SHRI J. R. KAPOOR: Mr. Deputy Chairman, Sir, on behalf of the Committee on Petitions, I present the Report of the Committee relating to a petition on the Estate Duty Bill. The signatory to the petition is the proprietor of a company of income-tax and death duty advisers in Delhi. The petition prays that clause 83 of the Estate Duty Bill, 1953, may be amended so that income-tax practitioners may also be allowed to represent the public before the Estate Duty authorities. The petition is in conformity with the rules of procedure. We have directed that the petition be circulated. Sir, a copy of this petition will be immediately circulated to the hon. Members.

MR. DEPUTY CHAIRMAN: The copy will be circulated.

THE ESTATE DUTY BILL, 1953—*continued*

SHRI J. R. KAPOOR (Uttar Pradesh): Sir, I move:

> "That at page 23, line 40, after the word 'times' the following words be inserted, namely:—
>
> 'and after giving to the occupant such reasonable notice'."

This is a very simple amendment and I hope the hon. the Finance Minister will be pleased to accept it. Of course, it is not possible, as he has said, to accept these amendments in order to incorporate them in the present Bill, but I would submit that if he finds his way to accept the propriety of this amendment, he might just incorporate the substance of this amendment in the rules which the Central Government would prescribe.

The object of my amendment is this. Clause 41 authorises the Controller to authorise somebody else on his behalf to inspect any property in order to find out the value thereof. Now, the necessary provision has been made in this clause that in the rules it would be prescribed at what reasonable times the inspector may go and inspect the property. I suggest, Sir, that the rules should also prescribe that before the inspector goes to inspect the property he should give due notice of his intention to do so to the occupier of the property. This, I submit, is very necessary. I should think that even ordinarily a notice would be given to the occupier of the property, but then since it has not been mentioned in this clause, I would like that it might be mentioned herein or failing that it should be seen that in the rules which are prescribed by the Central Government it might also be specifically prescribed that the inspector before going to inspect the property shall give due notice of his intention to do so that if there are any *purdah-nashin* ladies in the house, they might withdraw to some particular portion of the house and no unnecessary harassment may be caused to the occupier. This is my simple amendment.

THE DEPUTY MINISTER FOR FINANCE (SHRI M. C. SHAH): Sir, I cannot accept the amendment, but I assure the hon. Member and the House that this will be included in the rules. These are matters of detail—the time of inspection, giving of notice, etc.—and all these things will be included in the rules and it will be seen that no harassment is caused to the assessees, that is, their heirs.

MR. DEPUTY CHAIRMAN: Do you press your amendment, Mr. Kapoor?

SHRI J. R. KAPOOR: I would beg leave of the House to withdraw my amendment.

The amendment was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

> "That clause 41 stand part of the Bill."

The motion was adopted.

Clause 41 was added to the Bill.

Clauses 42 and 43 were added to the Bill.

MR. DEPUTY CHAIRMAN: Clause 44. There are four amendments to this clause.

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

"That at page 24, lines 20-21, for the words 'rupees five thousand' the words 'rupees twenty-five thousand' be substituted.

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

"That at page 24, lines 20-21, the words 'to the extent to which such debts are in excess of rupees five thousand,' be deleted."

MR. DEPUTY CHAIRMAN: Amendment No. 83—Syed Nausher Ali is not here.

SHRI J. R. KAPOOR: Sir, I move:

"That at page 24, lines 11-12, the words 'wholly for the deceased's own use and benefit' be deleted."

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

SHRI J. R. KAPOOR: Mr. Deputy Chairman, Sir, the amendment that stands in my name desires that in part (a) of clause 44, the words "wholly for the deceased's own use and benefit" be deleted. Sir, this is an amendment which I consider to be very necessary and of a very important nature. Under clause 44 it is provided that debts and incumbrances on property which is to pass on death shall be deducted from the value thereof provided that the debt was incurred in a *bona fide* manner—that is all right—for full consideration in money or money's worth—that is also all right. But then it goes on to say, wholly for the deceased's own use and benefit.

It means that if the debt was not incurred exclusively for personal use, and not only use but also for the benefit of the deceased person, that debt or incumbrance shall not be deducted from the value of the property passing on death.

Sir, this is an astonishing proposition that debts shall not be recognised, incumbrances shall not be recognised, unless the money obtained by the borrower is proved to have been utilised exclusively first for the use and then for the benefit of the borrower. Does the Government want that every citizen in this country should become so hard-hearted and callous as not to benefit others except his ownself, not even his sons, not even his relatives who are dependent on him, not even his friends whom he may be disposed to help. If the money is borrowed for the purpose of educating his relatives who are dependent on him, if money is borrowed for marriage purposes of relatives who are dependent on him, if money is borrowed in order to help a friend in need, and lastly, if one person stands as a guarantor to his friend in order to accommodate him, in order to help him to secure some money—then, none of these transactions shall be taken into consideration while assessing the value of the property which he leaves behind. Is it not a very curious and callous proposition? Do we want our society to become absolutely individualistic, that none of us could have any regard and consideration, no sympathy, no fellow-feeling for anybody else? What is the state of affairs to which we are driving our society? Also, look at the absurdity of these words "own use and benefit". What does the word "benefit" mean? Who is going to decide and determine as to whether the money borrowed is going to be used not only for his personal use but also for his 'benefit' so that if there is death, the Controller or whosoever the authority be, he will sit in judgment over the conduct of the person dead. He will carry on a sort of *post mortem* examination of

the religious or ethical standard of the person who is dead. He will probably inquire into the manner of his spending and whether he had derived any benefit by that expenditure or whether he had squandered the money away or had used it for some purpose which did not benefit him—then those debts would not be taken into consideration. I wonder how it will be possible for anybody whatsoever to enter into the question as to whether the expenditure was incurred by the deceased for his benefit or not.

Sir, may I in this connection, draw the attention of the House to the fact that so far as displaced persons from Pakistan are concerned, they are granted loans from the Rehabilitation Finance Administration on some friend or relation of theirs standing as guarantor for the repayment of the money. And the Rehabilitation Finance Administration is particularly strict in this respect. In some cases they are not satisfied with the formal sort of guarantee by a guarantor but they also desire and insist that the guarantor should in some form or other pledge his property in order to give effective security for the repayment of the loan.

How is it possible for any one now, in the face of this clause 44, part (a), to stand as a guarantor when he knows that if, unfortunately, he dies, then, the amount to the extent of his guarantee will not even be deducted from the value of the property which he leaves behind. This is a proposition of a very astonishing nature. It is unsocial, I submit, and I most earnestly request the Government to seriously consider the implications of this. This is all that I have to submit, Sir, and I do earnestly request that my amendment should be accepted. of course, I do not mean thereby its immediate incorporation in the Bill, but it should be incorporated in the new amending Bill which, as the hon. the Finance Minister said yesterday, will be brought before us in the next session.

SYED MAZHAR IMAM:

سید مظہر امام : جناب ڈپٹی چیرمین صاحب - میں نے اپنے اس امنڈمنٹ کے متعلق فرسٹ ریڈنگ (first reading) کے وقت اپنی اسپیچ میں اپنے خیالات ظاہر کر دئے تھے - اب اس امنڈمنٹ کو پیش کرتے ہوئے میں گورنمنٹ سے چاہوں گا کہ میرے امنڈمنٹ کو وہ منظور کرلے - اس کا سبب یہ ہے کہ میرا جو امنڈمنٹ ہے وہ بہت ہی ریزن ایبل (reasonable) ہے - جس وقت یہ بل ہاؤس آف دی پیپل میں پاس کیا جا رہا تھا اگر اس وقت اس کلاز کو امنڈ کر دیا جاتا تو بہت ہی اچھا ہوتا - اگر کوئی شخص کوئی رقم قرض لے کر چھوڑتا ہے تو اس پر اسٹیٹ ڈیوٹی (Estate Duty) نہیں لگتی - مگر ۴۴ ڈی (44D) میں اس طرح سے دیا ہوا ہے :-

"for debts incurred by or on behalf of the deceased by way of dower, to the extent to which such debts are in excess of rupees five thousand."

اگر ہم اس کو ڈیٹس (debts) مانتے ہیں اور ڈاور (dower) میں سمجھتے ہیں تو ایسی صورت میں یہ جو ۵ ہزار کی لمیٹیشن (limitation) رکھی گئی ہے نامناسب ہے - میں نے اس دن بھی عرض کیا تھا اور آج بھی عرض کئے دیتا ہوں کہ اگر

[Syed Mazhar Imam.]

(Mohammadan لا محمدن) آپ اُٹھا کر دیکھیں گے تو اگر کسی (Law) پرسن (person) پر فرسٹ چارج (first charge) ہوتا ہے تو ڈاور پر ہوتا ہے - جب تک ڈاور اوبٹین (obtain) نہیں کر لیا جاتا اس وقت تک کسی بیٹا یا بیٹی کو اس کی پراپرٹی (property) میں سے کچھ بھی حصہ نہیں مل سکتا - یہ لیگل پوزیشن (legal position) ہے -

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh):

डाक्टर श्रीमती सीता परमानन्द (मध्य प्रदेश) : उसमें डावर को कितना हिस्सा मिलता है ।

SYED MAZHAR IMAM:

سید مظہر امام : میں نے عرض کیا کہ حصہ کے علاوہ ڈاور ملتا ہے عورت کو شیئر بھی ملتا ہے یعنی ایشو (issue) والی عورت کو دو آنہ اور ایشولیس (issueless) کو چار آنہ کا حصہ ملتا ہے - ایسی صورت میں ڈیتس علیحدہ ملتا ہے - اس کے لئے کوئی رقم مقرر نہیں ہے - دو سو پانچ سو، دس ہزار، چالیس ہزار اور ایک لاکھ کی بھی رقم کا ڈاور ہو سکتا ہے - جس طرح سے لوگوں کی حیثیت ہوتی ہے اس طرح سے یہ گھٹتا بڑھتا ہے - یہ تمام ہندوستان میں رائج ہے - یہ ہمارے لئے کوئی نئی چیز نہیں ہے لہذا میں اس امنڈمنٹ کے ذریعہ کوئی نئی چیز نہیں کہہ رہا ہوں - اگر کسی قرض کا ایکزمپشن (exemption) نہ دیا جاتا تو بھی ہرگز اس امنڈمنٹ کو پیش نہیں کرتا -

آپ نے اس قانون میں یہ بات تو رکھی ہے کہ اگر کوئی آدمی ۱۰ لاکھ روپیہ بھی قرض لیتا ہے تو اس پر اسٹیٹ ڈیوٹی نہیں لگے گی - مگر آپ نے ڈاور کے لئے جو ۵ ہزار کا لمیٹیشن رکھ دیا ہے وہ بہت ہی نامناسب ہے - اس لئے میں سرکار سے عرض کرنا چاہتا ہوں کہ اس کو تبدیل کیا جانا چاہئے - اگر گورنمنٹ کو اس وقت اس کو تبدیل کرنے میں مشکل ہوتی ہے تو آگے اس طرح کا امنڈمنٹ لایا جا سکتا ہے جس سے تمام لوگوں کو سکون حاصل ہو جائے اور لوگ سمجھ جائیں کہ ان کے ساتھ سرکار نے انصاف برتا ہے - اس لئے میں ان چند الفاظ کے ساتھ آپ سے امید کرونگا کہ میرے اس امنڈمنٹ کو اگر اس وقت مان لیا جاتا ہے تو ٹھیک ہے ورنہ سرکار کی طرف سے یہ اطمینان دلایا جانا چاہئے کہ آئندہ جب سیشن (session) ہوگا تو اس میں اس طرح کے امنڈمنٹ کو اختیار کر لیں گے -

[For English translation, *see* Appendix V, Annexure No. 112.]

