exemption. Under the Muhammadan law or under the Christian law, a woman succeeds as a full heir to the property; it is only under the Hindu law that a widow does not succeed as a full heir. She only has what I should say a right of living out of it. It is a limited interest as they call it in law, but, for a layman, we can say that if a widow succeeds to property, she keeps it and only makes her living out of it and she can only spend for her husband's benefit and such other commitments.

KHWAJA INAIT ULLAH: Even movable property, wealth, money, and the bank balance?

SHRI M. S. RANAWAT: Yes. Whatever she gets as *stridhan*, is governed by a special law, but when she succeeds her husband or any male person then her interest is limited always and,

[Shri M. S. Ranawat.]
therefore, if she has paid that duty on the death of her husband then when she dies there is no separate property or estate open to taxation. She is more or less part of the same man; one part is dead and the other is remaining and, therefore, they have provided that she will not pay. As some of my hon. friends have pointed out, if she dies after seven years, it seems to me that that property may again be taxed. That probably will be very hard. I do not know why it should be so because there is no new devolution, but that point I am not clear about.

PANDIT S. S. N. TANKHA: If she dies after seven years, the property will be taxed.

SHRI M. S. RANAWAT: You will find that it is very hard. In the case of the Muhammadans, what happens is this: The husband dies and the widow succeeds to the property; she pays the duty and then she can sell, dispose of or do what she likes with the property. She succeeds in her own right completely and is as good as a son, but in the case of the Hindu widow, there is a great handicap. The widow succeeding under the Hindu law does not get the full rights; the Hindu law does not recognise the woman as a full heir at all. It only recognises the women's right over the property till her death. What the Government should have done is that they should have charged duty only when the widow dies because, only then it becomes effective. She is only the other part of the man, as the Hindu law says; one part is gone and the other part is living.

So, in this case, they have said that the Hindu widows should be exempt. If our friends want that we should put in all widows, in place of the Hindu widows, it will not help them at all because there will be no limited estate in other cases and the whole purpose of the basic law will be defeated. If you want to tax, then you can tax only at one time. The whole idea is not to tax the same property second

time. When widow succeeds to the husband, as she succeeds only in a limited estate, she could not be taxed because there is no property of her own nor any accumulated wealth. There are no earnings of her own and that is why this is put there. I believe our friends have suspicions and doubts because of the word 'Hindu' and we find, perhaps, psychologically, if ever 'Hindu' or 'Muslim' is mentioned, we become suspicious and we start thinking that there is something suspicious and doubtful. But, that is not exactly the way. We have different succession laws; we should have one civil code for Muslims, Christians and Hindus alike and then all quarrels will vanish; but if you want different laws and different succession to properties then, of course, these different laws, will have to be there. With these remarks, Sir, I oppose the amendment.

SHRI O. SOBHANI (Hyderabad): May I just mention, Sir, that there are still some communities among the Muslims, for instance the Khoja community, that is still governed by the Hindu law?

SHRI M. C. SHAH: They will get the benefit.....

KHWAJA INAIT ULLAH: Then why mention only 'Hindu widow'?

SHRI J. R. KAPOOR: In view of what has been said by my hon. friend Mr. Sobhani, would it not be desirable—this is simply a drafting matter—to change the long title also? Instead of having the words "Exemption of interest of Hindu widow devolving upon reversioners in certain cases" we may have "Exemption of interest of a widow governed by the Hindu Law". This drafting change, I think, should be done.

SHRI M. C. SHAH: Marginal notes do not form part of the clause. Therefore it is not necessary to change the draft. Tyabji's Muhammadan Law is very clear. Section 641 (2) reads: "The widow takes 1/8 of the estate if the deceased has left any descendant, and 1/4 if he has not left any;

provided that where the widow has no child by the deceased, she takes no part of the land left by him, but she takes her share of the value of the household effects and buildings. Where there are two or more widows they take such 1/4 or 1/8 of estate in equal proportions."

This clause 32 is in effect a further concession to the relatives of the deceased if the death took place in quick succession.

KHWAJA INAIT ULLAH: Mr. Sobhani just now said that there are other people who are governed by the Hindu law but they are not Hindus. What will happen to them?

SHRI M. C. SHAH: As a matter of fact if the widow gets a limited estate which is called a woman's estate or a widow's estate then this concession will apply to all those who get woman's estate.

KHWAJA INAIT ULLAH: Why are you retaining the words 'Hindu widow'? She is not Hindu widow but she is governed by Hindu law.

MR. DEPUTY CHAIRMAN: Whoever is governed by Hindu law will be a Hindu for the purposes of this clause.

SHRI M. C. SHAH: If any person is governed by any school of Hindu law then that will be.....

KHWAJA INAIT ULLAH: I cannot understand the wording as it is, because the words 'Hindu widow' appear in this clause at the very beginning. It will refer to 'any Hindu widow governed by any Hindu law'. How will it apply to 'any other non-Hindu widow governed by Hindu law?'.

SHRI M. C. SHAH: The relevant portion of the clause reads thus: "Where on the death of any person governed by any school of Hindu law, his interest in any property * * *." The wording is "of any person" and not "of any Hindu person".

MR. DEPUTY CHAIRMAN: I may inform you (referring to Khwaja

Inait Ullah) that 'Hindu widow' has a special legalistic meaning. You need not fear.....

KHWAJA INAIT ULLAH: My objection is to the wording because it seems to mean 'any Hindu widow governed by any Hindu law'.

SHRI M. C. SHAH: In the clause it is there as "any person governed by any school of Hindu law" and not as "any Hindu person governed by any school of Hindu law". As I said, Sir, this is a further concession to quick succession, I mean, to those who have got a limited interest, and therefore I do not think this word 'Hindu' should be deleted. It is not necessary to delete it.

KHWAJA INAIT ULLAH: I may again tell you, Sir, that the wording "Exemption of interest of a Hindu Widow devolving upon reversioners in certain cases" is not in order.

MR. DEPUTY CHAIRMAN: Please do not read the heading only. Please read the body of the clause itself.

KHWAJA INAIT ULLAH: In the heading there is 'a Hindu widow'.

MR. DEPUTY CHAIRMAN: The clause reads: "Where on the death of any person governed by any school of Hindu law, his interest in any property has devolved on his widow, then, if the widow dies within seven years of her husband's death....."

KHWAJA INAIT ULLAH: Now it is clear, Sir.

SHRI M. C. SHAH: In the previous clause we have provided that if the second death occurs within one year of the first death the estate duty will be reduced by fifty per cent. if within two years will be reduced by 40 per cent., if within three years will be reduced by 30 per cent, if within four years will be reduced by 20 per cent. and if within five years will be reduced by ten per cent. We have extended that up to seven years in the case of a Hindu widow, namely, that if a

[Shri M. C. Shah.]

Hindu widow dies within seven years of her husband's death, the reversioners, whoever they may be, whether members of a joint family, collaterals or other heirs or distant heirs, will not have to pay estate duty if the death of the widow occurs within seven years of her husband's death.

DR. SHRIMATI SEETA PARMANAND: It is a hardship on the widow and it is an advantage to those who succeed.

SHRI M. C. SHAH: We have not meant it that way.

KHWAJA INAIT ULLAH: I am satisfied with the explanation given to my point.

SHRI B. B. SHARMA: Is there a second devolution after the death of a widow?

SHRI M. C. SHAH: Whatever benefit is there it will be.....

SHRI B. B. SHARMA: There is no second devolution and if there is no second devolution there should be no second duty.

MR. DEPUTY CHAIRMAN: That is what is provided in this clause.

SHRI B. B. SHARMA: After seven years if the lady dies even then there will be no second devolution and consequently there should be no duty either.

MR. DEPUTY CHAIRMAN: You have not put forward any amendment to that effect.

Mr. Bisht, do you press your amendment?

SHRI J. S. BISHT: I did not move my amendment, Sir.

MR. DEPUTY CHAIRMAN: Mr. Mazhar Imam, do you press your amendment?

SYED MAZHAR IMAM: I beg leave to withdraw my amendment, Sir.

The amendment was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 32 do stand part of the Bill."

The motion was adopted.

Clause 32 was added to the Bill,

MR. DEPUTY CHAIRMAN: Now we come to the clause 33. There are 13 amendments to this clause.

SHRI KISHEN CHAND: I beg to move:

"That at page 19, in line 42, after the word 'sub-section' the following be inserted, namely:—

'and subject to an aggregate amount of Rs. 50,000 for all clauses in this sub-section.'"

MOULANA M. FARUQI (Uttar Pradesh): I beg to move:

"That at page 19, lines 46-47, the words 'to the extent of rupees two thousand and five hundred in value' be deleted."

SHRI KISHEN CHAND: I beg to move:

"That at page 20, for line 5, the following be substituted, namely:—

'(d) books and scientific instruments or apparatus not intended for sale;'"

"That at page 20, line 18, after the word 'life' the words 'or under recognised Provident Funds' be inserted"

MOULANA M. FARUQI. I beg to move:

"That at page 20, lines 18-19, for the words 'rupees five thousand' the words 'rupees ten thousand' be substituted."

SHRI H. N. KUNZRU: I beg to move:

"That at page 20, lines 35-36, the words 'to the extent of rupees five thousand in respect of the marriage of each of such relatives' be deleted."

MOULANA M. FARUQI: I beg to move:

"That at page 20, lines 35-36, for the words 'five thousand' the words 'fifteen thousand' be substituted."

MR. DEPUTY CHAIRMAN: These amendments to clause 33 and clause 33 are open to discussion.