MOULANA M. FARUQI:

مولانا ایم - فاروقی : جناب ڈپٹی چیرمین صاحب ۔ میں نے جو امنڈمنٹ پیش کیا ہے اس کا مطلب

زمانہ میں عورتوں کو طلاق کا حق نہیں تھا اور نہ ان کو نکاح کا ہی اپنی مرضی سے اختیار تھا - ان کو اپنے اختیار کے مطابق زندگی بسر کرنے کا بھی کوئی حق نہیں تھا - جس طرح سے کوئی شخص مر جائے اور اس کی جائداد تقسیم ہوتی تھی اسی طرح سے وہ بھی تقسیم ہوجاتی تھی - محمد صاحب عرب میں پیدا ہوئے اور انہوں نے ریوولیوشن پیدا کیا اور تمام دنیا کے خلاف ایک تحریک جاری کر دی جس میں نہ صرف عورتوں کا درجہ ہی برابر دیا گیا تھا بلکہ ان کو بڑھایا گیا تھا - اس لئے بڑھایا گیا تھا کہ انہیں لفٹ (lift) دینے کی ضرورت تھی - تو کم از کم اس مذھب نے عورتوں کو جتنا درجہ دیا ھے اتنا درجہ تو ھماری عورتوں کو بھی ملنا چاھئے - اس طرح کا سلسلہ ساری دنیا میں ہو رہا ھے - یہاں بھی اس کے لئے طرح طرح کی تجویزیں سامنے آ رھی ھیں اور بہت سارے بل ھمارے یہاں آ رھے ھیں - یہ بھی سوچا گیا ھے کہ ھر عورت کو یہ اختیار ھے کہ وہ جس طرح سے چاھے اور جہاں چاھے شادی کر لے اُس کے باوجود سوسائٹی میں اُس کی حیثیت برقرار رھے گی- ھندو میرج بل (The Hindu Marriage Bill) وغیرہ کی یہ غرض ھے - عورت کے پاس صرف مہر ھی ایک ایسی چیز ھے جس سے وہ اپنے شوھر کو کسی

یہ ھے کہ مہر جس کمیونٹی (community) میں ھے اس کو اس طرح خیال کیا جائے جس طرح ... قرضے کسی شخص کے خیال کئے جاتے ھیں- مہر کی ایک تاریخ ھے، اس کی ایک بنیاد ھے - میں آپ کو کچھ سو برس پہلے لے جانا چاھتا ھوں - سانویں صدی میں عورتوں کی یہ حالت تھی کہ جس طرح کوئی پراپرٹی (property) ھوتی ھے یا کوئی اسباب ھوتا تھا اور جانور ھوتے تھے اسی طرح ان کے ساتھ برتاؤ ھوتا تھا - ان کی نہ کوئی عزت تھی اور نہ سوسائیٹی (society) میں ھی ان کی کوئی بلند جگہ تھی - اس چیز کی گواھی آپ کو رومن امپائر - پرشین امپائر اور دوسرے متمدن ملکوں کی تاریخ سے ملےگی - تب عرب میں ایک ریوولیوشن (revolution) ھوا - ایک انقلاب ھوا جس کے بانی محمد صاحب تھے جس نے سب سے پہلے یہ بیسک (basic) بنیادی چیز بتائی کہ عورتوں کو برابر کا درجہ دیا جائے - بلکہ عورتوں کو مردوں سے درجہ میں بڑھایا جائے کیونکہ وہ بہت گری ھوئی حالت میں تھیں -

اس طرح ھر واقفکار آدمی جانتا ھے کہ ساتویں صدی کے پہلے تک کیا حالت تھی اور عورتوں کو کتنی مصیبتیں اٹھانی پڑتی تھیں - اس

[Moulana M. Faruqi.]

دوسری شادی نہ کرنے پر مجبور کر سکتی ہے اگر پھر بھی شوہر نہیں مانتا تو وہ اپنا مہر لے سکتی ہے ؟ مہر ایک ایسی چیز ہے جسکی مقدار، تعداد کوئی ڈیفائن (define) نہیں ہے کہ کتنا مہر باندھا جائے گا یا کتنا نہ باندھا جائے گا ۔ شادی کرنے سے پہلے اپنی حالت کو، اپنی تعلیم کو اور اپنے کلچر اور اپنی حیثیت غرضیکہ ہر چیز کو دیکھ لیا جاتا ہے اور اسی حساب سے مہر عورت اپنا مقرر کراتی ہے - بعض صورتوں میں شادی کے فوراً بعد ہی اپنے مہر کی ادائیگی کے لئے شوہر کو مجبور کر سکتی ہے - یہ چیز عورت کے حقوق کے لئے ایک بہت ہی اہم چیز ہے - اس کو جو اختیار اس کمیونٹی نے شادی کرنے کے پہلے اپنے ایک مہر کا دیا ہے اور جو اس کی جائداد کی طرح ہوتی ہے وہ بہت ہی اہم ہے - .....

DR. SHRIMATI SEETA PARMANAND:

डा० श्रीमती सीता परमानन्द : क्या मेहर कबूल किया जाता है, वह अपने हिसाब से कबूल किया जाता है ।

MOULANA M. FARUQI:

مولانا ایم - فاروقی : عورت کو اختیار ہوتا ہے کہ وہ جتنا چاہے مہر باندھے اس کے لئے کوئی تعین نہیں ہے -

DR. SHRIMATI SEETA PARMANAND

डा० श्रीमती सीता परमानन्द : हिसाब क्या रहता है ?

MAULANA M FARUQI:

مولانا ایم - فاروقی : حیثیت کم ہونے اور مہر زائد ہونے میں کوئی ہرج نہیں - کیا معلوم کہ جو شوہر آج غریب ہے کل امیر ہو جائے - اس لئے فی الحال مہر زائد باندھنے میں کوئی خرابی نہیں ہے -

ہمارے یہاں عورتوں کو دو آنہ یا چار آنہ کا حصہ ملتا ہے - یہی نہیں میں آپ سے یہ بھی عرض کرنا چاہتا ہوں کہ ان کو یہ حصہ ہی نہیں ملتا ہے بلکہ جب تک عورت زندہ رہتی ہے شوہر کے اوپر اس کا پورا خرچ رہتا ہے - شوہر جس دن خرچ نہ دے اسی دن سے عورت کو یہ حق ہوتا ہے کہ وہ عدالت میں جاکر یہ کہہ سکتی ہے کہ شوہر کی جائداد سے یہ روپیہ کھانے کپڑے کا دیا جائے یا طلاق دلوا دی جائے اور جب تک نہیں دیا ہے وہ ادا کرایا جائے - تو اس طرح کا ریزولیوشن محمد صاحب نے دنیا میں کیا - انہوں نے عورتوں کو طلاق کا حق دیا - مہر کا حق دیا اور کھانے کے خرچ کا حق دیا اور جب تک شوہر زندہ رہتا ہے وہ پورا خرچ عورت کا برداشت کرتا ہے - اسی کے ساتھ اگر عورت خود سے تجارت کرتی ہے یا اسکے باپ کی پراپرٹی اس کے ہاتھ آتی ہے تو تمام اپنے مال

کی وہ آزادانہ مالک ہوتی ہے اس میں شوہر دخل نہیں دے سکتا - یہ چیز آج گیارہ بارہ سو برس پہلے کی تھی - اب آج کے زمانہ میں ہم آگے بڑھنے کے لئے یہاں بیٹھے ہیں - تو ہم یہ دیکھ رہے ہیں کہ اس بل میں عورتوں کے متعلق جتنے بھی آئٹمس (items) ہیں جن کا عورتوں سے تعلق ہے جیسے شادی کا سوال ہے - لڑکی کو جہیز دینے کا سوال ہے اس قانون کے ذریعہ آپ نے ایک طرح سے باندھ دیا ہے - میری سمجھ میں یہ نہیں آتا ہے کہ جب آپ عورتوں کی گری ہوئی حالت کو سدھارنا چاہتے ہیں تو اس قانون کے ذریعہ ان کو کیوں باندھا جا رہا ہے ان کی حالت پر آپ کو ترس کھانا چاہئے - اگر آپ عورتوں کی حالت کو آگے بڑھانا چاہتے ہیں تو اس قانون میں عورتوں کی شادی کے لئے مہر کے لئے جو رکاوٹیں ہیں ان کو دور کر دینا چاہئے -

یہ ایک بڑی افسوس کی بات ہے کہ اگر دوسرے طبقہ کا کوئی آدمی قرض لیتا ہے تو اس کو آپ دستاویز کے ذریعہ اس قرض کو مان لیتے ہیں - لیکن وہ قرض جو کہ ایک عورت کا مہر کے سلسلے میں ہے اسے آپ نہیں مانتے - اس بل میں مہر کے بارے میں کوئی خاص ڈیفینیشن (definition) بیان نہیں کی گئی ہے - یہ عورتوں پر سراسر ظلم ہے - اس کی کوئی وجہ نہیں ہے کہ ۵۲ اور ۵۵ فیصدی

عورتیں جو ہمارے ملک میں ہیں ان کو متوازن حقوق جو عام طور سے ملنے چاہئیں ان کو کیوں نہ ملیں - ان کو ان کے جائز حقوق سے کیوں محروم کیا جا رہا ہے - اس لئے میری گورنمنٹ سے یہ درخواست ہے کہ وہ عورتوں کے جائز مہر کا حق جو ان کا قرض ہوتا ہے ان کو دینا منظور کرے "

[For English translation, *see* Appendix V, Annexure No. 113.]

SHRI O. SOBHANI (Hyderabad): I rise to support the amendment moved by my friend, Maulana Faruqi. He has lucidly explained in Urdu what *meher* means and why it became necessary to introduce the institution of *meher* in the Islamic law. He has told the House what status women had in the seventh century and how it was raised by Islam and how women were given the right of inheritance and the right to seek divorce and the right to lead a respectable life. Sir, *meher* is not dowry which is prevalent in India, which is given by the father to the bride. It is the other way about. A man, when he marries, has to fix a certain sum which he would give to his wife either immediately on the consummation of marriage or in a deferred manner and therefore in law this is a first charge on the property of the man, and it is entirely for the protection of the woman so that the man may not divorce her to satisfy his whims. Whereas a Muslim is limited to marrying four wives, he is also compelled by *meher* not to divorce his wife on the slightest pretext, and if he does so, then he has to pay this amount immediately, and if he does not, the woman has a remedy in law. Therefore I suggest that the Government should accept this amendment. I feel that the Finance Minister is not disposed to accept any amendments at this stage but, Sir, I would urge him to consider this matter very seriously.

سید مظہر امام : کیا میں دریافت کر سکتا ہوں کہ آنریبل ممبر مولانا صاحب کی املاک کی تائید کرنا چاہتے ہیں جس میں ۲۵ ہزار تک کی لمٹ (limit) رکھی گئی ہے یا میرے املاک کی جس میں کوئی لمٹ تجویز نہیں کی گئی ہے -

†[SYED MAZHAR IMAM: May I know whether the hon. Member wants to support Maulana Sahib's amendment in which the limit has been fixed at Rs. 25,000 or my amendment in which no limit has been fixed?]

SHRI O. SOBHANI: I would gladly support the amendment moved by my friend, Syed Mazhar Imam, but I feel that the Government would have some hesitation in accepting it. Therefore, taking the line of least resistance, I give preference to the amendment moved by Maulana Faruqi, for this reason that the Government may argue that in order to defeat the purpose of this Act, some men may say that they have agreed to give a *meher* of a few lakhs of rupees. It is for that reason that I am taking, as I said, the line of least resistance and supporting the amendment moved by my friend, Maulana Faruqi which limits the amount to Rs. 25,000, instead of Rs. 5,000. I have said before, and I repeat that we are in favour of any law that tends to bring about equality in the distribution of wealth. I would suggest to my hon. sisters here who are most anxious to introduce certain reforms in the marriage laws to adopt the system of *meher* for the protection of women when a suitable opportunity occurs. Sir, I am so much in favour of any measure which tends to equalise the distribution of wealth that I would suggest to the hon. the Finance Minister to bring a Bill to introduce *zakat* which is a form of capital levy. Islam introduced this fourteen hundred years ago. Any man who has any property or wealth should give a capital levy of 2½ per cent. on the capital. One thing more about taxation without tears. I submit that taxation in Islam is without tears. It only taxed the rich and not the poor. The system of taxation is such that it does not involve any hardship on the people who pay the taxes. I will illustrate my point by referring to the provision in the law of *zakat*, that a residential house is exempted, because the idea is that the family of the deceased should not be dislodged and thrown on the streets in case of the death of the principal member of the family. Therefore, I have laid emphasis on this Act being operated sympathetically and with due regard to the conditions of the family of the deceased. I do hope that my hon. sisters will support this amendment because it is purely in the interests of women. Thank you.

SHRI GULSHER AHMED (Vindhya Pradesh): Mr. Deputy Chairman, my learned friend, Maulana Faruqi, has just now made a speech informing the House about the social aspects of the system of dower in the Muslim Law. I would not like to go into this aspect. The hon. Member has enumerated many rights that the Muslim wives enjoy. I would like to mention one more. She has got a right to keep her separate property absolutely for her own benefit and she can go to the extent of refusing to part with her property even when her husband is starving. She can insist that if he is not in a position to provide her with food and shelter then he should divorce her. That is one of the rights that my learned friend, Maulana Faruqi, has not referred to.