SHRI KISHEN CHAND: Mr. Deputy Chairman, Sir, when we are considering clause 33 relating to exemptions we have got to carefully see that these exemptions under nearly eight or nine headings give room to various sorts of exemptions. A careful man may take advantage of them. Any amount of money can come under these exemptions. I will now go on enumerating them. Of course for (a) there is a limit of Rs. 2,500, for (b) there is a limit of Rs. 1,500. That means Rs. 4,000. There is item (d) "books not intended for sale". There is no limit in it. A man can have a library worth lakhs of rupees. It is not intended for sale and it will go under exemption. There is no limit at all about it whether it is two lakhs or ten lakhs. Of course I know that the hon. Minister will immediately get up and say "I always take exceptional cases". Similarly, Sir, under items (f) and (g) each up to Rs. 50,000 can be deposited either as life insurance policies or moneys can be deposited with Government for the payment of estate duty. Then there is 5 P.M. (h), (i) and (j)—that is also unlimited. Drawings, paintings, prints, manuscripts, all these can be worth any amount of money. They will be all exempt from duty. Then take (k). There can be four daughters, five daughters, any number of daughters and for each of them there will be Rs. 5,000.

KHWAJA INAIT ULLAH: It is not daughters alone. It may be grand-daughters also. Relatives is the word used.

SHRI KISHEN CHAND: My underlying idea is that when you give exemptions without any restriction, a careful man, if he properly arranges, can even have five lakhs of rupees saved under these exemptions. The hon. Minister in an aside said that I ask for more concessions. I am surprised, Sir, that in the drafting of this Bill, he gives all sorts of exemptions, but if we argue for an equitable and just case, immediately instead of refuting the argument, he goes in for a slogan. I submit, Sir, that these exemptions should have an upper limit. That is why I have moved my amendment. Different persons may have different reasons for getting the exemption, but there should be an upper limit. As we have fixed an upper limit of one lakh in general, similarly for these exemptions also there should be an upper limit. I have just now pointed out that if that upper limit is not fixed, even Rs. 5 lakhs can be saved under this heading of exemptions. Is it in the fulfilment of this Bill that we give with one hand exemption for one lakh under a general heading and under the other heading we give unlimited exemptions? From my point of view, the object of this Bill is solely equalisation of the wealth of this country. It is an attempt towards equalisation and when we are attempting to reach that ideal, let us see how far we can attain it more equitably, justly and quickly. Therefore, Sir, I would say that there should be an upper limit for this exemption and my amendment reads as follows:

"To the extent specified against each of the clauses in this sub-section and subject to an aggregate amount of Rs. 50,000 for all clauses in this sub-section....."

If we put down this upper limit of Rs. 50,000 the maximum benefit that any man can get will be one lakh under the general heading of exemption and Rs. 50,000 under these items. If there is no upper limit, a man can get an

[Shri Kishen Chand.]
exemption of even Rs. 10 lakhs, provided he is clever enough and invests his money in the proper kinds of securities and proper kinds of articles.

Then my second amendment is under (d). Clause (d) reads: 'Books not intended for sale'. I have suggested in my amendment 'Books and scientific instruments or apparatus not intended for sale'. Sir, during the discussion on the first reading several hon. Members pointed out that scientific and research workers do not keep books but invest their money in scientific apparatus. It is certainly true. Sir, that for a doctor or a medical man, the scientific apparatus will be more essential for carrying on researches than a stock of books. And how is it right for the hon. the Finance Minister that in his exemptions, he wants to give preference to only theoretical people who want to stock books and not to scientific-minded people who may want to keep scientific instruments and apparatus? Therefore, I would suggest to the hon. the Finance Minister that in the interpretation of 'books not intended for sale', the definition of 'books' should cover scientific instruments and apparatus connected with those books. Even if he does not admit this amendment, instructions may be sent that in the interpretation of this clause scientific instruments and apparatus kept entirely for research work should also be included. Of course, the words 'not intended for sale' will continue to remain there, because I do not want any scientific apparatus which is intended for sale to be exempted but only those scientific instruments and apparatus which are used in research work. I know several friends who have big telescopes to carry on star-gazing. It is their family tradition and they would like their children to continue the habit of star-gazing. Since telescope is not mentioned in exemption it will be liable for tax.

Another amendment suggested by me is that at page 20, line 18, after the word 'life' the words 'or under recognised Provident Funds' be inserted.

Now, moneys payable under one or more policies of insurance effected by the deceased on his life, to the extent of Rs. 5,000 is allowed. There are certain persons who, instead of insuring their life, keep their moneys in the Provident Fund. I should like to know from the hon. the Finance Minister why he does not want to extend the same facilities to the people who keep their money in the Provident Fund. As he knows, Sir, almost all commercial undertakings of the Government do not have a pension, but have a Provident Fund and in preference to insurance policies the employees in those Departments continue to subscribe to the Provident Fund. If exemption is granted to insurance money to the extent of Rs. 5,000, a similar concession to the extent of Rs. 5,000 should be granted for Provident Fund, otherwise we will be penalising those Government servants who are subscribing to Provident Funds and not taking any insurance policy.

My third amendment, Sir, is with regard to the house. As I thought several other Members had proposed it, I have withdrawn that amendment. Therefore I cannot now press it. My underlying idea was that if there is a maximum limit of Rs. 50,000 it will be more equitable to let persons adjust their requirements. Some people may give preference to a house, some to a library, some to insurance policies, some to children, and especially when we are giving a concession up to Rs. 50,000 to a person who deposits with the Government for the payment of the duty, amount of Rs. 50,000 which will be the tax on Rs. 5 lakhs. That means we presuppose that a person with a net asset of Rs. 5 lakhs can be given a concession. I do not see, Sir, why when a concession for a house is asked, immediately the hon. the Finance Minister says that the limit has been raised from Rs. 75,000 to one lakh and it covers that. If that Rs. 25,000 covers that, then why do you give any concession under (f) and (g). The moment you give concession under (f) and (g) you are encouraging those people who leave an estate of

Rs. 5 lakhs. When you have shown concession to them, naturally you must show concession to a man who leaves only Rs. 1,35,000, a house of Rs. 35,000 and a net asset of one lakh.

With these words, Sir, I commend all my amendments to the House.

SHRI H. N. KUNZRU: Sir, the Finance Minister was good enough to assure us that he would keep an open mind till the end. I am sure he might, with equal sincerity, have assured us, notwithstanding his open-mindedness that he would accept no amendment at all. Nevertheless, I venture to move the amendment of which I have given notice. Clause 33 refers to exemptions from estate duty granted in certain cases. The particular part of sub-clause (1) of clause 33 with which I am concerned is paragraph (k). This paragraph says:

“moneys earmarked under policies of insurance or declarations of trust or settlements effected or made by a deceased parent or natural guardian for the marriage of any of his female relatives dependent upon him for the necessaries of life, to the extent of rupees five thousand in respect of the marriage of each of such relatives”.

My amendment is that the words “to the extent of rupees five thousand in respect of the marriage of each of such relatives” be deleted.

Sir, my arguments are the same as those which I advanced in moving my amendment with regard to gifts made in consideration of marriage. My hon. friend Shri Shah then said that a middle-class family could not be expected to give gifts of a higher value than Rs. 5,000 and that if there are people who have so much money that they could give more valuable gifts there was no reason why their estate should be exempted from the payment of estate duty on the amount exceeding Rs. 5,000. I have no doubt that he will use the same argument in this connection. I think my hon. friend was right that in the large majority of cases,

the expenditure on a marriage or gifts is not likely to exceed Rs. 5,000. But I again ask him to consider the case of the people who have the misfortune to possess more money than he thinks it is desirable for anybody to have. If their children are married or the female relatives dependent on them, at least two years before their death, the expenditure on their marriage can be anything. It is not desirable that the expenditure on marriage should be unnecessarily high. I take it, Sir, that this clause does not cover the value of the jewellery or of any property that might be given to a dependent female relative, and I do not know whether I am correct in my second supposition, but so far as gifts.....

SHRI J. R. KAPOOR: It covers only insurance policies.

SHRI H. N. KUNZRU: No, it covers declarations of trust and settlements also

I do not know whether this will include a settlement of property made, say, on a daughter. A person has sufficient money to settle property on a daughter worth Rs. 25,000 or 30 or 40 thousand which nobody can prevent. The reply of Government will be: “We are not fettering the discretion of the party to settle any sum he likes; we are only saying that if the party wants to do that, then if this sum exceeds Rs. 5,000, it will be included in the value of the property that will be chargeable to estate duty.” I do not personally see the justice of this view. There is no one here who does not wish that wealth should be more equally distributed. There should be no extremes of wealth or poverty. But should we in the existing conditions create factors which would lead to inequality between the children of the same parents? Should we lay down a condition which will enable a child, a daughter or a niece who has the good fortune of being married two years before the death of her uncle or other guardian to receive more than another dependant, female relative, who suffers from the misfortune of her guardian dying within two years of her

[Shri H. N. Kunzru.]

marriage? Surely it is inequitable. If this is remedied, there will be no great harm. The exchequer will not suffer, nor will anybody suffer thereby. Say, the property is settled on a daughter. It means, to this extent, the division of a property between 2 or 3 people. Now, surely, Government do not regret that if the Bill results in the sub-division of the property in the lifetime of a particular person. I do not think there is any cause to regret it. The breaking up of large properties is something to be welcomed by itself; and to the extent the settlement of a valuable property of a daughter leads to this result, I see no reason why the person who makes such a settlement should be penalised.