I will now take up the legal aspect of the dower. I would like to remove the misunderstanding from the minds of many hon. Members that dowry and dower are the same thing. Dower in Mohammadan Law, is a fixed amount agreed to at the time of

†English translation.

marriage in consideration of marriage. As most of the hon. Members know, in Mohammadan Law marriage is a civil contract. It is not a sacrament as in Hindu Law. It is a civil contract and the amount fixed in consideration of marriage is known as dower in Mohammadan Law. This amount is treated as a debt. According to strict Mohammadan Law it is a sort of *hundi* that a wife keeps against the husband and which she can cash at any moment. She can demand it before consummation of marriage. She can say that unless that money is paid, she is not willing for consummation, and if the amount is not paid, she can even break the marriage by going to the court. Reasonable dower is fixed to protect against arbitrary exercise of the power of the husband. In Muhammadan Law the husband has got absolute power to divorce without showing any cause or reason; he can just say, 'I divorce thee' and the marriage is broken. At the time of marriage a sum is fixed fitting the status of the husband so that the husband in the future may not be in a position to divorce her easily or, if the dower is paid just before consummation, the wife can keep it for her maintenance in case of divorce or death of the husband. Deferred dower is a money which is kept with the husband and she can demand it at any time after consummation and if he refuses to pay, she can go to court. Dower is a vested right which is deferred for the time being for some other future emergency like divorce or death of the husband. But so far as the right is concerned, that comes into existence at the very moment when the marriage contract is entered into. I would like to read one or two sentences from Mohammadan Law where it has been said that this right of dower is heritable and transferable. She can very easily transfer her rights to any person, to a stranger or her children or anybody else. In the same way, if she dies without realizing the money from her husband, her heirs can also claim that money from the husband. So the dower is not something which depends on the sweet will of the husband. It is an absolute property of the wife and is both transferable and heritable. The heir and the transferee can claim it from the husband. In this connection I would like to read Mulla on Mohammadan Law where the author has discussed the law regarding dower. It says here:

> "All that can now be said with certainty is that the right to hold possession is heritable. Though it cannot be said with certainty whether it is also transferable, the balance of authority in India is in favour of the view that it is also transferable."

Apart from the right of heritability, she also has got this additional right that she can retain possession of the husband's property till her dower debt is satisfied. Even after the divorce she can retain that property. Not only the right to dower but even the right to possess the property of the husband is heritable and transferable. For example if she was in possession of a house and the husband did not pay her dower and she dies, then her heirs also can step in and retain possession of the property of the husband, like the wife, till the dower debt of the wife is satisfied. So they say the right to dower debt is heritable and transferable. There is no doubt. There was some doubt between the High Courts whether the right to possession of property of the husband is heritable or not. So on page 242 of Mulla's Mohammadan law it is said:

> "All that can now be said with certainty is that the right to hold possession is heritable. Though it cannot be said with certainty whether it is also transferable, the balance of authority in India is in favour of the view that it is also transferable."

So this is the view of our jurists after quoting the opinions of the different High Courts.

11 A.M.

Then I would like to draw the

[Shri Gulsher Ahmed.]

attention of the hon. Finance Minister to the fact that even in England when any sum is settled in consideration of a marriage for the benefit of the spouse and not for the benefit of the children, it is exempted from estate duty. The hon. Finance Minister said that most of the provisions are taken from England and so may I know why he has included the dower, above five thousand rupees, in the property passing on the death of the husband? The dower system has been in existence in Mohammadan Law for a long time and it is a sure guarantee of security to a wife in Mohammadan Law and it works as a check against the arbitrary power of the husband to divorce his wife at any time. In case of death of the husband she can maintain the children with dower money. In Shia family, if there are no children she does not get any right in the property. In Sunny law it is all right. If there are no issues, she gets two annas in the rupee but in the case of Shias if the husband dies without children, then she does not get any right to property. But if the dower is not paid she is entitled to get only the dower and nothing else. So I think if the money, which is settled in consideration of marriage for the benefit only of his spouse, should be exempted as is exempted in England when there is such a system in the Mohammadan Law allowing the wife to bargain at the time of marriage and fix a certain sum in consideration of marriage, it cannot be presumed to be fictitious or colourable in any case. Marriage is a good and valuable consideration and so this money should be allowed to be exempted under this Act.

The hon. lady Members entertain fears that dower will be fixed very exorbitantly to evade tax. For their information, may I tell them that in most of the cases when disputes about dower arise in courts, the courts have invented a procedure by which they decide whether the dower in a particular case is reasonable or not? They find out the dower, the relations of the widow, how much dower was fixed for her sister and the status of the husband. They also take into consideration the status of the wife and her family and after taking all these into consideration, they decide what is and what is not a proper dower.

DR. SHRIMATI SEETA PARMANAND: Does he suggest that the Controller will have to obtain court decrees before deciding the matter in that case?

SHRI GULSHER AHMED: It is not necessary. He can easily find out by calling evidence which is not very difficult. There are so many things that the Controller is going to do. By taking evidence he can decide this, as he has to do for valuing the property. In my opinion there is no necessity to fix the amount. Taking into consideration the status of the family and the relations of the wife, they can assess the proper dower and allow it to be deducted from the tax.

SHRI KISHEN CHAND (Hyderabad): Mr. Deputy Chairman, I oppose this amendment for various reasons. I may point out here that an hon. Member has said that 1,400 years ago the status of women was raised by this type of contract and by giving this amount. Another hon. Member has pointed out that as a Mohammadan was permitted to marry up to four wives and there were possibilities of disputes among them.....

SHRI O. SOBHANI: He was not permitted but restricted so that he shall not marry more than four.

SHRI KISHEN CHAND: In those days if you see the Shariat Law you will find that the dower fixed was a very nominal amount or small amount. Even now in orthodox families at the time of marriage they fix a very low dower. It is only in recent years in our country, that to avoid divorces which it is easy to get among Muslims, exorbitant dower was fixed. Sometimes very peculiar things are mentioned. May I inform the House that there have been certain cases where one maund of mosquito wings was laid down as dower? Similar other

things are also fixed, the whole underlying idea being to make divorces as difficult as possible. After all, what is this dower? It is part of the marriage contract. The inheritance also is part of the marriage contract. The children and the wife, they all get inheritance because they are connected up. The man dies leaving a certain estate to be divided among his heirs and one of the partners in that division of assets is the wife. She cannot claim her inheritance as apart from her marriage contract. The marriage contract is such that it automatically makes her a sort of heir to the estate. Therefore, I submit that to consider dower as a separate thing, as a loan quite apart from the marriage contract is not correct. It is part of the marriage contract, part of the inheritance. It is not a sort of a loan taken to be used for the production of wealth or for the running of industries by individuals. The spirit behind this Bill has been that any loans taken for commercial purposes, for the production of wealth, only if they are utilised in the business, are exempted from this estate duty. This dower is a loan of a different nature. I know there are hundreds of Muslim families where the dower can never be paid. It is such a high figure that the whole of the estate of the man is not equal to it and it is not enough to pay that dower. If we exempt it, it will become the easiest possible way to evade the entire estate duty. What is the objection to a future marriage contract stipulating a dower at least three times the possible assets of the assessee? Therefore, on these grounds, I oppose this amendment.

DR. SHRIMATI SEETA PARMANAND: Sir, as on the previous occasion, I have to oppose this amendment also on the same principle. I would like to make it clear that I am not against my sisters getting an extra advantage if that is possible. But I do feel that by introducing such fine distinctions, we would be defeating the object of the whole Estate Duty Bill. Just as Hindu women have forgone the right of asking for separate treatment of their *Stree Dhan*—the object is the same, though the method of giving it may be different—our Muslim sisters should also forgo this right to the dower and our Muslim brothers should not press for it.

I also feel that this can, in addition, be a ground on which Hindus and Muslims can learn to think on similar lines as far as their property privileges are concerned, and for that reason also, I do not think that our brothers here should ask for more exemptions than have been given.

One of the speakers said that dower can be paid in a deferred manner, that is to say, it can be paid either at the time of the marriage, during married life or after the death of the husband. If it is paid within the life time of the husband, then the question of settlement would not come. She would be perfectly free to split the sum just as any capitalist does, among her children and others. The question of settlement comes up only if it is paid after the life of the husband. But I know what the practice is—and I put this question to the hon. Member—whether dowers are not usually stipulated at an exorbitant sum and usually at a sum which the husband is not in a position to pay, because the object of the practice is to make divorce as difficult and impracticable as possible and in a way to protect the woman's interest. If that is the case, there is no point whatsoever, in seeking to raise the limit which can be as high as the sky. I oppose the amendment for the reasons that I have given and also because I am anxious that the object of the Estate Duty Bill should not be defeated. I am sorry having to mention it here, but I find that people are interested in saving every pie and looking for various methods of defeating the object of the measure. They are trying to get various loop-holes to avoid payment. They however say in one breath that they welcome the Bill and in another they plead for methods of defeating the very object of the Bill, and so they do not seem to be very sincere about their real intentions.

SHRI M. C. SHAH: Sir, there are three amendments. The first one is that of Mr. Kapoor. He wants to delete the words "wholly for the deceased's own use and benefit". I am afraid, if we accept this amendment, we would be opening the floodgates for collusive arrangements. As a matter of fact "his own use and benefit" would include all those things that were mentioned—family members, dependents and others. Even if money is taken and given as a loan to a friend, that also will be included under his "own use and benefit."

SHRI J. R. KAPOOR: How?

SHRI M. C. SHAH: Certainly it will be included, because he takes a loan. The man gives it as a loan from his property and he will get interest on it. I therefore, say it is not a question of something given away. If he wants to give it away as a gift, that is an entirely different matter. If he wants to accommodate his friend that is a different thing altogether. But if we accept this amendment, I am afraid there will be so many collusive arrangements with so many parties that practically we will be left with nothing but the encumbrances on the estate. So I am afraid, we cannot accept the amendment.

SHRI J. R. KAPOOR: What about the guarantor, the person standing guarantee?

SHRI M. C. SHAH: There is no such system of guarantee. After all even if he has guaranteed, the party who has given the loan will proceed against the people who have taken the loan. We cannot really provide against all these contingencies. At the time of the death, if there are debts incurred for his own use and benefit, then certainly they can get exclusion from the estate duty.

SHRI J. R. KAPOOR: May I know what is the difference between "benefit" and "use"? The words used are "benefit and use" and not "benefit or use". So, what is the difference between "his own benefit" and "his own use"?

SHRI M. C. SHAH: It is very clear and I know it is clear to my hon. friend who is himself a lawyer. "For his own use" may mean that for his family purposes, he might have incurred a debt, say for the marriage of his daughter or for some other purpose or for the education of a son or even for maintaining himself, if he has not got enough income. All these will be for his use and benefit.

I submit, Sir, that this amendment should be thrown out by the House.

Then, there are two amendments by our Mohammadan friends. They want to delete the words "to the extent to which such debts are in excess of rupees five thousand" and to increase the amount to Rs. 25,000 from Rs. 5,000. Now, Sir, it has been said that the protection given by the Muslim law is being taken away. It is nothing of the sort. As a matter of fact, I can assure my Muslim friends that a concession is being given by the Government in accepting this provision whereby the exemption limit is increased by Rs. 5,000, it becomes Rs. 1,05,000 in their case. As a matter of fact, even in Pakistan, the law says that the dower should be reasonable. What is reasonable? This also has been prescribed, and we have provided for Rs. 5,000 in the case of other people and we considered that Rs. 5,000 is reasonable in the case of Muslims as well. The dower to be given is prescribed according to the Muslim law. A man may settle a dower on his wife, any amount he likes, even though it may be beyond his means and nothing may be left to his heirs. The minimum amount is equivalent to about Rs. 3 or Rs. 4, and if the amount of dower is not fixed according to the Shia law they have said that it should be about 500 dirhems, that is Rs. 150 or Rs. 200. They have considered Rs. 200 as the proper dower. Taking all the circumstances into consideration, we have come to the conclusion that as we have provided Rs. 5,000 under clauses 9 and

33, we should not differentiate between all these sections; otherwise, there will be demands from other sections for an increase—there were demands for increasing the amount to Rs. 25,000 and some wanted it to be Rs. 10,000 and so on and so forth. It will create an embarrassing situation. Even according to the law in Pakistan, the amount is only what is considered reasonable (*interruption*) and here we have defined what is reasonable instead of leaving it to the Controller to find out. There are two kinds of dowers; one is prompt and is given immediately and the other is deferred. The deferred one comes at the time of death and then it may be said that a lakh of rupees was promised or a sum of two lakhs of rupees was promised as the dower; then the Controller will have to go about finding out whether the amount mentioned is reasonable or not. To avoid all that, we have fixed the reasonable amount to be Rs. 5,000; at the same time, we are not taking away from the widows anything. Suppose Rs. 50,000 was promised as dower then that will be charged on the estate. We are only assessing the estate duty leaving behind the estate. As a matter of fact, any amount may have been promised as dower but we only take Rs. 5,000 for purposes of exemption, and even then the exemption in their cases comes to a lakh and five thousand rupees. We are not taking away any protection but, on the other hand, we are giving rather some more concessions to the Muslim women. It was argued here that we must tax the rich and my friend, Mr. Sobhani, said that we should not tax the poor. I do not think a man worth a lakh and five thousand rupees can be considered to be a poor man; but, if that is the definition of such a man, I am at a loss to know who will be rich.

SHRI O. SOBHANI: On a point of explanation, Sir, I referred to the Islamic law which put the tax on the rich.

MR. DEPUTY CHAIRMAN: He is saying that we are charging only the rich.

SHRI O. SOBHANI: I appreciate that and I say 'go ahead and put a capital levy on the rich'.

SHRI M. C. SHAH: This is not a succession duty, this is estate duty. The women will not be affected at all. Even if they have got any right on the property, they can get that. So, Sir, I am afraid we cannot accept those amendments and the provision that we have made is more than reasonable.

SHRI GULSHER AHMED: May I say a few words, Sir? How can he include the property which is clearly the sole property of the wife? It is not the property of the wife which passes.

It is the sole property of the wife. What I cannot understand is this, that the property is the property of one, and how can that be included in the property of somebody else?

SHRI M. C. SHAH: My hon. friend is under a misconception. Supposing a dower of Rs. 10,000 has been given and those Rs. 10,000 have been already paid to the wife; then certainly that cannot be included. Here, it is only debts at the time of the death of the deceased. If there is a claim that a dower was settled and has not been paid and is then a debt, we say that that debt will be considered to the extent of Rs. 5,000 only.

MR. DEPUTY CHAIRMAN: The other Rs. 5,000 will become chargeable.

SHRI M. C. SHAH: It may be even Rs. 10,000; we don't allow exemption for more than Rs. 5,000.

I hope, Sir, that the House will throw out these amendments.

MR. DEPUTY CHAIRMAN: Amendment No. 36. Shall I put it to the vote?

SHRI O. SOBHANI: Can that be withdrawn, Sir?

SHRI M. VALIULLA (Mysore): It can be put last, Sir?

MR. DEPUTY CHAIRMAN: Maulana Faruqi is not here; I will put it to the vote.

The question is:

"That at page 24, lines 20-21, for the words 'rupees five thousand' the words 'rupees twenty-five thousand' be substituted."

The amendment was negatived.

SYED MAZHAR IMAM: I beg leave of the House to withdraw my amendment.

The amendment was, by leave, withdrawn.

SHRI J. R. KAPOOR: I beg leave of the House to withdraw my amendment.

The amendment was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 44 stand part of the Bill."

The motion was adopted.

Clause 44 was added to the Bill.

Clauses 45, 46, 47, 48, 49 and 50 were added to the Bill.

MR. DEPUTY CHAIRMAN: Now we take up clause 51.

SHRIMATI SAVITRY NIGAM (Uttar Pradesh): Sir, I move:

"That at page 26, after line 20, the following be added, namely:—

'Provided that the assessee shall have the option to offer in payment of the duty any of the property passing on death at the valuation finally fixed by the Controller'."

SHRI J. R. KAPOOR: Sir, I do not want to move amendment No. 86. I move:

"That at page 26, after line 20, the following be inserted, namely:-

'Provided that the Controller may, if no movable property sufficient to pay the estate duty has passed on to the person accountable and if further satisfied that such person has not sufficient movable property of his own easily available for payment of the estate duty, permit him to pay the same by offering any immovable property to the Government at the valuation made by him or in case of approval to the Board at the valuation, determined by it under section 63 of this Act'."

MR. DEPUTY CHAIRMAN: Clause 51 and the amendments are open for discussion.

SHRIMATI SAVITRY NIGAM:

श्रीमती सावित्री निगम : उपाध्यक्ष महोदय, सदन के लगभग सभी सदस्यों के मन में इस सम्बन्ध में अनेक शंकाएं थीं कि कहीं ऐसा न हो कि आर्थिक संकटों के कारण जिन परिवारों की दशा पहले अच्छी थी लेकिन आजकल बिगड़ी हुई है, उन परिवारों के सदस्यों को इस्टेट ड्यूटी अदा करने के लिये अपनी उन जायदादों को बेचना पड़े जिन की कि कीमत सरकार के वैल्युअर (Valuer) एक लाख से अधिक लगाते हैं। इस में सन्देह नहीं कि आज बहुत से ऐसे परिवार मिलेंगे जिन्होंने कभी अच्छे दिन देखे थे और जिन की आर्थिक दशा पहले बहुत काफी अच्छी थी पर धीरे धीरे उन की हालत बिगड़ती गई और उन के लिये एक ऐसा समय आता है जब यद्यपि बड़े बड़े मकान या इमारतें उन के पास होती हैं लेकिन नकद रुपया इतना नहीं होता कि वे इस्टेट ड्यूटी दे सकें और उस से छुटकारा पा सकें। किन्तु अब फाइनेंस मिनिस्टर महोदय के स्पष्टीकरण के बाद यह बात बिल्कुल साफ हो गई है कि यह इस्टेट ड्यूटी आठ वर्ष के दरमियान में पेश

की जा सकती है, और एक लाख रुपये की जायदाद पर केवल २५, ३० रुपये महीने ही उस विधवा को देने पड़ेंगे जो कि उस जायदाद की अधिकारिणी होगी। इसलिये अब इतनी अधिक चिन्ता इस बात की नहीं रह जाती कि इस अमेंडमेंट को मूव (move) कर के एक विधवा को उन खतरों से बचाया जाय जो खतरे उस समय पैदा हो सकते थे जब कि उसे बड़ी रकम देने के लिये मजबूरी पड़ जाती और अपना मकान मिट्टी मोल बेचना पड़ता। और यह भी सवाल हमारे सामने है कि आखिर हमारे देश में कितनी संख्या उन तमाम लोगों की है जिन के पास एक लाख से ऊपर की जायदादें होंगी। उस के बाद यह भी सवाल उठता है कि जिस के पास एक लाख से ऊपर की जायदाद होगी उसके पास नकद रुपया भी होना बहुत लाजमी है। इस के साथ साथ यह भी है कि शायद ऐसी स्थिति में बहुत ही कम लोग हों जिन के पास एक लाख से अधिक की कीमत के मकान हैं, परन्तु वे इस्टेट ड्यूटी २५ रु० महीने भी नकद रुपये के रूप में न दे सकें। इसलिये अब इस अमेंडमेंट की कोई विशेष आवश्यकता नहीं रह जाती।

[For English translation, *see* Appendix V, Annexure No. 114.]

SHRI J. R. KAPOOR: Mr. Deputy Chairman, Sir, the amendment that stands in my name runs thus:—

"That at page 26, after line 20, the following be inserted, namely:—

'Provided that the Controller may, if no movable property sufficient to pay the estate duty has passed on to the person accountable and if further satisfied that such person has not sufficient movable property of his own easily available for payment of the estate duty, permit him to pay the same by offering any immovable property to the Government at the valuation made by him or in case of approval to the Board at the valuation, determined by it under section 63 of this Act'."

I want this proviso to come after clause 51. Clause 51 reads thus:—

"51. *Method of collection of duty.*—Estate duty may be collected by such means and in such manner as the Board may prescribe."

Sir, my amendment does not seek to confer on the person accountable for estate duty the absolute right or privilege of making payment of estate duty in the shape of immovable property. I do not want that absolute right to be given but I do want that *in some hard cases, as has been provided* in this proviso, it should be permissible not to the person accountable but it should be permissible to the Controller or the Board of Revenue, as the case may be, to give this concession to the person accountable that if he has not inherited any movable property sufficient to pay the estate duty and secondly if he has no movable property of his own sufficient enough to pay the estate duty, then in such rare and hard cases if he is satisfied that these two grounds exist, it should be open to the Controller to permit the person accountable for the estate duty to offer an immovable property, either immovable property which he has inherited or any immovable property which he himself may have come into possession of in his own right to offer it towards the payment of estate duty. Sir, I am not unmindful of the fact that it is open to the person accountable to pay the death duty in eight yearly instalments. Now that is a very good provision no doubt and yet if I am making this suggestion in this amendment it is not only in the interest of the person accountable but I think it is more in the interest of the Government itself because rather than waiting for full eight years to get the full estate duty, if this concession is granted, then the entire estate duty can be realised by the Government in one lump sum by the immovable property being transferred to it, whereafter the Government can sell it. This is one very

[Shri J. R. Kapoor.]

great advantage which the Government will have. I earnestly appeal to the Finance Minister and his deputy to seriously consider this aspect of the question *i.e.*, whether it is not in the interest of the Government itself to have a provision like this. Firstly, Sir, it will not extend to many cases. It will extend to only a few hard cases which are mentioned in my amendment. and then secondly, the Government will have the advantage of realising the full estate duty immediately rather than waiting for full eight years. Is it not to their advantage? They have nothing to lose; they have much to gain and these hard cases will also be covered.

Sir, I have suggested that this be incorporated in the Bill but then it is not very necessary because if they accept this principle or rather this method, then it can be easily provided for in the rules which they will prescribe. I only want them—if they feel like accepting the utility of this suggestion—to give us an assurance that they shall incorporate this provision in the rules which they are going to prescribe with regard to the method of realisation of estate duty.

SHRI KISHEN CHAND: Mr. Deputy Chairman, Sir, I do not wish to speak on the amendments but on the clause. All that I would request the hon. Finance Minister, when he is asking the Board to make rules about the means and manner of collecting the estate duty, is that he will keep in view the hardship which has been imposed by clause 53 which I shall explain when that clause is discussed. Yesterday also at the time of the consideration of another clause I pointed out that it is possible that the incidence of tax may fall on an individual who does not get sufficient share of the assets and therefore it may become hard on him. Supposing there are two persons who are going to get the assets of the deceased person and the share of one is very small and the share of the other is very large. It is possible that as they are jointly and severally responsible the burden may fall on the person whose share is small and therefore I would suggest to the hon. the Finance Minister that the Board can very easily, in making the rules, keep in view any such hardship. It will not amount to any amendment of this clause because the clause should remain as it is. Under the rules that are made under it suitable adjustments may be made so that there may not be any extra hardship as among the heirs to the deceased person.

SHRI O. SOBHANI: Sir, I had sponsored the amendment moved by my hon. sister Mrs. Nigam, but after the observations made by the hon. the Finance Minister in his speech yesterday, I do not want to press it. I support the suggestion made by my hon. friend Mr. Kapoor and I hope that the Government will take that into consideration when framing the rules.

SHRI M. C. SHAH: Mr. Deputy Chairman, Sir, I think if the Government accepts the amendment of Mr. Kapoor, instead of simplifying the matter, it will be much more complicated. The Government cannot open agencies to have these properties purchased in lieu of estate duty. As a matter of fact, he forgets the main idea of this estate duty. The idea of this duty is whatever is collected after deducting the expenditure for collection will have to be distributed among the States. Now, if we accept the formula suggested by Mr. Kapoor, then the position will be that either we will have to distribute those buildings or we will have to sell those buildings, realise the amount and then distribute it among the States. That will be a far more complicated matter and administratively most difficult. Therefore we cannot accept this suggestion. It was made very clear by the Finance Minister in his reply why we cannot accept such a proposal. So I regret that it is not possible for us to accept this amendment.

With regard to hardships, it refers to clause 70. The Controller has been

given powers to give easy terms. Apart from the instalments with regard to immovable property, it has been made clear that if the owner cannot pay, if he has to sell the property or something of that sort, without excessive sacrifice, the Controller may allow payment to be postponed and the rate of interest is also not more than 4 per cent. unless the property yields a higher rate. Those things we have already provided for and I can assure the House that in the administration of this Act it will be seen that unnecessary hardship or harassment is not caused to the assessee.

With regard to the suggestion of Shri Kishen Chand, that may be a case where one share may be small and the other share may be a bigger one. In such a case what about the duty to be collected? We are just thinking on those lines as to how much is to be collected and from whom and all these things. In the rules there will be adequate provision to avoid all such hardships, if there be any. So I submit that the amendments be thrown out.

SHRIMATI SAVITRY NIGAM: I beg leave of the House to withdraw my amendment.

The amendment was, by leave, withdrawn.

SHRI J. R. KAPOOR: I also want leave of the House to withdraw if the Government does not want to take advantage of the benefits which they would get by accepting my amendment.

The amendment was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 51 stand part of the Bill."

The motion was adopted.

Clause 51 was added to the Bill.

Clause 52 was added to the Bill.

SHRI J. R. KAPOOR: Sir, I beg to move:

"That at page 26, after line 23, the following be added, namely:—

'52A.—*Payment of duty during one's life time.*—Any contribution made to a public charitable institution or for any other public utility purpose with the previous sanction of the Central Government by any person during his life time shall be credited to the amount of death duty, which may be payable after his death on his property passing on the death'."

Sir, I want to extend the principle and method which has already been adopted in clause 33 (f) and (g) wherein it has been made permissible to a person during his life time to make provision for the payment of death duty, firstly by obtaining a life insurance policy and—I should say "or" now—secondly by depositing money with the Government. That is all right so far as it goes. I want that it should also be open to a person during his life time not only to make provision for the payment of the death duty by the two methods prescribed but he should also have a third method open to him, namely, that he might apply to the Central Government to obtain permission to donate his money for certain public utility purposes prescribed by the Government. If the Government approves of the purpose then it might permit him to invest the amount for that public utility purpose.