If this section related only to expenditure incurred on a marriage, that is, on feasts and similar things, there might be a case for limiting it, though, there too, some regard will have to be paid to the circumstances of the person concerned. The English law does take into account a man's circumstances. England is not less democratic than we are; it is at the present time more socialistic than we are. Yet it allows for circumstances to be taken into account in considering the value of the gifts made by him or any settlement made by him on his daughter at the time of her marriage. I see no reason why we should not follow England in this respect. If it could be shown that there would be an appreciable evasion of estate duty in this way, there will be a clear case for retaining paragraph (k) in its present form. But I do not think that this can be shown. In any case, if Government think that a limit should be placed to expenditure on a marriage or that a limit should be placed on the moneys that will be exempted under paragraph (k) of sub-clause (1), the limit should be substantially high. Merely making the limit higher will not enable the middle-class people to settle property of a substantial amount on their daughters. This provision can therefore be taken advantage of only by people whose circumstances allow them to do so. We need not regret

that fact. I, therefore, press my amendment for the Government's attention.

MOULANA M. FARUQI:

مولانا ایم - فاروقی : ڈپٹی چیئرمین

صاحب ! میں نے جو امانڈمنٹ
صفحہ ۱۹، لائن ۲۶ اور ۲۷
میں پیش کیا ہے اس کا مطلب یہ ہے
کہ وہ چھپریتی گفتہ کے لئے جو
پابندی لگائی گئی ہے کہ کوئی شخص
دہائی ہزار سے زیادہ نہیں کر سکتا اور
اس کو چھ مہینے کے اندر کرنا چاہیئے
ورنہ وہ ملظور نہیں ہوگا تو میرا کہنا ہے
کہ اس چھپریتی گفتہ میں کوئی
پابندی اس قسم کی نہیں ہونی
چاہیئے - ابھی میں نے اپنی اسپیچ
میں یہ عرض کیا تھا کہ اسوقت
ہندوستان میں ایک اہم سوال ہے کہ
دو طرح کی حکومتوں بن سکتی
ہیں - ایک تو اسطرح کہ جتنی بھی
پبلک پراپرٹی ہے وہ سب گورنمنٹ
اپنے قبضہ میں کر لے اور ہمارے کھانے
کپڑے اور تعلیم وغیرہ کا سب انتظام
وہ خود اپنے ہاتھ میں لے - دوسری
صورت یہ کہ یہ سب ذمہ داریاں خود
ہمارے ہی اوپر ہوں - لڑکے لڑکیوں کی
شادی اور تعلیم جسمیں کافی خرچ
ہوتا ہے ہماری مذہبی سپورٹس یا
مذہبی انسٹیٹیوشنوں جو ہمارے بنائے
ہوئے ہیں بڑے بڑے دھرم شالے بڑی
بڑی مسجدیں، درگاہ ان سب کو چلانا
صرف مذہبی یونائٹڈ آف ویو سے
نہیں کر سکتے کیونکہ یہ ایک سیکولر
اسٹیٹ ہے - تو ان تمام چیزوں کی
ذمہ داری گورنمنٹ پر نہیں سکتی

کہوں گے کہ انہیں جب چیریٹی گفٹ دینا ہے تو دو دنوں برس پہلے کر دیں دس برس پہلے کر دیں، پانچ برس پہلے کر دیں لیکن میں اس بارے میں عرض کروں گا کہ جب تک آدمی بالکل آخری عمر کو نہیں پہنچتا جیسا کہ شاید کلرور صاحب نے فرمایا ہے اور کئی دوسرے لوگوں نے بھی کہا ہے کہ جب تک آخری عمر تک دم نہ پہنچے لوگوں کو یہی خیال رہتا ہے کہ ابھی بہت زندگی ہے اور ابھی تھوڑا بہت عیش عشرت اور آرام کر لیا جائے اور خیرات نہ کیا جائے۔ لیکن جب وہ بالکل آخری وقت میں ہوتا ہے بلکہ بعض وقت تو بالکل عین مرنے کے وقت یا ایک آدھ مہینہ پہلے آدمی کو خیال ہوتا ہے بالخصوص جب ڈاکٹر و حکیم جواب دیدیتے ہیں کہ کچھ اللہ کے نام پر یا دھرم کے نام پر کر دینا چاہئے۔ چنانچہ وہ دھرم کے نام پر کچھ کر دیتا ہے جس سے لوگ فائدہ اٹھاتے ہیں۔ اس لئے اس میں جو چھ ماہ کی پابندی رکھی گئی ہے وہ بالکل ہٹا دیلی چاہئے۔

میں ان الفاظ کے ساتھ پھر بہت ادب سے یہ خواہش کروں گا اور عرض کروں گا کہ اس پر غور کیا جائے اور ہمارے اس ہاؤس میں جتنے لوگوں نے اس سلسلہ میں تقریریں کی ہیں یا اس سے جو خاص طور سے پرزور تعاقب رکھنے والے لوگ ہیں ان میں خاص طور پر ہمارے محترم بزرگ | کلرور صاحب ہیں انہوں نے بھی

کہوں گے یہ ایک مذہبی چیز ہے۔ اس طرح ہمارے ان ایمپلائمنٹ کے مسئلہ کی بھی کوئی ذمہ داری نہیں ہے یہ دوسری بات ہے کہ گورنمنٹ کی ذمہ داری اخلاقی ہو لیکن وہ پوری طور پر ہماری ذمہ دار نہیں ہو سکتی کہ دو لاکھ آدمی بیکار ہوں تو گورنمنٹ دوسرے ملکوں کی طرح ہمیں بھی جب تک ایمپلائمنٹ نہ ہوں کھانے کا خرچ وغیرہ دے۔ ایسی صورت میں اگر لوگ اپنی جائیدادیں گفٹ کر دیں، وقف کر دیں یا خیراتی کاموں میں خرچ کر دیں جیسا کہ سینکڑوں اسپتال قائم ہیں، سینکڑوں مدرسے اور اسکول قائم ہیں اور ان میں بڑی بڑی کرائٹوں کی جانی ہیں تو آپ ایسی چیزوں میں روزانہ اتکا کر اس کا دروازہ بند نہ کریں۔ ہم آپ دیکھ کی حالت کو دیکھتے ہوئے اس بات کی پوری طرح فائنٹ کریں گے اور آپ کو بھی غور کرنا چاہئے کہ ہمیں اس سلسلہ میں پوری آزادی ہونی چاہئے کہ ہم ایسے کاموں کیلئے جتنا چاہیں دیں اس پر کوئی پابندی نہ ہو۔ آپ کو یہ سوچنا چاہئے کہ اپنی جائیدادیں چیریٹی میں دے کر اللہ کے یہاں جا رہے ہیں اور ہمارے لوگوں کے لئے یہ سب کر کے جا رہے ہیں۔ وہ حصہ کسی آپے وارث کو نہیں دے رہے ہیں بلکہ پبلک فائدہ کیلئے دے رہے ہیں جو اصل میں گورنمنٹ ہی کو دینا ہے کیونکہ وہ بھی تو پبلک کی خدمت کیلئے لیکھا چاہتے ہے۔ اب آپ یہ

میں ان الفاظ کے ساتھ پھر بہت ادب سے یہ خواہش کروں گا اور عرض کروں گا کہ اس پر غور کیا جائے اور ہمارے اس ہاؤس میں جتنے لوگوں نے اس سلسلہ میں تقریریں کی ہیں یا اس سے جو خاص طور سے پرزور تعاقب رکھنے والے لوگ ہیں ان میں خاص طور پر ہمارے محترم بزرگ | کلرور صاحب ہیں انہوں نے بھی

[Moulana M. Faruqi.]

فروہ ایسا ہے کہ اس پر جذبات کا خیال
 کر کے اور ہندوستان کے سوشل حالات کا
 خیال کر کے غور کیا جائے اور اس
 امرت منہ کو لحاظ رکھا جائے۔ میں
 اندازہ ہی کہہ کر اپنی تقریر ختم کرتا
 ہوں۔

[For English translation, see Appendix V, Annexure No. 110.]

SHRI S. N. MAZUMDAR: Mr. Deputy Chairman, I am going to criticise this paragraph (j) of sub-clause (1) of this clause. It seems to me that this is an amorphous paragraph which can be moulded in any form suitable for those who want to evade the operation of this duty, and those who are very likely to evade the operation of this duty, namely, the Princes, the Rulers and very rich people. Firstly, Sir, I want to say that this paragraph, according to me, is contradictory in spirit to what has been said in the beginning of sub-clause (1). There it has been mentioned that "To the extent specified against each of the clauses in this sub-section, no estate duty shall be payable, etc." But here the extent has not been specified. Secondly, in paragraph (i) all these items have been mentioned. And what will be the attitude about them, that also has been clearly mentioned. Paragraph (j) reads as follows:

"drawings, paintings, photographs, prints, manuscripts and any other heir-loom, not falling within clause (i), which are retained in the family of the deceased and are dealt with or disposed of in accordance with such conditions as the Board may prescribe and are not intended for sale;"

I submit, Sir, that all the wordings are very very vague. Take for instance heir-looms. There are heir-looms and heir-looms. In the category of heir-looms a wedding ring may be included. On the other hand, in that

category very precious jewels may be included. Now it is said here that "in accordance with such conditions as the Board may prescribe". That leaves a very large scope for evasions. I am not going to anticipate the conditions that the Board is going to prescribe. But there must be some idea about this thing.

Secondly, Sir, it may be argued that these articles which have been included in this paragraph are not intended for sale. But we know that on paper these are legal fictions and in practice there are ways of evasions. Here some articles like heir-looms may be declared as not intended for sale, but other ways may be found for selling them. Sir, while I like to make a demarcation, I do not like to say that everyone or every section is going to make a *mala fide* use of this clause. Still there is much scope for evasion for a particular section of people. I am concerned particularly with those people upon whom, according to the law, the main burden of this duty should fall.

As regards this question of articles which are not intended for sale, many means will be found for defeating the purpose of this wording. I shall mention one story, though it is written in a humorous way, a story by Wodehouse. Though it is written in a humorous way, still it gives some idea about the ways which are resorted to in the United Kingdom by people who want to defeat the purposes of the Act. In that story there is a Lord who is badly in need of some cash, but he finds that his heir-loom is insured and he cannot sell it. So he comes to an arrangement with a professional burglar who is to steal it and sell it and share the proceeds with him on a 50 : 50 basis. This is a reflection, a partial reflection, of the state of things which prevails there, as to how some people try to defeat the law. Though I have not been able to put forward any amendment—because I do not know exactly in what manner it should be put and because I do not like the middle classes to be affected—I would say that even.

though the keeping of articles belonging to the family as heir-looms or mementoes may be a very desirable thing, still we cannot lose sight of the fact that it is likely to lead to evasion. So, I would ask the hon. the Finance Minister to explain to me and to this House as to how he is going to see that the wording of this clause is not going to be utilized by those people who want to defeat the operation of this Act.

SHRI O. SOBHANI: Shall I move my amendment?

MR. DEPUTY CHAIRMAN: It is too late.

SHRI O. SOBHANI: The other amendment, to clause 51.

MR. DEPUTY CHAIRMAN: That will come later on. We are now in clause 33. Now you can speak on the clause.

SHRI O. SOBHANI: In my remarks during the first reading of the Bill I said that I was entirely in favour of the Bill because of the underlying motive of equitable distribution of wealth and property. But at the same time I feel that this Bill should not be operated in a manner which would inflict any hardship on the heirs of the deceased.

KHWAJA INAIT ULLAH: Rich deceased.

SHRI O. SOBHANI: What do you mean?

I therefore submit that, although I have missed the opportunity of moving my amendment, the Finance Minister should see that this Bill in its operation is administered in a way which will take into consideration the circumstances of the heirs of the deceased. Sir, I know of instances, particularly in Hyderabad, Lucknow, Baroda, Gwalior, etc., where people who were till recently employed in Government service and had large properties, are today in a miserable condition. They may be drawing pensions but those pensions are likely

to be stopped immediately the present beneficiaries die, and I can imagine the state of affairs when a man who had occupied a good position in life only a few years ago, dies leaving a widow and probably some sons who are unemployed and some daughters of marriageable age. I know of cases where all that such people have got is a large house in a dilapidated condition, on the rent of portions of which the members of the family have to rely. In such cases, even if they have to pay Rs. 1,000 or Rs. 2,000 towards estate duty, they will not have the cash to meet this liability. I would therefore submit that the Finance Minister should consider these cases and see that the Act is operated in such a way as not to inflict any hardship on the people.

SHRI K. B. LALL (Bihar): Sir, I want to place my views on the clause, although I am not sure whether any of these amendments moved here will be accepted by the Government. Our Deputy Finance Minister has already stated that it is from the point of view of reality that the Government is bringing forward this enactment and not from the point of view of any sentiment. We are all sentimental. Any human being is sentimental. Most of us are. In the House somebody said that in China people use to place currency notes on the funeral pyre in order to get salvation in the next world. We also hear of the Aga Khanis taking purses of thousands of rupees and throwing them away into the ocean after getting them touched by the Aga Khan, in order to get salvation. So, these are all things of sentiment. We live on sentiments. I submit to the hon. Minister that he cannot do without sentiments.

SHRI C. G. K. REDDY: He is not sentimental.

SHRI K. B. LALL: We talk of democracy but let us not murder it. I know the point was made by my friend, Mr. Onkar Nath and by so many other friends also that, if it is left to individuals here, you will know what the

[Shri K. B. Lall.]

real feeling is. But democracy or no democracy, it is the reality that weighs with our Government. I also suggest for the sake of reality that at least one of the exemption amendments moved by Dr. Kunzru should be accepted, i.e., about the limit of Rs. 5,000 for marriage of daughters. It is only on grounds of reality that I am urging that, if the hon. the Finance Minister were to enquire about the state of affairs in my province of Bihar—I know it is the case in other places also—no marriage can take place in a middle-class family in Rs. 5,000. I was surprised at the stand taken by Dr. Seeta Parmanand on this issue. On all occasions she champions the cause of women, but on this occasion she has gone so far as to say that she will take equal shares in the inheritance with men but not any gift. I would appeal to her that so long as she is not getting the Hindu Code Bill passed and the law of inheritance is not changed, let her be merciful to the daughters. That is my appeal to her, that in the flight of her imagination of having equality in everything and having equality in shares along with the sons, she should not refuse anything that is given as gift to the daughters. We have a soft corner for the daughters and there is no quarrel between man and woman here. We are all people guided by sentiment and every father has sentiment for his daughter in marriage in our society.....

DR. SHRIMATI SEETA PARMANAND: Where was the sentiment all these years that you suddenly remember your daughters now?

SHRI K. B. LALL: There are a good many implications in that. I would say that perhaps you will not be able to get even the Hindu Law passed and there will be a lot of objections and the daughters will not get equal share so far as I understand. So it is no use anybody shedding crocodile tears about it. Perhaps your charge against me is this that I was not speaking for equal share for the daughters. I say there should be no

equal share for the daughter. I feel very strongly.....

MR. DEPUTY CHAIRMAN: You can speak about the Hindu Code Bill when it comes. If you have anything to say regarding the estate duty measure you can speak on that.

SHRI K. B. LALL: She said that I was not shedding any crocodile tears for the daughter till now and today I am shedding crocodile tears for the daughter now. Sir, it is not a fact that I am shedding crocodile tears for the daughter at present. Everybody feels for the daughter at the time of the marriage. When we have to select a good bridegroom of a good family, who would not consent to marry unless he gets dowry—and every man expects something—then even those who brag here about philosophy, etc., when they are confronted with such realities, they realize. They not only realize it but in their heart of hearts they want that they should not go down in the matter of status even by an inch when they have to find a bridegroom for their daughter. Nobody would degrade himself and go down for the sake of pleasing anybody or his own self so far as his principles are concerned and say 'I don't believe in dowry or in giving anything to the daughter and so I will give my daughter to anybody'. In that case he has to give his daughter to a boy who may not even take care of the daughter. At that time you can understand the feeling of the father. Then what can be the feeling of the father when he has to manage the marriage within Rs. 5,000? So at least for this I would have thought that setting aside all the flights of imagination of equality, at least the lady Members of the House ought to have come up and supported this because it would help the daughters. How can they be given away in marriage below their status? Nobody, in whatever position, would like his daughter to be given away to any person within the amount that has been allowed by law, i.e., Rs. 5,000. So in the name of reality I appeal to the hon. Minister because he had said that we are led

by sentiment and we don't look at realities. This is the real aspect of the thing that I am trying to place before the House. The reality is that we cannot manage a marriage within Rs. 5,000. If we are forced to do it, then we adopt subterfuges and cheat the Government. Actually by such measures, the Government will be forcing honest people to cheat the Government and evade the laws. No use talking high philosophy; we have to deal with actual realities and it is from the point of the stark reality, setting aside sentiment, that I am making this appeal to the hon. Minister, and I tell him that it is not possible to arrange a marriage within the small sum of Rs. 5,000 and in all fairness and justice some amendment should be made. But the door is closed to all amendments. Is there any intention on the part of the Government to accept any amendment in this House? There is a sense of frustration in this House about the way this House is being dealt with. Even in the morning—I am not casting any aspersions—the whole thing was going to be rushed through. I would have made an appeal that from clause.....

MR. DEPUTY CHAIRMAN: The hon. Member is casting reflections on the House which is not called for.

SHRI K. B. LALL: I am only saying that if this be the attitude that not a single amendment is to be accepted, because it might delay the hurrying through of this measure, then you can yourself understand who is casting reflections and.....

MR. DEPUTY CHAIRMAN: Anyway, you have not tabled any amendment.

SHRI K. B. LALL: No, but I am speaking on the amendments of others.

DR. W. S. BARLINGAY (Madhya Pradesh): The hon. Member seems to have entirely forgotten the Finance Minister's speech of this morning.

SHRI K. B. LALL: I am saying that it is more a reflection on this House

cast by the attitude of the Government and by those who want to rush this Bill through, rather than on the part of any individual Member who may be pleading for more respect for this House and more respect for democracy. It is not my intention to cast any reflection on the House. I would only make this appeal to those who want to or who are responsible for hurrying this measure without any amendment so that this measure may be enacted into law all at once. They should search their own hearts they should put their hand on their heart and say who is casting reflections on this House, whether they or I. I say all these things in the name of reality and in the name of fairness, not of sentiment and I appeal that this amendment should be accepted, if at all there is any intention of treating this House with respect.

KHWAJA INAIT ULLAH: Mr. Deputy Chairman, I am going to oppose clause 33 with the exception of parts (a) and (b). I cannot understand that a Bill which has been brought in for the equitable distribution of wealth.....

SHRI C. G. K. REDDY (Mysore): Is it?

SHRI S. N. MAZUMDAR: No.

KHWAJA INAIT ULLAH: Yes, the hon. Finance Minister said that that is one of the foremost aims of the measure, namely, the equitable distribution—though it may take some time and I think this measure will lead to it.

You are giving an exemption to the value of a lakh of rupees and to the value of about four lakhs of rupees to a joint Hindu family having eight sons. In India, where the majority of the people are not able to leave after them more than a few hundreds or thousands to their heirs, I do not understand why so much exemption is being given. I had tabled an amendment for the schedule also which has been over-ruled because of the fact that special permission of the President ought to have been taken.