MR. DEPUTY CHAIRMAN: The word used in the amendment is 'contribution' and not 'investment'.

SHRI J. R. KAPOOR: Well, Sir, it is contribution by the person and investment by the Government. The person will contribute it, he will divest himself entirely of all rights over the money. He will hand over the death duty payable by him in advance and the Government can invest that money.

MR. DEPUTY CHAIRMAN: In that case it won't be a contribution. It will only be a deposit with the Government, is it not?

SHRI J. R. KAPOOR: How can it be a deposit? The man hands it over entirely to the Government.

MR. DEPUTY CHAIRMAN: Later on, on his death you want that to be adjusted towards the estate duty.

SHRI J. R. KAPOOR: Yes, of course, later on. The person paying will never get it back.

MR. DEPUTY CHAIRMAN: Then what happens to the institution to which he has contributed all that amount?

SHRI J. R. KAPOOR: Well, it will be for the Government to decide. Suppose I want to pay the death duty which may become payable on my property on my death and want it to be invested, say, in Bhakra-Nangal, Domodar Valley Project or somewhere.

DR. SHRIMATI SEETA PARMANAND: Are these charitable institutions?

SHRI J. R. KAPOOR: My hon. friend the Lady Member seems always to be very impatient to oppose any amendment which comes from any quarter. I would request her in all humility to carefully understand the meaning of the various words that have been used. I said not only charitable purpose but I said public utility purpose also. Well, Bhakra-Nangal, Damodar Valley, all these are public utility projects. So my object is rather than Government waiting to realise the death duty after the death of the man, let them have the advantage of having this duty here and now when the person is alive. It is not so much in the interests of the person who owns the property. In moving this amendment I have been actuated partly by this consideration that persons may be induced to hand over money during their life time for charitable purposes and secondly—this is my primary object—that the Government would be able to have a large amount of money immediately for the purpose of implementing the Five Year Plan. If my amendment is accepted, I have no doubt in my mind that they will get immediately crores of rupees which they can profitably utilise for the implementation of the Five Year Plan.

KHWAJA INAIT ULLAH (Bihar): You mean after the death of the deceased that amount would be exempt from duty?

SHRI J. R. KAPOOR: Obviously. The man is paying death duty in advance, even before he dies. Why not accept it here and now? He is paying the duty during his life-time. Why need you wait until he dies? You have everything to gain thereby and nothing to lose. Do not look at every amendment that comes from any quarter with suspicion.

MR. DEPUTY CHAIRMAN: Please go on, Mr. Kapoor.

SHRI J. R. KAPOOR: That is what I am doing. Only these interruptions would not allow me to proceed. Let not every amendment be looked upon with an eye of suspicion that we are trying to pilfer the coffers of the Government. Not that. The object of my amendment is that the Government will be immediately in a position to get hold of a huge amount of money.

The other day, my hon. friend, the Deputy Minister for Finance was saying that his experience in life has been that people who invest money, who contribute to charitable purposes, want to see the fruit of their contributions. I want him to let these people have the fruit of their contribution during their life time, people who contribute to their death duty. People want that in their life time their contribution is utilised for public utility purposes. It gives them

satisfaction. The motive that activates a man to contribute to public utility purposes is to let him have the *punya* thereof. The object is to really have the *punya* out of this death duty even while he is alive. Sir, if my suggestion is accepted by Government, they will secure a huge sum of money.

DR. SHRIMATI SEETA PARMANAND: What happens to the income-tax on this amount which will be set aside? Is it a double-edged weapon?

SHRI J. R. KAPOOR: The question of income-tax does not arise. The money that will be paid will not be out of income but will be out of capital assets. If it is from income, of course, it will be liable to income-tax. Let no income-tax concession be given over it.

SHRI M. C. SHAH: Sir, my hon. friend seems to be anxious that the people should pay estate duty in advance. We are agreeable to have in advance estate duty that may be payable. There will be no bar to a prospective assessee to pay the estate duty in advance. We will take that and make arrangements for investing it. Already we have arrangements for about Rs. 50,000 to be deposited.

This amendment, will make the position worse than exempting charitable gifts without time limit.

Then, the estate duty will be calculated on the aggregate estate but it will not be leviable on that part. My hon. friend was saying, that clause was absurd and that section was absurd, so on and so forth. I do not know what should be said about this amendment. This will become worse than accepting charitable gifts. Here, he wants to contribute to certain charitable institutions and wants them to be adjusted to the estate duty. Then he says we will get crores and crores of rupees. It does not matter whether we get crores of rupees for the development expenditure purposes..... (*Interruption.*)

SHRI J. R. KAPOOR: I say, Sir, for public charitable institutions and for public utility purposes, that includes 'for development purposes'.

SHRI M. C. SHAH: That means you want to ask Government to adjust the estate duty paid in advance for public charitable institutions.

SHRI J. R. KAPOOR: Both; I include 'for public utility purposes' also.

SHRI M. C. SHAH: I am sorry this is not acceptable to Government. It is wholly unacceptable and we cannot accept even the principle of it. Therefore, I say, Sir, that this amendment may be thrown out.

MR. DEPUTY CHAIRMAN: Mr. Kapoor, do you withdraw it?

SHRI J. R. KAPOOR: When the Deputy Minister says that it is 'wholly' unacceptable, what else can I do, Sir?. I withdraw it.

The amendment was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: Clause 53. There are two amendments.

SHRI J. R. KAPOOR: I beg to move:

> "That at page 26, lines 34-36, for the words 'for the whole of the estate duty on the property passing on the death but shall not be liable for any duty in excess of the assets of the deceased which he actually received, the following be substituted namely:—
>
> 'for the estate duty on such portion of the property passing on the death as he actually received'."

I also move:

> "That at page 27, lines 14-17 be deleted."

MR. DEPUTY CHAIRMAN: Clause 53 and the amendments are open for discussion.

SHRI J. R. KAPOOR: Sir, my second amendment is only consequential; if the first is accepted, the second becomes necessary; otherwise not. The object of my amendment is very simple; it is fair and equitable. The existing section 53 provides that the entire amount of estate duty can be realised from any one of the several persons who become accountable for the estate, irrespective of the value of the property which a person has inherited. This appears to be wholly unfair and inequitable. One person inherits a lakh of rupees worth of property; there are twenty others who also inherit it. Nineteen others may be left out and one person may be taken hold of and the entire duty may be realised from that man. I would like to say one word more in support of my amendment. If it appears to be fair and equitable to the House, if it appears fair and equitable to the hon. the Deputy Minister, if his sense of justice does not revolt against such a preposterous proposition. I have nothing more to say. If the proposition itself does not strike him as unfair and inequitable and preposterous, no amount of argument can appeal itself to him.

SHRI KISHEN CHAND: Mr. Deputy Chairman, I welcome this amendment because it really enunciates the point which I was explaining in connection with some other amendment. We have said in this clause "shall be accountable for the whole of the estate duty....." There is a saving clause to the effect that if his share amounts to only Rs. 1 lakh and the estate duty is Rs. 1,25,000, then he will not be accountable for Rs. 1,25,000, because his share is only Rs. 1 lakh. Of course, it would have become ridiculous if he had been made responsible for the whole of the estate duty. It has been restricted to the full amount of his share. But, as has been pointed out by Mr. Jaspat Roy Kapoor, from the equity point of view, when there are so many heirs, they must share the duty in proportion to the shares that they get. I pointed out that specially in the case of charities and big endowments it is quite possible that the burden may fall on the individual heir and not on the charity. An hon. Member quoted that a person giving charity wants to see it in his life time. I may submit, Sir, that it is frequently found that in their wills the donors devote a large part of the estate to the same charity which they have built up. It is a well known fact that Sir Hari Singh Gour gave to the Saugor University Rs. 30 lakhs. But in his will he left the balance of his entire estate of nearly Rs. 1½ crores for the Saugor University leaving a very small amount to his daughters, and we now find that the will is being contested. This will show that many people leave in their will a large part to charitable institutions or to one sharer as against the other. And therefore, if this duty is to be paid, the full amount of the estate duty must be paid by every person and every heir. That might create very great hardship.

Further, Sir, in sub-clause (5) it is said that "they shall be liable jointly and severally for the whole of the estate duty on the property so passing." The word 'severally' comes there. If it were only 'jointly', then it would have been all right. But when you add the word 'severally', that means that every one of them is responsible for the full amount. And you know, Sir,—and it is common practice—that if you get a decree against three or four persons in any law court, you will find that the decree is executed against the person from whom it is very easy to recover the amount. Similarly it may happen that when the estate duty has to be recovered, equity may not be a consideration. The Controller may and will receive it from the person from whom it is very easy to recover, and he will pounce upon him. I would submit, Sir, that this clause could have been rectified by just one word, and I would even submit, Sir, that it may be an error that that one word has been left out. It should have been said ".....any duty in

excess of the *proportion* of the assets of the deceased.....". If there had been that one word 'proportion' there, the whole clause would have been rectified. I cannot say why that one word 'proportion' has not been introduced—whether by oversight or by intention. Sir, the underlying idea is that we must get the estate duty. But in collecting the estate duty let us be fair and get it in proportion to the assets that have passed on from the deceased to the various heirs. I therefore support the amendment, though not exactly its wording but the spirit underlying it.

DR. SHRIMATI SEETA PARMANAND: Sir, I might surprise my hon. friend, Mr. Kapoor, by saying that I am in agreement with the spirit of this amendment and that I have thoroughly understood it.

SHRI J. R. KAPOOR: I congratulate myself.....

12 Noon

DR. SHRIMATI SEETA PARMANAND: Sir, I wanted to make the same remarks that Mr. Kishen Chand has made with regard to the words 'jointly' and 'severally' in this clause, which requires again careful drafting so as to avoid any misunderstanding. As far as the wording of this amendment is concerned. I do not agree with every word of it, but I agree with the spirit underlying it.

SHRI M. C. SHAH: I am sorry to say that the amendment is not acceptable, to the Government. My hon. friend forgets that this is an estate duty. It is not a succession duty on the shares of the successors. It is an estate duty on the estate. So, it ought to be on the entire estate. But if there is any excess, then we have provided for that. If my learned friend reads clause 76, he will find it said there that if any excess is paid by any of the owners, then that can be claimed by that person from the other owners. And therefore there is nothing wrong in putting the words 'jointly' and 'severally'. We want to have that estate duty paid, and as a matter of fact, as I have already assured my friend Mr. Kishen Chand, who was speaking on clause 51, we will make certain rules, certain provisions, with regard to the part of the duty to be recovered. We have taken a note of that already and we do not want to cause any harassment or hardship to the prospective assessees. It is not a mistake that the word 'proportion' has been left out. The purpose of this clause is to have the estate duty on the entire estate and thereafter the proportion is to be decided.

DR. SHRIMATI SEETA PARMANAND: What happens if a man who has to pay a duty on Rs. 20 lakhs does not pay it and a man who gets Rs. 4 lakhs is asked to pay that?

SHRI M. C. SHAH: This matter will be dealt with in the rules under clause 51. Clause 51 empowers the Government to prescribe the rules and the method by which collection of the duty is to be made.

MR. DEPUTY CHAIRMAN: Mr. Kapoor, do you press the amendments?

SHRI J. R. KAPOOR: Sir, I beg to withdraw my amendments

The amendments were, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 53 stand part of the Bill."

The motion was adopted.

Clause 53 was added to the Bill.

Clauses 54 and 55 were added to the Bill.

MR. DEPUTY CHAIRMAN: Now we come to clause 56. There is one amendment.

SHRI J. R. KAPOOR: Sir, I beg to move:

"That at page 28, after line 22, the following explanation be inserted, namely:—

'*Explanation.*—Absence of knowledge of the death of the deceased and *bona fide* belief that the property passing on death of the deceased was not of the value on which estate duty is leviable shall also be reasonable cause within the meaning of this section.' "

MR. DEPUTY CHAIRMAN: Clause 56 and the amendment are now open for discussion.

SHRI J. R. KAPOOR: Sir, the object of my amendment is to save particularly charitable institutions from harassment. So far as the relative inheritors are concerned, they of course always know when the person is dead. But so far as the charitable institutions are concerned to whom money has been donated within six months of the death, they are not supposed to know about the death of the donor. Now, under clause 53, sub-clause (3) you have imposed a legal liability on every person accountable for estate duty to submit a statement when the donor—in the cases that I have in view—is dead, and any one who does not comply with this legal duty runs the liability of being punished under clause 56. I therefore submit that in such *bona fide* cases where either the person accountable for the duty does not know of the death of the person concerned or if he is under the *bona fide* belief that the property left by the deceased is not of the value on which duty is leviable, then in these two cases, it should be considered to be a reasonable cause for not complying with the provisions of this enactment. This is my simple suggestion and I hope at least this would be acceptable in the interests of charitable institutions.