[Khwaja Inait Ullah.]

beforehand. I could not get that because of want of time, and moreover, the Minister in charge was not going to recommend that. Even then, here is a clause which can serve my purpose to a limited extent. I have just calculated that after the exemption of one lakh of rupees, at least exemptions to the tune of two lakhs are being given under this clause. I am reminded of the story of a Maulvi Saheb who went to a village.

SHRI B. B. SHARMA: Where, in Bihar?

KHWAJA INAIT ULLAH: I do not know where; perhaps you will understand if you listen. The Maulvi was a pious man with a long beard and he went to a village. He preached there and he was very pleased. At the time of going away he said, "I hope you will remember me" by which he meant that they should remember his teachings. One of the villagers asked the Maulvi to give him one hair of his beard to enable them to remember the Maulvi always. He gave it. Another came and then another and it happened so:

میاں جی کی داہمی واہ واہ میں کٹی۔

(Appreciation cost MiyANJI his beard.)

SHRI C. G. K. REDDY:

बगल में बैठे हैं ।

*[SHRI C. G. K. REDDY: He is sitting by.]

KHWAJA INAIT ULLAH: Here is the case of the Estate Duty Bill going in *wah, wah*, by these exemptions. I cannot understand it, Sir, and I cannot also say about those persons who are saying that yet these exemptions should be increased.

One thing more, Sir; sub-clause (f) gives an exemption of Rs. 50,000 for insurance to pay the estate duty and sub-clause (g) deals with some amount more than about Rs. 50,000 deposited

* English translation.

with the Government. I cannot understand why when in one clause Rs. 50,000 has been provided, some more amount, without any limit, is again exempted by another clause that is (g).

About heir-looms my friend has said that these are also exempted. All right, let us leave them. Everybody is pressing that Rs. 5,000 is not sufficient for marriage. My hon. friend from Bihar who has spoken just now was telling us that in Bihar it is impossible to marry a girl with Rs. 5,000. I do not know about which part of Bihar he was speaking, but if he speaks for the majority of Biharis, I can tell him that a few years ago, my old friend sitting by me will tell him, that the Bihar Assembly had passed a measure fixing only Rs. 101 for the *tilak* of a girl. He may say that the Act is wrong but I assure him that 98 per cent. of Biharis are unable to spend more than Rs. 100 or Rs. 200 at the time of marriage of their daughters.

PANDIT S. S. N. TANKHA: They are not those on whose estate duty is charged.

KHWAJA INAIT ULLAH: There is no question for a man who leaves one lakh of rupees for his daughter and sons. There is no duty upto this limit, but, when a son gets one lakh of rupees, what if he has to spend, out of this one lakh, five thousand rupees, ten thousand rupees, fifteen thousand rupees or even twenty thousand rupees? He can spend that. This Bill is not being made only for the rich people of India. Democracy means rule of the majority and the rule of the majority means the rule of 83 per cent. or 90 per cent. of the Indian people who demand this, namely, that more exemptions must not be given. My amendment for substituting Rs. 50,000 for Rs. 1,00,000, may be out of order but this objection of mine to the clause is not out of order. This whole clause except sub-clauses (a) and (b) should be rejected. There should be no more exemptions. You have given too many ex-

emptions. You have already given exemption up to Rs. 50,000 for joint families and Rs. 1,00,000 for others. I think the whole House, at least a majority of the House leaving aside a few rich men or the men who are representing only a minority of India, will say that there should be no more exemptions. If we are going to give more exemptions I think we are not doing good work. We have to give answers to the public of India that when we are going to pass the Estate Duty Bill.....

SHRI S. N. MAZUMDAR: That majority is just now going to vote for this clause.

KHWAJA INAIT ULLAH: The majority is just now going to vote and I am also going to vote only thinking that this is our first step in the right direction. After a few days or a few months we will go very fast and a day will come, and shortly that day will come, when the limit of these exemptions will become only Rs. 10,000 or Rs. 5,000 instead of Rs. 1,00,000 or Rs. 50,000. With these words, Sir, I oppose this clause regarding exemptions, except for items (a) and (b) appearing thereunder.

PANDIT S. S. N. TANKHA: With regard to the exemptions provided under clause 33 sub-clauses (a) and (b) I have already made my submissions earlier, namely, regarding gifts made for public charitable purposes and I have already submitted that the maximum amounts fixed under the clause are too small and they require to be enhanced in order to enable the public to be more charity-minded.

Regarding sub-clause (c) I have also made my submissions earlier and have urged for the exclusion of the value of tractors and other modern implements of farming from the assets of the deceased as they are necessary for helping greater production of food in the country and the exclusion of the value of these will be an incentive to large-scale farming and thus benefits the country.

As regards sub-clause (d) I am in agreement with one of the amendments moved which includes, besides books, scientific and other instruments and which are to be exempted from duty.

Then, Sir, regarding (f) and (g), to which objection has been taken by my friend Khwaja Inait Ullah, I think that there is some misunderstanding in his mind. It is not the intention of these provisions to exempt from duty Rs. 50,000 at one place and Rs. 50,000 at another place. So far as I am able to understand, clause (f) provides that any person may take a policy in his own name and assign that policy to the Government for the payment of duty payable under this Act. This provision is in respect of assignment of policies of insurance only, with regard to this, Sir, what I have not been able to understand is why the limit of Rs. 50,000 has been prescribed when the assignment is for no purpose other than that for paying the estate duty to the Government. Sub-clause (f) provides that such assignment of policy shall be "not exceeding rupees fifty thousand," but why so, Sir, if the actual duty payable in any particular case be about that amount?

KHWAJA INAIT ULLAH: The balance will be paid from his other estate.

SHRI C. G. K. REDDY: If more than Rs. 50,000 has to be paid as estate duty it does not mean that the assessee will be exempted from paying the excess.

PANDIT S. S. N. TANKHA: What the sub-clause provides is that one's heirs may not be put to the trouble of finding the money for payment of estate duty and that if the holder of the property desires to make provision for payment of this duty in his life time he may be allowed to do so. Therefore such a provision has been made for it. Very well, if that is so, then it was only fair that any amount of duty which is payable under the Act should be allowed to be assigned in favour of the Government without

[Pandit S. S. N. Tankha.]

limiting it to Rs. 50,000. If it is a greater amount than Rs. 50,000; it has to be paid to the Government in any case. The assignment is being made in the name of the Government and there is no possibility of its misuse by the holder of the policy. So, why not allow him to assign the policies for the full amount?

Then, regarding sub-clause (g), my own impression, Sir, is that the difference between (f) and (g) is this that whereas in sub-clause (f) it is the policy of insurance that is to be assigned to the Government, in sub-clause (g) it is the cash which has to be deposited with Government by any person for the payment of estate duty.

KHWAJA INAIT ULLAH: One lakh is the amount exempted.

PANDIT S. S. N. TANKHA: How can it be? That is my view. Personally, I think it is not possible to exempt both. When you have once assigned a policy for the payment of duty, under sub-clause (f) you cannot again deposit another amount under sub-clause (g) and say it is for the payment of duty also and as such no question of exemption under both sub-clauses shall arise.

KHWAJA INAIT ULLAH: The duty may go up to one lakh.

MR. DEPUTY CHAIRMAN: Order, order.

PANDIT S. S. N. TANKHA: For the reasons mentioned I suggest that the amount provided under the two sub-clauses should be the actual amount of duty which is payable on the estate and not a limit of Rs. 50,000/-, and if it is the actual amount of duty whether assigned by policy of insurance or deposited in cash, that should be exempted.

Then, Sir, regarding sub-clause (h), I am of the opinion that the limit of Rs. 5,000/- provided for policies of insurance effected by the deceased is too low for a middle class family. A middle class person usually insures his

life to the extent of about Rs. 20,000/- to Rs. 25,000/- and this is a very moderate amount for which provision is made by an ordinary middle class person, and as such this limit of Rs. 5,000/- is too small and it should be raised.

MR. DEPUTY CHAIRMAN: You have not tabled any amendment.

PANDIT S. S. N. TANKHA: No, Sir.

MR. DEPUTY CHAIRMAN: Then, what is the use of all these remarks?

PANDIT S. S. N. TANKHA: We make these remarks so that if any amending Bill is brought forward at a later stage, these suggestions may be incorporated. I have also pleaded earlier with the Finance Minister about the bonds which are to be issued by some of the Provincial Governments who have or who are taking over landed estates from their holders and I had submitted that it was not fair to tax those bonds. Apart from the reasons which I have given earlier, another reason which strikes me is that these bonds generally are repayable after a period of about 40 years or so. It is possible that some of the bonds in some of the States may be payable only about 30 years after. But as far as I am concerned, in my own State of Uttar Pradesh they are payable after 40 years and they are not negotiable bonds. They are non-negotiable bonds, so that the person who actually gets the bonds would neither be in a position to cash them nor to transfer them and thus cannot enjoy the wealth that consists in those bonds, apart from the interest which will accrue thereon and which will be paid to him from time to time. Moreover, Sir, I fear that within these forty years, which is the period after which these bonds will become redeemable, there will hardly be any family in which there will not be more than two or three deaths of the holders of these bonds. You cannot expect that a man who is middle-aged today, say 40 years, 50 years or 60 years, or his son aged 30 years or so, will be able to

enjoy the fruits of those bonds, and so, if the value of those bonds is charged on every death, then by the time those 40 years have elapsed, perhaps very little value of those bonds would be left.