SHRI M. C. SHAH: I am afraid I cannot accept this amendment also. The word 'reasonable' is there and any person administering the Act will have that much sense that, if a charitable institution has got some donation and if the donor dies and the management of that institution does not know about the death in time but submits the returns after six months or so, it should be considered a reasonable cause, and therefore no action should be taken against the people concerned, and also I am sure that whatever instructions are necessary will be issued to the people concerned. It is not necessary to have it in the Act.

SHRI J. R. KAPOOR: Good heavens! Does the hon. the Deputy Minister mean to suggest that instructions will also be issued to courts of law to determine as to which is a reasonable cause and which is not? This clause, 56, refers to penalty for default. Now, the penalty will be imposed by a court of law and not by the Controller. Does my hon. friend mean to suggest that the Government is going to arrogate to itself the right to give directions to courts of law?

SHRI M. C. SHAH: The Controller can reduce penalties, and the Controller has got powers not to levy any penalty.

MR. DEPUTY CHAIRMAN: If the reason for not complying with the provisions of the sections is proved to the satisfaction of the Controller, he will have instructions to reduce the penalty in such cases.

DR. SHRIMATI SEETA PARMANAND: The cases will go to the Controller and not to the courts.

SHRI J. R. KAPOOR: I beg leave to withdraw my amendment.

The amendment was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 56 stand part of the Bill."

The motion was adopted.

Clause 56 was added to the Bill.

Clauses 57 and 58 were added to the Bill.

MR. DEPUTY CHAIRMAN: Now we come to clause 59. There are two amendments.

SHRI H. N. KUNZRU (Uttar Pradesh): I am not moving my amendment No. 38.

SHRI S. N. MAZUMDAR (West Bengal): I am not moving my amendment No. 39.

MR. DEPUTY CHAIRMAN: There are no amendments to clause 60 either.

Clauses 59 and 60 were added to the Bill.

MR. DEPUTY CHAIRMAN: Now we come to clause 61. There are two amendments by Mr. Kapoor.

SHRI J. R. KAPOOR: I am not moving them.

MR. DEPUTY CHAIRMAN: There are no amendments to 62 also.

Clauses 61 and 62 were added to the Bill.

MR. DEPUTY CHAIRMAN: We take up clause 63. There are two amendments.

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

"That at page 30, line 40, for the words 'shall be final' the words 'shall, subject to the provisions of section 64, be final' be substituted."

SHRI J. R. KAPOOR: Sir, I move:

"That at page 30, after line 33, the following provisos be inserted, namely:—

'Provided that the valuer to be nominated by the appellant may, if the appellant so desires, be a person outside the list of valuers appointed under section 4 of this Act:

'Provided further that where there are more appellants than one, the valuer to be nominated by them shall be one who is acceptable to the majority of them.' "

MR. DEPUTY CHAIRMAN: Clause 63 and the two amendments are now open to discussion.

SHRI H. N. KUNZRU: Sir, clause 63 provides that where there is a difference of opinion between the two valuers referred to in that clause, the matter shall be referred to a third valuer nominated by agreement, or failing agreement by the Central Government, it is laid down that his decision on the question of valuation shall be final. I want that the words "shall be final" should be taken out and be replaced by the words "shall, subject to the provisions of section 64, be final". If the words stand as they are, no appeal will be allowed to the High Court on any question relating to valuation. Section 64 makes provision for appeals only on questions of law. As I have given notice of certain amendments in order to make the provisions relating to appeals wider, this amendment is only consequential to the amendments which I am to move to clause 64. The purpose of the amendment, as I have explained, is that the appellant should have the right to refer any question of valuation to the High Court. If the words stand as they are, this will not be possible.

SHRI J. R. KAPOOR: Sir, my amendment is to the effect that in sub-clause (4) of clause 63 the following provisos should be added, *viz.*,—

"Provided that the valuer to be nominated by the appellant may, if the appellant so desires, be a person outside the list of valuers appointed under section 4 of this *Act:*" and

"Provided further that where there are more appellants than one, the valuer to be nominated by them shall be one who is acceptable to the majority of them."

[Shri J. R. Kapoor.]

The object of this amendment is two-fold. The first object is covered by the first suggested proviso and the second object, which is to fill a lacuna, is covered by the second suggested proviso. I had already referred to the necessity of the first proviso in my initial remarks on the first reading of the Bill. I have nothing more to add to it. As the hon. Members may remember, the Central Government under clause 4 has to appoint a number of qualified valuers and according to sub-clause (4) of clause 63 the board of arbitrators has to be selected out of that panel of valuers appointed by the Government. Now it is good so far as it goes but then, if you really want the assessee to have the fullest satisfaction of appointing on the board of arbitrators a person of his own choice, then let not that choice be restricted to any list of valuers framed by the Government. Let it be open to him to appoint as his arbitrator anybody in whom he has confidence even if that person is outside the list framed by the Central Government. Nothing will be lost thereby. Because even if the two valuers don't agree among themselves, the Government has the right to appoint a third arbitrator who will be an umpire and the third arbitrator will of course be out of the list prepared by the Government so that the final decision will rest with a person who is out of the list of valuers framed by Government.

Then my second proviso fills in a lacuna. If it does not, then I would be very sorry to have moved it and wasted the time of the House. Will the hon. Deputy Finance Minister who has very carefully framed and studied every little clause of this Bill be pleased to do me the favour of telling me as to what will happen if there are twenty appellants and how many valuers have they to nominate. I suppose only one. By what process would unanimity be secured amongst them? If they don't agree among themselves with regard to one valuer, who is to be appointed, what is to happen? Should not something be provided in this respect in the Bill? If you say that you will make provision for this in the rules which you frame, I wonder if that could be done because you cannot frame any rule which may not be covered by the specific provisions of the Bill. This simply appears to me to be a lacuna and if they feel like filling up this lacuna, they might do so but if they want to let as many ambiguities remain in the Bill as possible, well, I don't grudge them.

SHRI M. C. SHAH: Sir, I cannot accept the amendment of Dr. Kunzru. It has been made very clear that in the scheme of appeals regarding valuation and on points of law, the position that we have taken is quite proper and is in the fitness of things.

SHRI H. N. KUNZRU: I cannot hear the hon. Member.

MR. DEPUTY CHAIRMAN: Please speak louder.

SHRI M. C. SHAH: I say that the scheme regarding appeals against valuation proposed in this clause is quite proper and absolutely justifiable under the circumstances. We don't want to have delays, procrastinations and dilatory tactics. After all the valuation is to be made with the help of the experts and previously this scheme of valuers was not there. We thought that in order to ensure confidence in the assessees, when they appeal against the valuation, there should be some sort of arbitration. Therefore we proposed that there will be a list or panel of valuers, there will be certain zones in the whole of India and in each zone there will be valuers appointed by Government; valuers who will have the technical knowledge of valuing the immovable property, jewellery, shares in public limited companies and so on and so forth, and from that panel of valuers an appellant can immediately select one of the valuers and the other will be nominated by the Board and

final decision made by those people. If they are unanimous it shall be final and binding. Even in this matter of valuation, suppose that matter of valuation is to be taken to a High Court, I am very much afraid whether the High Court Judges will themselves be in a position to arrive at certain conclusions with regard to the valuations. They will also have to take the assistance of some technical experts in the matter and therefore the scheme that we have propounded fits in very well with our object, and therefore the scheme is not to be changed. This amendment cannot be accepted and we don't propose to change this scheme for the time being. As has been already promised by the hon. Finance Minister, if it is found that an appellate tribunal or some other change is necessary, after some experience for some time, we will not hesitate to bring forward an amending Bill, and provide further consideration for allowing appeals either to the appellate tribunal or if necessary, to the High Court. Therefore I cannot accept this amendment.

About the amendment of Mr. Kapoor, I don't think there is any lacuna whatsoever. Naturally there can be only one valuer on behalf of all the appellants. It is for the appellants to agree among themselves and naturally if they don't agree, unanimously, then majority will have to prevail and they have to find out one valuer from amongst them. We cannot allow any choice of one valuer to each appellant. If there are twenty valuers for twenty appellants, what will happen?

SHRI J. R. KAPOOR: I have never suggested that.

SHRI M. C. SHAH: What have you suggested?

SHRI J. R. KAPOOR: I have not suggested that if there are twenty appellants, there should be twenty valuers. Far be that from me.

SHRI M. C. SHAH: You say:

> "Provided further that where there are more appellants than one, the valuer to be nominated by them shall be one who is acceptable to the majority of them".

That is not necessary. I am sorry I did not follow you. That is implicit. If there are twenty appellants and if they don't come to any conclusion unanimously, then certainly the majority of them will have to decide. It goes without saying. It is not a lacuna.

SHRI J. R. KAPOOR: It may go without saying but it cannot go without specifying.

SHRI M. C. SHAH: I am sure such a thing will never occur. I am sure about that because in practice the interest of all these appellants will be the same. They want to have the valuation reduced. There may be twenty appellants and one may have a four anna share and another may have two anna share but the motive for appeal is to get the valuation reduced and therefore the interest of all these appellants will be common and then they will come to one conclusion and if they cannot, by majority it will be decided. It is not necessary that this should be provided for here and in the rules. I am sorry I cannot accept the amendments.

MR. DEPUTY CHAIRMAN: The question is:

> "That at page 30, line 40, for the words 'shall be final' the words 'shall, subject to the provisions of section 64, be final' be substituted."

The motion was negatived.

SHRI J. R. KAPOOR: Sir, withdrawing being my lot today, I seek leave of the House to withdraw my amendment.

The amendment was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 63 stand part of the Bill."

The motion was adopted.

Clause 63 was added to the Bill.

MR. DEPUTY CHAIRMAN: We now take up clause 64.

There are 12 amendments to this clause.

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

"That at page 31, lines 5-8, for the words 'requiring the Board to refer to the High Court any question of law arising out of such order, and the Board shall, if in its opinion a question of law arises out of such order, state the case for the opinion of the High Court:' the following be substituted, namely:—

'requiring the Board to refer to the High Court any question of law arising out of such order, or any question of valuation in respect of which such order has been passed after a decision thereon has been given under sub-section (4) of that section, and the Board shall, if in its opinion a question of law arises out of such order or there are sufficient grounds for disputing the correctness of the valuation, as the case may be;' "

I also move:

"That at page 31, lines 13-14, after the words 'that no question of law arises' the words 'or that there is no sufficient cause for disputing the correctness of the valuation, as the case may be,' be inserted."

I also move:

"That at page 31, line 24, after the words 'no question of law arises' the words 'or that there is no sufficient cause for disputing the corectness of the valuation, as the case may be,' be inserted."

I also move:

"That at page 31, line 38, after the words 'the questions of law which arise out of the case' the words 'or the decision of the valuers on the question of valuation' be inserted."

I also move:

"That at page 31, line 40, after the words 'the questions of law' the words 'or the question of valuation, as the case may be' be inserted."

I also move:

"That at page 31, line 44, after the words 'the question of law' the words 'or the question of valuation, as the case may be' be inserted."

I also move:

"That at page 31, line 45, after the words 'the question of law' the words "or the question of valuation, as the case may be' inserted."

(Amendments Nos. 48 to 50 not moved as Members were absent.)

SHRI J. R. KAPOOR: Sir, I move:

"That at page 32, after line 9, the following proviso be inserted, namely:—

'Provided however, that the High Court or the Supreme Court, after such reference being made, may on such terms and conditions as to security etc. as it considers necessary stay the recovery of the estate duty pending the dispsoal of the reference made to it.' "

SHRI LAVJI LAKHAMSHI (Kutch): Sir, I move:

"That at page 32, line 15, after the word 'means' the following be added, namely:—

'the respective Judicial Commissioner's Court in each of those States or whatever is the highest court of appeal in those States.'; and

Lines 16 to 26 be deleted."

MR. DEPUTY CHAIRMAN: Clause 64 and the amendments are open for discussion.

SHRI H. N. KUNZRU: Mr. Deputy Chairman, clause 64 lays down that within a certain period mentioned there, the person accountable may present an application to the Board in the prescribed form accompanied by Rs. 100 requiring the Board to refer to the High Court any question of law arising out of such order, and the Board shall, if in its opinion a question of law arises out of such order, state the case for the opinion of the High Court. Where there is disagreement between the appellant and the Board, the matter will go to the High Court. If the appellant wants the High Court to consider whether a question of law is involved or not and if the High Court is of that opinion, the Board must state the case for its consideration. My amendments seek to provide for appeal on a question of valuation; that is to say, that there should be appeals both on questions of law and on questions of fact. There is no doubt that a certain procedure has been provided here for the settlement of disagreements on the question of the valuation of a property. But is that any reason why an appeal to the High Court should not be allowed? The actual reason given by Shri Shah is that he did not know how the High Court would settle a question of valuation by itself. The implication was that the High Court would have to consult experts before coming to its verdict. Sir, in England there is a panel of referees and a question of valuation may be referred to one of these referees. It is said here in Green's Death Duty that the original appellant or the Commissioners—that is to say, the Commissioners of Inland Revenue—if aggrieved by the referee's decision, may appeal in England to the High Court. Now, how does the High Court decide the matter in England? I do not know. If the High Court is allowed in England to consider the matter notwithstanding the fact that the judges may not have any independent knowledge of the value at which properties are sold in the market, I see no reason why the High Courts in India also should not be given a similar power. If the administration of the Act relating to death duties has not been hampered by this provision in England, I see no reason why it should be hampered by the amendments that I have moved.