Moreover, Sir, my principal point is that it is not yet known really what the future governments will do with regard to the payment of these bonds. We do not know whether those bonds will ever really be paid for at all. It is possible that if my friends, the Socialists or the Communists come into power, then these bonds may not be paid for at all. It is also possible that the Congress Government itself, if it remains in power during that long period, may itself decide to declare a moratorium in respect of these bonds and thus not pay the value of these bonds, or substantially reduce their repayment value. And, therefore, Sir, it is for these reasons that I bring this matter to the serious consideration of the hon. the Finance Minister, and I am sure that he will be pleased to see what can be done in the matter.

MR. DEPUTY CHAIRMAN: Mr. Shah.

SHRI C. D. DESHMUKH: Sir, before you call upon Mr. Shah to speak, I should like to intervene and make some general observations in regard to this exemption clause. In the Bill as originally introduced in the House of the People we had a clause which said: (That was clause 32)

"The Central Government may, by notification in the official gazette, make any exemption, reduction in rate or any modification in respect of estate duty in favour of any class of property or the whole or any part of property of any class of persons".

Then, many Members criticised this clause as being too wide and vesting too much an authority in the executive. That point was developed by the Members of the Select Committee and it was agreed that an attempt should be made to categorise some of

the more important exemptions that were likely to be made or suggested. It was, Sir, as a result of that that this detailed exemption clause was introduced. It was clause 32 in the Bill attached to the Select Committee's Report. This is what the Select Committee's report says: "In the opinion of the Select Committee, the Bill itself should make some provisions for some exemption, and the Select Committee, after a careful consideration of the conditions obtaining in India and the suggestions made by various Members in this connection have provided for cases which, in their opinion, deserved to be exempted expressly; at the same time, there may be cases where further reliefs have to be given; and therefore, the general power is retained in sub-clause (2) authorising the Central Government to grant further reliefs in suitable cases". I do not know, Sir, if hon. Members have compared this clause in the Bill attached to the Select Committee's report with the clause as it stands here. If they have made such a comparison they will find that various important changes have been made all representing, in a way, concessions. For instance, this clause about moneys deposited with the Government in such a manner etc.,—that is a new clause; that was not there. The idea of this clause is that at a certain age, insurance companies may not be prepared to insure. Therefore, the owner of the property may not be able to take out an insurance policy in order to deposit the money or to make arrangements for the payment of estate duty and assign the policy to Government. And therefore it was thought that *ad hoc* arrangements should be made for the deposit of this money. Now, in view of the history of this clause, it is quite clear that it was meant to be an alternative to clause (f).

PANDIT S. S. N. TANKHA: That is exactly what I thought.

SHRI C. D. DESHMUKH: But one has still to consider whether the language conveys it. And I do fear that in this particular case there is a

[Shri C. D. Deshmukh.]
 danger of cumulative use being made of these two clauses and thereby the total amount being raised to Rs. 1 lakh. Now this is a matter of which we shall have to take notice and maybe, we shall have to do something about it. I might say that this is precisely the kind of thing which would have been suggested by this House, i.e., to say at this stage, when I say that I have an open mind, it does not mean that we should go over the old ground again and again and hear the arguments for and against the courses which have already been suggested. I am not prepared to agree to a change. That is no longer possible for me either mentally or intellectually or from the party point of view. All these matters have been agitated. It is not as if any new point of view has been put forward. The language in which the point had been urged is different. But if one examines the amendments that were given notice of in the House of the People, one would find that they covered precisely the same sort of field, and at this stage it is not possible for a human being to say "Oh, yes. Now I change my mind. Now I agree not to Rs. 2,500 but to Rs. 5,000." Because in these matters there is no arithmetical means of deciding as to which is right and which is wrong. It depends so much on one's own point of view. What is more important is that it depends so much on what is sensed to be the majority view. And, of course, it is no secret from the Members of the House that so far as the Government are concerned, they have to take notice of the view which they believe to be held by the majority of their party. I need not allude to the party organisation and how it functions. But it is common knowledge that at some time or the other, matters are referred to party meetings, are referred to the executives of the parties and certain decisions are taken. And it often happens in the course of discussion that some specific point is referred to the highest party organisation and certain decisions are recorded and the Finance Minister is authorised on behalf of Government to agree to a cer-

tain amendment. Therefore, Sir, at this stage it is not possible for me to change my mind, so to speak, when I know that the majority is for the view that is already embodied in the Bill, as it has been presented. Therefore, I think, Sir that the observations that fell to my surprise from the hon. Shri Kunzru were undeserved and I hope that he will realise what a shock it has given me that he has meant indirectly to impugn my sincerity.....

SHRI H. N. KUNZRU: Not at all, not at all. (*Interruption.*)

SHRI C. D. DESHMUKH: He says it now. That he did not say when he made his observations.

SHRI H. N. KUNZRU: I never doubted the sincerity of my friend. He is going much too far in saying that I meant to impugn his honesty.

(*Interruption.*)

SHRI C. D. DESHMUKH: As I said, it is my own intellectual conviction that up to a certain stage a concession may be carried, and it is not necessary to carry it any further because a detailed discussion of that takes you into broad fields of economics and sociology and so on and so forth. But, as I said, I am inclined to take a moderate view and have the matter open, so to speak, from the points of view I have mentioned. It might have been possible to accommodate. But I have reached a stage where I have already been accommodating all along the line, and therefore, my residual capacity to accommodate is limited. That is what I was anxious to make clear, Sir, to the House.

KHWAJA INAIT ULLAH: One thing, Sir. Just now my hon. friend, the Finance Minister, has said that in regard to sub-clauses (f) and (g) there are some doubts in his mind even. Then what is he going to do? Is he going to bring an amendment to this Bill in the next session?

SHRI C. D. DESHMUKH: I do not know about the next session, but I will take an early opportunity to bring in an amendment.

KHWAJA INAIT ULLAH: You have taken power to grant more exemptions. I think you should take power also to curtail exemptions.

SHRI M. C. SHAH: Mr. Deputy Chairman, I am afraid there is very little for me to say with regard to the amendments moved by hon. Members here. Mr. Kishen Chand wanted to limit the exemptions to Rs. 50,000 in all. I think that amendment is barred because it requires the President's sanction. However, it is not practicable. There is already an exemption to the extent of Rs. 50,000 in the case of insurance policies affected for the purpose of paying estate duty, and another exemption to the extent of Rs. 50,000 in the case of a deposit with the Government for the same purpose, and the amendment, therefore, cannot be accepted.

Dr. Kunzru referred to the exemption of Rs. 5,000 in respect of the marriage of each of the deceased's dependent female relatives for the necessities of life and so on. Now, Sir, as the Finance Minister has already pointed out, we have given exemptions and concessions to the farthest possible limit. As a matter of fact, if one takes all these exemptions, they will come to about Rs. 16,500, apart from household effects, etc. Rs. 1 lakh exemption is already there, and if you exempt Rs. 1,16,500, taking all these exemptions into account, then whom are you going to tax? Are we going to reduce inequalities or are we going to let things as they are? The whole purpose of estate duty will be defeated if we agree to any further exemptions. In the original Bill, as has been pointed out by the Finance Minister, there was no mention about these exemptions, but still we considered the sentiments of friends like Mr. K. B. Lall and agreed to Rs. 5,000. This Rs. 5,000 for a marriage in a

middle class family is more than enough. How many families are there who can afford to spend Rs. 10,000 or Rs. 15,000 or Rs. 20,000 on a single marriage? As a matter of fact, if you just look at the income-tax figures of the past ten years, you will find that a man getting Rs. 500 per month could not save a single pice. So, how can he leave any property? If he had any property, he would have disposed of it for the purpose of maintaining the family. If we go farther than this, I think the main purpose of estate duty will be defeated. The second objective of getting some funds for the State to spend on developmental projects will also be defeated. My hon. friend, Dr. Kunzru, has kept the exemption unlimited in his amendment. Supposing a man has got three or four daughters, he can leave Rs. 1 lakh for each of them, and then, what will be there for the estate duty? I hope my hon. friend will not press his amendment.

Then, there was something said about residential houses. A residential house may be worth Rs. 1 lakh or Rs. 2 lakhs. Just take the case of a Hindu joint family of one father and two sons. Even if the father has Rs. 1,15,000 plus these exemptions, then Rs. 1,75,000 will not yield a single farthing.

[THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA) in the Chair.]

I am afraid it is not possible for the Government to accept any amendment excluding residential houses. There may be a residential house of Rs. 10 lakhs or Rs. 5 lakhs, one does not know. As a matter of fact, for ordinary middle class people, as I have stated in the morning, this exemption limit of Rs. 1 lakh plus this exemption and for an undivided family Rs. 50,000 is enough. We have gone far enough and I don't think we will be justified in extending further the scope of the exemption limit.

One of my friends referred to certain hardships and harassments if a person has only one house. If the

[Shri M. C. Shah.]
house is worth Rs. 1 lakh, it will be exempted. If it is worth more and if he is not in a position to pay the estate duty which will be very small the position will be this. If the House is worth Rs. 1,25,000 and if he is a separate individual, on the Rs. 25,000 he will have to pay about 7½ per cent. but that payment can be spread over 8 years. We have already provided for that. If the estate duty cannot be paid in certain circumstances, then we give 8 instalments and even half-yearly instalments for eight years can be given and there is a general clause also that looking to the circumstances, the Controller may even give further easy terms about interests, etc. So I think we have made all possible provisions to avoid harassments to those people who have not got cash. Therefore that demand is not justified.

PANDIT S. S. N. TANKHA: You could fix a limit to the value of the house that you want to exempt.

SHRI M. C. SHAH: If a prudent man has got Rs. 1 lakh the custom in our part of the country is that he will only invest one-fourth in his immovable property, one-fourth in jewellery and he will keep half for his business, etc. If a man is not prudent enough and if he has invested entirely in the house, then he will not have to pay anything and if the price of the house is more than a lakh of rupees, then naturally the man must be worth something. If he has no means, then we have provided for instalments. If the house is worth Rs. 25,000 that will come within the exemption limit. In an undivided Hindu family the share of the co-parcener will only pass on death and whatever benefit accrues to the surviving co-parcener will be taxed and then the house will not come in. As a matter of fact all these apprehensions are really speaking, to my mind, ill-founded and we cannot go further than that.

Then my friend Mr. Mazumdar has raised certain points about exemption rules in England. We have accepted

them. There are certain rules there in England—they are on page 38 of Dymond's "Death Duties"—and all the provisions have been made. Inventory is to be made, periodical examinations will be made and then there are so many other conditions and if any of these conditions is broken by the person who has inherited, then the estate duty is levied. If he errs, then also the estate duty will be leviable. All these rules are there and whatever are applicable in our conditions will immediately be adapted. So there is no fear of the clause being misused.

KHWAJA INAIT ULLAH: If the thing is stolen, what happens?

SHRI M. C. SHAH: Of course, such things may happen, it may be stolen, or burnt or something else may happen. But we cannot imagine all possible difficulties now that may come in future. We have to see in general terms.

It may be a piece of art, or there may be photographs and they may be valuable to the person who dies or to his heirs; but if they are sold they will not fetch even a pie or any sensible sum. So we have included in the exemption list all these things.

There was mention made by Shri Kishen Chand about scientific equipment and other things. We cannot I am afraid, exclude them. Books may be such that they may not bring us anything by their sale. But suppose a man is a radiologist and has X-ray apparatus worth, say, Rs. 50,000 or there is another who has a well-equipped laboratory worth Rs. 1 lakh, are we to exempt all these? If we are, then we would have to exempt the buses belonging to the road transport services and so many other things. So we cannot accept this position and I am afraid we cannot accept the amendment.

KHWAJA INAIT ULLAH: So the hon. Minister may accept my view and leave off all exemptions.

SHRI M. C. SHAH: But as a matter of fact, we have to go by sentiments. We have respected them and we have gone as far as we could go.

KHWAJA INAIT ULLAH: Yes, at present.

SHRI M. C. SHAH: Yes, at present, certainly.

KHWAJA INAIT ULLAH: And we will go further.

SHRI M. C. SHAH: I hope the House will reject all the amendments and accept the clause as it stands.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): We have now all the amendments that were moved, to clause 33.

There is amendment No. 19, of Shri Kishen Chand. Does he want to press it?

SHRI KISHEN CHAND: Yes, Madam.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): The question is:

That at page 19, in line 42, after the word "sub-section" the following be inserted, namely:—

"and subject to an aggregate amount of Rs. 50,000 for all clauses in this sub-section."

The motion was negatived.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): Then there is amendment No. 21, of Moulana Mohammad Faruqi. Does he want it to be put to the House?

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*[MOULANA M. FARUQI: I withdraw my amendment.]

The amendment was, by leave, withdrawn.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): Then comes amendment No. 22, moved by Shri Kishen

Chand. Does he want me to put it to the House?

SHRI KISHEN CHAND: Yes, please.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): The question is:

"That at page 20, for line 5, the following be substituted, namely:—

'(o) books and scientific instruments or apparatus not intended for sale;'"

The motion was negatived.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): Does Mr. Kishen Chand press his amendment No. 23?

SHRI KISHEN CHAND: Yes, Madam.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): The question is:

"That at page 20, line 18, after the word 'life' the words 'or under recognised Provident Funds' be inserted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): Amendment No. 24.

MOULANA M. FARUQI I want to withdraw it.

The amendment was, by leave, withdrawn.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): The question is:

"That at page 20, lines 35-36, the words 'to the extent of rupees five thousand in respect of the marriage of each of such relatives' be deleted."

The motion was negatived.

MOULANA M. FARUQI: I want to withdraw my amendment.

The amendment was, by leave, withdrawn.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): The question is:

"That clause 33 stand part of the Bill."

The motion was adopted.

Clause 33 was added to the Bill.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): We take up clause 34. There are two amendments which are consequential to amendment No. 19 and are, accordingly, barred.

Clauses 34 and 35 were added to the Bill.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): Motion moved:

"That clause 36 stand part of the Bill."

SHRI H. N. KUNZRU: I move:

"That at page 22, lines 20-21, for the words 'which, in the opinion of the Controller it would fetch' the words 'which that property would fetch' be substituted."

SHRI KISHEN CHAND: I move:

"That at page 22, line 22, the following be added at the end, namely:—

'subject to the maximum value arrived at by deducting depreciation allowed by the Indian Income Tax Act, 1922, from year to year from the cost of the property. In the case of agricultural land, the market value shall not exceed thirty times the land revenue leviable on that land.'

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): Amendments moved:

"That at page 22, lines 20-21, for the words 'which, in the opinion of the Controller it would fetch', the words 'which that property would fetch' be substituted."

"That at page 22, line 22, the following be added at the end, namely:—

'subject to the maximum value arrived at by deducting depreciation allowed by the Indian Income Tax Act, 1922, from year to year

from the cost of the property. In the case of agricultural land, the market value shall not exceed thirty times the land revenue leviable on that land'."

Both the amendments and the clause are open for discussion.

SHRI H. N. KUNZRU: Madam, sub-clause (1) of clause 36 reads as follows: "The principal value of any property shall be estimated to be the price which, in the opinion of the Controller it would fetch if sold in the open market at the time of the deceased's death". My amendment proposes the deletion of the words "in the opinion of the Controller". If these words were deleted, the clause would read as follows: "The principal value of any property shall be estimated to be the price which it would fetch if sold in the open market at the time of the deceased's death". Then, sub-clause (2) will deal with the manner in which this principal value is to be estimated. Why I have pressed this amendment is that I have later on suggested amendments providing for an appeal to the High Court where the accountable person, that is, the person whose property is assessed to duty, is dissatisfied with the decisions of the referees. I need not say anything about that amendment now, but all that I need say is that if these words "in the opinion of the Controller" are retained, the discretion of the Court in considering the matter would be fettered. The question whether these matters should be referred to a court will be considered later but there is no reason why we should anticipate our decision on that point by keeping these words "in the opinion of the Controller." Nothing would be lost if these words were omitted and we can discuss the question of reference to the High Court later on without prejudicing the purpose of clause 36.

SHRI KISHEN CHAND: My amendment is proposed in order to simplify the procedure of assessing the value of the property. The clause as it is reads: "The principal value of any property shall be estimated to be the

price which, in the opinion of the Controller, it would fetch if sold in the open market", has too many 'ifs'. The hon. the Finance Minister stated in his opening speech that his idea was to make the law as simple as possible. Of course, legislation of this type is bound to be complicated in certain matters, but if a simplification can be introduced which will reduce the two 'ifs' and the opinion of the Controller of a hypothetical situation regarding the price that the property may fetch if sold, by a simple formula for estimating the price, it will lead to greater convenience of the legatees. I had suggested originally that there should be some sort of relationship between the rental value and the price of the property. The hon. the Finance Minister has replied to it, pointing out that various municipalities have different measures for assessing the rental value of property, and as it will lead to differences in different parts of the country I have suggested in my amendment a very simple method of fixing the maximum price of the property. Any property can be valued at the standard rates prevalent at the time of the death of the deceased. Of course the property was constructed some years before that and instead of assessing the value of the property at the time it was constructed and then allowing for depreciation, I have suggested that the property be assessed at the time of the death of the deceased by valuing it on the cost basis less depreciation allowed at the standard rate in the Income-tax Act for the period during which it has been in existence. In this way we will be able to arrive at the maximum price to be fixed for that property. Of course the present clause remains there. If for any reason the value of the property has depreciated it will be governed by the present clause. But this amount will be only a maximum limit for it. It will prescribe a maximum limit for it, retaining the present clause, and it will lead to greater convenience for property owners.

Secondly, Sir, in the matter of agricultural land there has been a great

deal of controversy in the fixing of its price and if it is left entirely to the discretion of the Controller, he may not be fully conversant with the situation in the various rural areas. It will be far better if we prescribe a maximum limit based on the land revenue to be levied on that land. I have suggested in my amendment that in the case of agricultural land the market value shall not exceed thirty times the land revenue leviable on that land. It is a well known fact that in fixing the land revenue the yield and the value of the land are kept in view. For dry lands the land revenue may be only Re. 0-12-0 to Rs. 1-4-0 per acre of such land per year and if you allow thirty times of that it will be Rs. 40 or Rs. 50 per acre of land in the case of dry lands. In the case of wet land, the land revenue varies between Rs. 12 and Rs. 24. In that case also when the land revenue is fixed at Rs. 24 it is estimated that the land is very fertile and it has got proper irrigation facilities and that the production from that land will be fairly high. In that case also if you fix 30 times the land revenue, you will get the figure of Rs. 500, Rs. 700 per acre which is not excessive. Therefore I submit, Madam, that this amendment is only for clarification and for simplification of the law and as such it does not introduce any new principle and I think the hon. the Finance Minister will keep that in view when he is framing the rules even though this amendment may not be accepted by him at the present moment. And therefore I beg to press my amendment.