England is not the only country that allows an appeal to a court. I find that this is allowed in Australia too. The objector may ask the Commissioner of Taxation to refer any question relating to law or of valuation to a Board of Review. He may also request the Commissioner in writing to treat his petition as an appeal and to forward it to the High Court or to the Supreme Court of the State or territory of the Commonwealth. Where a reference is made to a Board of Review, an appeal is allowed only on a question of law. But there are two things to be considered. One is that it is for the objector to decide which method he will follow. If he prefers an appeal to the Board of Review, well, that is his own concern. But he has the right, if he chooses to exercise it, of asking the Commissioner of Taxation to refer his objections to the High Court or a similar court in the territory in which he is living. The other thing to be considered is that even when an appeal has been made to the High Court on a question of law, if the appeal—to use the words in Smith's "Stamp, Death, Estate and Gift Duties" which deals with Australia,

> "if the appeal is competent on this ground, the whole decision and not merely the point of law is open to review. The Court must rehear the whole case, though it rejected the point of law."

Now, how does the High Court decide this matter when it considers it either on a reference made by the objector or as part of an appeal on a question of law? Doubtless the judges cannot, by themselves, be competent to pronounce any opinion on the market value of a property. But all the same, they have been able to give

[Shri H. N. Kunzru.]

judgments which, it seems, are valued by the people of Australia. If the method of procedure proposed by me is followed in two countries, without causing any difficulty, I see no reason why the same procedure should not be adopted here. There may have been difficulties in the beginning, but they have not been found to be insurmountable, and if we have only the will we can surmount any difficulties that might crop up. But I see really no valid objection to allowing an appeal to the High Court on a question of fact, that is to say, on a question of valuation.

Why the decision of the Board of Valuers or of the Umpire should be made final, I cannot see.

MR. DEPUTY CHAIRMAN: May I know what is the mode of valuation in the United Kingdom and Australia?

SHRI H. N. KUNZRU: I do not know exactly what method they follow.

MR. DEPUTY CHAIRMAN: Is it by arbitration as provided for in clause 63 or is it the officers of the Board of Revenue that value?

SHRI H. N. KUNZRU: As I said earlier, Sir, there is a panel of referees appointed by Reference Committees and the question of valuation is referred to one referee, so far as I can gather. If, either the Regional Boards or the Commissioners of Inland Revenue are dissatisfied with his decision, they can appeal to the High Court. Now, the question is, Sir, whether there has been any difficulty in England on account of this provision.

MR. DEPUTY CHAIRMAN: Does it not depend upon the mode of valuation? Here, arbitration is by agreement of the parties.

SHRI H. N. KUNZRU: The procedure in no two countries can be exactly the same but, in Australia, there is a Valuation Board and a Board of Revenue; you have both of them.

MR. DEPUTY CHAIRMAN: The mode of valuation may be different there and it makes all the difference.

SHRI H. N. KUNZRU: Something will be different but, my hon. friend's point was that an appeal should not be allowed on the question of valuation because the Judges will not know how to decide this.

SHRI M. C. SHAH: I have not said that that is the only reason; I said that there is a scheme just framed; the Valuers and the arbitration are in addition to that.

SHRI H. N. KUNZRU: I know that that is not the only reason; one of the other reasons certainly is the unwillingness of the Government to adopt the procedure that I have recommended. That is in my opinion—I hope I am doing no injustice to Government—the main stumbling block in the way.

MR. DEPUTY CHAIRMAN: Normally, in the case of arbitration there is no appeal except on a point of law. That is the principle that underlies clause 64 and that is what the hon. Minister made clear.

SHRI H. N. KUNZRU: Sir, the hon. Minister has stated his own point of view and I draw such inferences from what he says as seem to be justifiable.

MR. DEPUTY CHAIRMAN: It is not an inference, Dr. Kunzru. Clause 63 provides that the Valuers will be appointed by agreement; if they differ, it will be again referred to a third Valuer to whom both the parties agree. It is a kind of arbitration and, there cannot be an appeal against an Arbitrator's decision except where a question of law arises. That is the principle involved.

SHRI H. N. KUNZRU: I said, when I spoke generally on the Bill that the question of arbitration was not unknown to Indian law and that arbitration is desirable by itself, but, in a matter of such importance there is

no reason why any other procedure should be followed. Indeed, in Australia, if instead of there being a Valuation Board and a Board of Revenue, an appeal is allowed.....

MR. DEPUTY CHAIRMAN: That is why I wanted to know if these Valuers were officers of the Board of Revenue. If they were the officers of the Board of Revenue, your argument would have all the force, full force.

SHRI H. N. KUNZRU: If it was a question of arbitration, it would have the same effect. No matter how the people were appointed, if both the parties accepted them, the question will be the same so that everything does not depend on the manner of appointment of these people.

You asked me, Sir, whether, in the circumstances referred to in clause 63, an appeal on a question of fact should be allowed. Now, the hon. the Finance Minister said in another place that if the present procedure did not give satisfaction, he would provide for an appellate tribunal and my hon. friend Shri Shah has stated this again. Now, how will an appeal to an appellate tribunal be allowed if the objection that you have raised is final. Obviously, Government do not think that that objection disposes of the matter; notwithstanding that objection, they are prepared to move an amendment to provide for an appellate tribunal if experience shows that the existing method does not give satisfaction. That, Sir, is enough for my purpose. If, notwithstanding the procedure outlined in clause 63, the Finance Minister can propose, six months or a year or two years later, that an appellate tribunal be established to which both questions of valuation and of law may be referred I see no reason why I should be debarred from asking that this procedure be followed at once because, in my opinion, judging from such expressions of opinions have been publicly made.....

MR. DEPUTY CHAIRMAN: Clause 2(b) provides for that; if the persons agree that there is a question of law even in the valuation, then it can be referred.

SHRI H. N. KUNZRU: No, Sir, it is not merely a question of law; if the Finance Minister agreed to the appointment of an appellate tribunal only to consider the legal question, nobody would ask for an appellate tribunal in preference to a High Court which can consider the question of law under this Bill. Obviously, that appellate tribunal will have wider powers, powers of the kind that I have proposed should be given to the High Court. So, Sir, if this procedure can be introduced at the initiative of the Government themselves at a later stage, I do not see why it should not be introduced now for, everybody knows that the method suggested by me will give greater public satisfaction than the method suggested by Government.

SHRI J. R. KAPOOR: Sir, I beg to move.....

MR. DEPUTY CHAIRMAN: Speak on the amendment; you have already moved it.

SHRI J. R. KAPOOR: The amendment which I have already moved, to be more precise, runs thus:

> "That at page 32, after line 9, the following proviso be inserted, namely:—
>
> 'Provided however, that the High Court or the Supreme Court, after such reference being made, may on such terms and conditions as to security etc., as it considers necessary stay the recovery of the estate duty pending the disposal of the reference made to it.' "

Sir, it is for two reasons that I am moving this amendment. My one ground is that the High Courts and the Supreme Court, being the highest judicial tribunals in our country, one in the States and the other in the whole country.....

SHRI C. G. K. REDDY (Mysore): The second reason is to withdraw.

SHRI J. R. KAPOOR: ..... should be authorised and should be permitted to keep to themselves the right of exercising their discretion in the matter of stay of the payment of estate duty. Let us not fetter the discretion of the High Court and the Supreme Court in this matter. We should have fullest confidence in them. If they are seized of a matter let them be seized of it in its entirety.

My second ground is, Sir, that it will lead to unnecessary administrative difficulties and botheration even in cases in respect of which a reference is pending in the High Court or the Supreme Court. You realize the tax now—whatever the amount be—and ultimately if the decision goes against the order of the Central Board of Revenue, that realised amount has to be refunded. Why do you want to have on your head the unnecessary botheration firstly of realising and then of refunding? But if you want to have all these botherations, well, you may have them but nothing is to be gained thereby. I have already provided in my amendment, Sir, that the High Court or the Supreme Court while passing any order of stay of payment should see to it that the appellant, that is, the person liable to duty furnishes necessary security so that in the period intervening between the order of the Central Board of Revenue and the final decision of the High Court or the Supreme Court, as the case may be, the security will be there, that is to say, the property which will be offered as security will remain there and there will be absolutely no danger of Government losing the duty if ultimately the appeal is rejected. That is all that I have to submit, Sir.

SHRI LAVJI LAKHAMSHI: Mr. Deputy Chairman, Sir, there is the provision in this Bill, whereby an assessee feeling aggrieved by the decision of the Central Board of Revenue can ask the Central Board of Revenue to make a reference to High Court. Failing or succeeding, still a reference may be made to the High Court. Now, Sir, in relation to Part C States the High Courts mentioned in the Bill are not the normal courts which are the highest appellate courts in these States. I really do not understand why the normal courts, namely, the Judicial Commissioners' Courts or any other highest court in the Part C States are deprived of this particular jurisdiction. Sir, as a matter of fact these courts have been functioning in respect of other branches of law and under the Act that was passed, namely, the declaration of Judicial Commissioners' Courts as High Courts for certain purposes, most of the Acts are administered judicially by these Judicial Commissioners. Why in this particular Act these courts are deprived of their jurisdiction?

Not only that, Sir, but it involves considerable hardship to an assessee coming from these Part C States. Now, so far as Kutch is concerned, the High Court mentioned is the Bombay High Court. An assessee feeling aggrieved will firstly have to come to Delhi (about 700 miles) to persuade the Central Board of Revenue to make a reference and then go south another 700 miles to reach the High Court of Bombay to have his point of law decided. Having regard to the delay, expense and inconvenience this is almost an insurmountable burden placed on an assessee.

The second reason that I am advancing is this. I would in this connection refer to article 227 of the Constitution. Now, under article 227 the High Courts have been given the power of superintendence over all the lower courts as well as the tribunals in the particular territory over which they exercise their jurisdiction. In so far as the Part C States are concerned under article 227 of the Constitution the Judicial Commissioners' Courts can exercise this power of superintendence. Now this power of

superintendence has been interpreted in the rulings of the various courts, that is to say, the High Courts of Calcutta, Bombay and Saurashtra, as having the right of interference not only in judicial matters but in matters administrative, that is to say, they have the right of superintendence over all tribunals and all courts—not only judicial courts but tribunals also. That was the position, Sir, under the Government of India Act, 1919, in section 107 thereof. But under the Government of India Act of 1935 this power of superintendence granted to the various High Courts was limited to only judicial courts. Now, I have an authority which is mentioned in the *All India Reporter*, 1951, Saurashtra on page 43. I will read only three lines. The learned Judge is quoting the High Court of Calcutta's ruling. "The powers of interference under article 227 relate to both administrative and judicial matters." That was the position under the Government of India Act, 1919. But that power was taken away by the Government of India Act, 1935 which was again restored by this Constitution under article 227. Now, this power of superintendence has been interpreted on the analogy of sections 115 and 100 of the Civil Procedure Code. Section 115 relates to revision. Particularly I would refer to clause (c) of that section 115—"to have acted in the exercise of its jurisdiction illegally or with material irregularity". In such cases the High Court may make such order in the case as it thinks fit. In effect the power of superintendence is theirs. I would not read so many lines contained in this particular authority. It gives the rulings of various High Courts, not only of Calcutta but Bombay, Patna, etc., which go to say that this power of superintendence means the power of interference. It boils down to interfering on a point of law.

Coming to my point, under article 227 the Judicial Commissioner's Court in Kutch will have the power of superintendence over all the tribunals including the Board of Revenue because the Board of Revenue will be functioning, in so far as the assessee in Kutch is concerned, in Kutch. Therefore the Judicial Commissioner's Court will have under this power of superintendence the right to interfere on points of law. The position will be ludicrous. If there are two assessees, one going to Bombay for having his law point decided, and another going to the Judicial Commissioner's Court in Kutch, the position would be ludicrous. I do not know whether that is envisaged by the hon. the Finance Minister. At any rate I do not see, when under this provision normally such a function lies with the Judicial Commissioner's Court, why another tribunal is to come into existence simultaneously with powers to decide a point of law. With a view to avoid the expense, delay and hardship that will be placed in the way of an assessee residing in these various Part C States and also in view of the provision of article 227 which I presume possibly has escaped the notice of the Government at the time of framing this Bill providing for the jurisdiction of another High Court over Part C States as well as having regard to the law point, I would request them to bear all these in mind. Our time-table for the consideration of this Estate Duty Bill is so arranged that it discourages all sorts of amendments and even if moved the hon. the Finance Minister cannot approach them with any liberal frame of mind. I would only request him, in view of this particular point of hardship in the case of assessees residing in these Part C States and particularly in view of the point that I have mentioned earlier before this hon. House, he may consider as to whether this particular amendment which I have placed for consideration should be accepted in future. That is all I have to say.