SHRI J. R. KAPOOR: Madam Vice-Chairman, I would have supported the amendment moved by my hon. friend Dr. Kunzru if I had felt that there is the slightest justification for the apprehension which he entertains. I do not think that there is the slightest foundation for this apprehension. He thinks that the retention of the words 'in the opinion of the Controller' would bar the jurisdiction of any subsequent authority from reviewing or revising the valuation arrived at by the Controller. It is nothing like

[Shri J. R. Kapoor.]
 that. The words here are 'the principal value'—and I lay emphasis on the word 'principal'—'of any property shall be estimated to be the price which, in the opinion of the Controller it would fetch if sold in the open market at the time of the deceased's death.' This is the principal value. The initial value has to be assessed at the initial stage and that has to be done by the Controller himself. If these words are not there, it would lead to considerable litigation and misinterpretation, because it might then be contended that though under clause 41 it is the Controller who has to fix the value, but then that value is to be determined by somebody else. The words in clause 36 are 'The principal value shall be the value which the property would fetch if sold in the open market'. Now, who is going to determine at the initial stage as to what value the property will fetch? If these words are not there, it might be contended that some other party—the civil court—must determine what the value is, what the market value is or what value it would fetch if it were sold in the open market. It is necessary, therefore, that these words should be retained.

Now, even according to the present scheme of this Bill, the value which will be fixed initially by the Controller is subject to revision by the Central Board of Revenue. Appeals against the value fixed by the Controller can be filed before the Central Board of Revenue and the Central Board of Revenue will thereafter refer the matter to the Board of Arbitrators consisting of two Valuers or three, as the case may be, and the final valuation will be by this Board of Arbitrators. So the principal or the initial valuation is to be made by the Controller. If there is an appeal, according to the present scheme, before the Central Board of Revenue, the final valuation will be made by the Board of Arbitrators. If it be provided by us that instead of the Central Board of Revenue the appeals shall be heard and decided by the High Court, then the final valuation

will be made by the High Court. So there is no basis for the apprehension of my hon. friend Dr. Kunzru. As I said, if there had been any justification for it, I for one would certainly have supported him.

PANDIT S. S. N. TANKHA: Madam, I support the amendment moved by Dr. Kunzru. My reason for this is that if these words are allowed to remain, namely, the words "which, in the opinion of the Controller, that property, would fetch" and if this question of valuation is taken before a revising authority, they will say that this was a discretionary matter resting mainly with the Controller and, therefore, they see no reason to interfere with it unless it is proved that the valuation that the Controller has fixed is grossly wrong. Ordinarily, it is common knowledge, no Civil Court, or High Court interferes in appeal in any matter where the discretion lies with the authority deciding a particular matter. Once you say "in the opinion of the Controller", and if you retain these words, the difficulty mentioned above will arise, and therefore I submit that these words should not be allowed to remain.

Moreover, Madam, under the Land Acquisition Act also, there are no words to the effect that the value will be such as in the opinion of the authority giving the award the estate will fetch in the market. In the Indian Electricity Act, Sir, there is a provision whereby Government can acquire the electricity undertaking. There is a further provision there that the acquisition will be on the market value as on the date of acquisition, but there is no mention of any particular authority which would fix the amount. It is left to the Government and the person from whom the undertaking is being taken over to arrive at that figure by mutual consultation; but, failing that the matter will go into Court and it will be for the Court to determine the value at which the undertaking is to be acquired. There is no question of any "opinion" after the valuing authority. Therefore, these words will go against

the interests of the person whose property is to be valued, if these words "in the opinion of the Controller" are allowed to remain. If the matter goes to the Court, the Courts will invariably say that since it was in the discretion of the authority and he has taken a decision rightly or wrongly, we cannot interfere unless you satisfy us that he has grossly erred.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): Mr. Ranawat.

SHRI M. S. RANAWAT: Madam, I support the amendment moved by my hon. friend Shri Kishen Chand. Although I do not feel very happy about the language of the amendment, yet I support the principle that he has enunciated; namely, that "in the case of agricultural land, the market value shall not exceed thirty times the land revenue leviable on that land". I quite support him because that is a very very clear-cut policy in the various regulations or legislations under the Land Revenue Act. There you will find that this property is valued sometimes at 20 times of the revenue and sometimes at 10 times; and if that is taken, it will simplify so far as agricultural property is concerned and enormous difficulty of valuation at market value or other value will be avoided. In my part of the country, it is very difficult, for example, to value wells, or canal land. In some places, there are dry lands, lands are not sold at all. So, in order to save the village people—they are all agriculturists—from this bother, valuation could be simplified and a large amount of litigation may be saved.

As regards the other principle, particularly the cost of the property which he enunciated, I am not quite clear that it will work to my satisfaction. I think it should not be beyond the capacity of the Finance Department or the Revenue Department to evolve some basic formula in a particular block where instead of going into details of the market valuation this could be solved. And

for that reason, I support the principle of this amendment and I would request the Government to come out with some sort of a simplification for valuation purposes.

SHRI M. C. SHAH: Madam, if we accept the amendment of Dr. Kunzru, I do not understand who will make the valuation. There must be some authority to finalise the decision about valuation and he is the Controller. In the whole framework of this Estate Duty Bill, Controller is there in respect of valuation. There is no possible cause for any misapprehension, because according to clause 63(a) (i) it is very clear that the valuation made by the Controller can be challenged by an appeal to the Board of Revenue. And it has also been mentioned there that at the instance of the assessee, if the assessee wants that the matter should be referred to the Board of Valuers, it is obligatory on the Board of Revenue to refer the matter to the Board of Valuers and the Controller also will take the help of some people knowing something about this valuation. And therefore it is necessary that the Controller should be there as an authority. Otherwise the whole clause will be rather meaningless, because there must be some authority to finalise the valuation made.

With regard to my friend, Mr. Kishen Chand, I am afraid that what he wants is not possible. As I said, the valuation of property is the essence of the Estate Duty Bill and at the time of a person's death, whatever the price that property fetches is to be considered the principal value. We cannot have it written down. It may be more or it may be less. We are not concerned with the rate at which the property was acquired. At the time of the death of the deceased, the price may be low or high. At the same time about this agricultural land too, we cannot accept that position. That means one rupee per acre, and thirty times means Rs. 30 and so 3,000 acres which will have to be exempted. I do not think my friend, Mr. Kishen Chand,

[Shri M C. Shah]
will ever agree to that price being paid if that land is acquired by the Government. So, such a procedure will not be fair to the assessees.

SHRI KISHEN CHAND. May I know, Sir, how he has arrived at the figure of 3,000 acres

SHRI M C SHAH At the rate of one rupee per acre. Thirty times means Rs 30, and Rs 1 lakh is the exemption limit. According to your formula the land revenue is Re 1 per acre. Thirty times is the price to be paid. So it comes to Rs 30 per acre. And there is the exemption limit of Rs 1 lakh. So, 3,000 acres will be immediately exempted.

SHRI KISHEN CHAND Sir, it is only a question of assessing the total assets, and in assessing the total assets there will be house property, there will be landed property, there will be other assets.

SHRI M C SHAH Suppose the man has not got any other property. He may have a small house worth about Rs 5,000 or Rs 10,000. Then what will be the extent of the land to be exempted? According to Mr Kishen Chand's formula, it will come to about 3,000 acres. And as a matter of fact, there are different rates of land revenue. The rate varies from province to province, from district to district. So, it is not possible to have this formula. The only thing is that the Controller must know as to what is the value that that property will fetch at the time of the death of the deceased, and that will be the principal value. And if there is any doubt and if the assessee has a grievance, then he can go to the Central Board of Revenue. There he can take advantage of the privilege that is given to him of having one Valuer on his behalf and the other on behalf of the Government and whatever valuation those two Valuers may arrive at, will be final. So, I think the clause, as it has been put here, is quite proper and it ought to be supported and the amendment should be thrown down.

KHWAJA INAIT ULLAH: One thing, Madam. Suppose a money-lender dies and he has a lakh of rupees to receive from so many people. What will you do with regard to this amount in fixing the value of his property? What will become of that money which he has to receive from so many people?

SHRI M C. SHAH The assets and liabilities will be taken into account. Returns will have to be filled showing what are the assets and what are the liabilities. The value of the assets and liabilities will be taken into consideration.

KHWA A INAIT ULLAH Under which clause?

SHRI J R KAPOOR 44

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA) The question is

"That at page 22, lines 20-21, for the words 'which, in the opinion of the Controller it would fetch' the words 'which that property would fetch' be substituted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA) The question is

"That at page 22, line 22, the following be added at the end, namely:—

'subject to the maximum value arrived at by deducting depreciation allowed by the Indian Income-tax Act, 1922, from year to year from the cost of the property. In the case of agricultural land, the market value shall not exceed thirty times the land revenue leviable on that land.'

The motion was negatived.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): The question is:

"That clause 36 stand part of the Bill."

The motion was adopted.

Clause 36 was added to the Bill.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): Clauses 37 to 43 have no amendments. I will put clauses 37 to 43 to the vote.

श्री जे० आर० कपूर : दम्मा सभानेत्री जी धारा ४१ के ऊपर पृथक रूप से विचार करवाने की कृपा करेंगी ?

*[SHRI J. R. KAPOOR: Will the Vice-Chairman be pleased to have an exclusive discussion on clause 41?]

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): Mr. Kapoor is referring to clause 41. The question is:

"That clauses 37 to 40 stand part of the Bill."

The motion was adopted.

Clauses 37 to 40 were added to the Bill.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): Then we come to clause 41.

श्री जे० आर० कपूर : क्या आज ही इस धारा पर विचार करेंगे ?

*[SHRI J. R. KAPOOR: Are you going to take up this clause today?]

SHRI H. N. KUNZRU: It is already seven.

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): The House stands adjourned till 8.15 A.M. tomorrow.

The Council then adjourned till a quarter past eight of the clock on Tuesday, the 22nd September 1953.

*English translation.