SHRI M. S. RANAWAT (Rajasthan): Sir, in the beginning of this debate I made a similar request and now my hon. friend from Kutch has dealt with the constitutional side of the question

[Shri M. S. Ranawat.]

and apparently he has been able to make out a very good case. It seems that enough thought has not been given from that angle of vision. As a matter of fact, my complaint was and still is not only that, but that even ordinary information of a geographical nature has been ignored because of the red-tapism under which one Ministry can believe only what another Ministry writes and no further. That is why they think that Ajmer is connected with Allahabad. That in judicial matters and in court matters it has nothing to do with the Allahabad High Court, whoever has the slightest normal sense or commonsense knows. It seems that any information unless it comes from the Ministry concerned will not be taken notice of by them. The fact that Ajmer has nothing to do with the Allahabad High Court, that Jaipur High Court or any other High Court is nearer to it, they are not going to take any notice of. And if we bring this fact to the notice of the Minister who is steering this Bill, probably they think that the information is not complete. I assure the Minister in charge of this Bill that this is absolutely wrong—putting Ajmer with Allahabad. Then the contention of the hon. Member who has just spoken before me is there, in which case the whole of this goes and the Judicial Commissioners' courts will remain as the proper courts. But in case the Judicial Commissioners' courts are not considered competent and if you do want the High Courts, then in that case you should accept the amendment and come forward with an amendment yourself even in the beginning so that the people may not have to go to the Allahabad High Court for this.

SHRI M. C. SHAH: Sir, with regard to the last point raised by the two hon. friends about High Courts, the position is that even under the Income Tax Act this provision is there. Also under the Trade Marks & Patents Act, there is this provision. When appeals under the Income Tax Act go to these High Courts, it is fit and proper that appeals under the Estate Duty Bill also should go to those High Courts. When the whole scheme is rearranged, these points of view may be taken into consideration by the Home Ministry or the States Ministry and then thereafter, if necessary, amendments will be moved. But just now as the appeals under the Income Tax Act, Trade Marks and Patents Act and similar other Acts go to those High Courts, we have provided the same thing here also. With regard to High Courts in Part B States, they were just in the way of formation and we did not think it proper.....

SHRI M. S. RANAWAT: They are still in formation?

SHRI M. C. SHAH: .....to burden those High Courts with these cases of a specialised nature. So there is no question of causing any harassment to the assessees. As a matter of fact, that point was referred to by my friend here. The idea is that there ought to be specialised knowledge for this purpose and that can be had only in these High Courts. The Judicial Commissioners' courts will not be in a position to deal as efficiently with these legal points as the Bombay High Court and other High Courts. That is quite apparent. Therefore, it will be in the interests of the assessees themselves, whenever there is a law point involved, to have a decision of a High Court like the Bombay High Court, and that is the only idea. They will not have to go to Delhi as was suggested. About the Central Board of Revenue, we have in mind a scheme by which at capital towns of the Presidency or States there will be some arrangement made. The Central Board of Revenue people can go there to hear appeals at specified times with a view to avoiding any harassment to the prospective assessees. We cannot therefore accept this amendment.

1 P.M.

With regard to Dr. Kunzru's amendment, I have already explained the

position. Even in the Act of 1946 when there were no Controller and no Valuers, the Board of Revenue had to make valuations and provision was there for appeals to the High Courts and they had to hold an inquiry. But as I have said, this was not the scheme when the Bill was introduced in the House of the People, nor was this the scheme of the previous Bill. The present procedure is not found in any country. It is a novel method —disposing of this question of valuation by arbitration. When this question is decided by the arbitrators, there will not be any appeal to the High Court. As you rightly remarked, Sir, when there is a decision by arbitration, there can be no appeal against the decision of the arbitrators. As I said, this method was not there before. We discussed this and we thought that in the fitness of things and in the interests of the assessees themselves this would be the best method. The Finance Minister assured the House of the People and as I said just now, this, we thought, was the best method in the interests of the assessees themselves. Still if by experience we find later on that an appellate tribunal is necessary or an appeal to the High Court is necessary, we will come before the House with an amending Bill. My hon. friend asked when the Valuers were there, how can you bring in an amendment of that sort. Then the whole scheme will have to be changed. If there is an appeal there will be no Valuers and so on and so forth. So when we come with an amending Bill on this point, we will consider all these, and the whole procedure will be recast if we find from experience that it is absolutely necessary to provide an appellate tribunal or as suggested elsewhere, an appeal to the High Court on a question of fact or law as suggested by Dr. Kunzru. So in the interests of the assessees themselves we feel that the procedure prescribed is very good and therefore we cannot accept the amendment for allowing appeals on questions of fact to the High Court. Figures were quoted by the Finance Minister to show that the percentage of appeals going to the appellate tribunals was rather dwindling. As a matter of fact, the number of applications for review by the Central Board of Revenue is going up. It has gone up by nearly 40 per cent. within two or three years and from that we can easily infer that the assessees have confidence in the review of applications by the Central Board of Revenue. Therefore for the time being we consider that this is the best method. As assured by the Finance Minister, we have not got a closed mind on this point. For the time being we will try out this method which is a new one. which is not adopted in any of the countries. It was mentioned that I had said that the High Court will not be in a position to decide valuation. I said that that was one of the factors to decide the question of valuation by arbitration. As I said, after all, even if the matter goes to the High Court, the High Court Judges will have to appoint some experts to advise them or to guide them with regard to valuation. But here we have given ample scope to the assessees and the revenue authorities to select from a panel of Valuers and in case of disagreement for having an Umpire also from that panel which will include people with knowledge of valuation of landed property, of shares, of jewellery and so many other aspects. Therefore, I do feel that in the interests of the assessees and in the interests of good administration this is the best method and therefore we recommend this method to the House.

SHRI J. R. KAPOOR: Sir, he is ignoring me altogether.

SHRI M. C. SHAH: I am sorry, Sir. If we accept Shri Kapoor's amendment, there will be enormous difficulties. They will just file a suit and get a stay order and we cannot get the estate duty. So, the objective of Shri Kapoor to help the administration to collect estate duty will be defeated.

AN HON. MEMBER: That is not his object!

SHRI M. C. SHAH: I do not think we can accept that amendment.

MR. DEPUTY CHAIRMAN: I put the amendment of Shri Kunzru to vote.

The question is :

"That at page 31, lines 5-8, *for* the words 'requiring the Board to refer to the High Court any question of law arising out of such order, and the Board shall, if in its opinion a question of law arises out of such order, state the case for the opinion of the High Court', the following be substituted, namely:—

'requiring the Board to refer to the High Court any question of law arising out of such order, or any question of valuation in respect of which such order has been passed after a decision thereon has been given under sub-section (4) of that section, and the Board shall, if in its opinion a question of law arises out of such order or there are sufficient grounds for disputing the correctness of the valuation as the case may be'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The rest of the amendments moved by Shri Kunzru are all consequential; they drop out automatically.

Mr. Kapoor, what about your amendment!

SHRI J. R. KAPOOR: May I have, Sir, the leave of the House to withdraw the amendment?

The amendment was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: Mr. Lavji Lakhamshi, do you press your amendment?

SHRI LAVJI LAKHAMSHI: Sir, I beg leave to withdraw my amendment.

The amendment was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 64 stand part of the Bill."

The motion was adopted.

Clause 64 was added to the Bill.

MR. DEPUTY CHAIRMAN: Clause 65; there is only one amendment by Mr. Kunzru. It is also consequential. There is no amendment to clause 66.

Clauses 65 and 66 were added to the Bill.

MR. DEPUTY CHAIRMAN: Clause 67 ; there is one amendment by Shri M. P. N. Sinha; he is not present here. There are no amendments to clause 68

Clauses 67 and 68 were added to the Bill.

MR. DEPUTY CHAIRMAN: Clause 69. There is one amendment to it.

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

"That at page 34, after line 19, the following be added, namely:—

'Provided that the full report of all such cases shall be laid on the Table of the House annually'."

Mr. Deputy Chairman, Sir, there is nothing much for me to speak on the amendment. The amendment provides that in complicated cases, the Controller takes certain action. The whole report of this action shall be laid on the Table of the House annually. I do not think my hon. friend should have anything to object to in this. The intention is to have the whole case placed before Parliament to enable the Members to know whether there are any defects or not.

SHRI M. C. SHAH: Sir, I think it is not administratively possible to accept the amendment. According to clause 78, disclosure of information by a public servant is not permissible. So, I am not in a position to agree to the amendment.

MR. DEPUTY CHAIRMAN: The question is:

"That at page 34, after line 19, the following be added, namely:—

'Provided that the full report of all such cases shall be laid on the Table of the House annually'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 69 stand part of the Bill."

The motion was adopted.

Clause 69 was added to the Bill.

MR. DEPUTY CHAIRMAN: Now we take up clause 70. There are four amendments to this clause.

SHRI S. N. MAZUMDAR: I am not moving my amendments (54 and 55).

MR. DEPUTY CHAIRMAN: Shri M. P. N. Sinha is absent.

Clause 70 was added to the Bill.

MR. DEPUTY CHAIRMAN: Now we take up clause 71. There is one amendment.

SHRI S. N. MAZUMDAR: I am not moving my amendment (58).

Clause 71 was added to the Bill.

MR. DEPUTY CHAIRMAN: Clauses 72 to 82. There are no amendments.

Clauses 72 to 82 were added to the Bill.

MR. DEPUTY CHAIRMAN: Clause 83. There is one amendment to this clause.

SHRI ONKAR NATH (Delhi): Sir, I beg to move:

"That at page 37, line 2, after the word 'accountant', the following be added, namely:—

'or an income-tax practitioner, as defined in section 61(2) (iv) of the Indian Income Tax Act, 1922 (XI of 1922)'."

MR. DEPUTY CHAIRMAN: Clause 83 and the amendment are now open for discussion.

SHRI ONKAR NATH:

श्री ओंकार नाथ : उपसभापति महोदय, मैंने जो संशोधन उपस्थित किया है वह बहुत साधारण सा है और मैं समझता हूं कि इसको स्वीकार करने में आनरेबिल फाइनेंस मिनिस्टर साहब को कोई कठिनाई नहीं होगी। मुझे आशा है कि आनरेबिल फाइनेंस मिनिस्टर साहब इसको स्वीकार करेंगे। इस बिल के क्लाज ८३ में यह प्राविज़न (provision) रखा गया है कि जो लीगल प्राक्टिशिनर्स (legal practitioners), चार्टर्ड एकाउंटेंट (chartered accountant) और रिश्तेदार आदि जो इस काम को हमेशा करते रहे हों उन्हीं के द्वारा यह काम कराया जाय। मैं चाहता हूं कि इसमें यह भी बढ़ा दिया जाय कि वह काम ऐसे इनकमटैक्स प्रैक्टिशिनर (income-tax practitioner) द्वारा भी कराया जा सके जो कि इंनकमटैक्स एक्ट (Income-tax Act), १९२२ की धारा ६१ (२) (iv) की परिभाषा में आते हैं। इसको मानने में कोई बड़ी दिक्कत नहीं समझ में आती। जो चार्टर्ड एकाउनटेंट होते हैं वे ज्यादातर ज्वाइंट स्टाक कम्पनीज़ (joint stock companies) का काम करते हैं और वे आम तौर से इन लोगों के हिसाब किताब को नहीं करते। दूसरे जहां तक वकीलों वगैरह का ताल्लुक है वे आम तौर से इस काम को नहीं करते। इसके अलावा वकीलों की फीस वगैरह का जो सिलसिला होता है वह बहुत ज्यादा होता है। दूसरी बात यह भी है कि वकीलों का ज्यादातर खयाल यह होता है कि जिस पार्टी का केस लें उसके लिये कानून को इस तरह से तोड़ मरोड़ कर पेश करें जिससे कि दूसरी मुखालिफ पार्टी यानी गवर्नमेंट का ज्यादा से ज्यादा

[Shri Onkar Nath.]

नुकसान हो। उनको सिर्फ यह चिन्ता रहती है कि जिस पार्टी का केस लें उसको जिताने की कोशिश करे। उन का साइकालिजिकल (psychological) रवैया हर मामले में मुखालिफ का सा होता है। इससे यह होगा कि गवर्नमेंट को ज्यादा से ज्यादा नुकसान पहुंचेगा। लेकिन जो इंकमटैक्स प्रैक्टिशिनर्स हैं, जो कि तरह तरह के टैक्सों के बारे में ही विशेषज्ञ हो जाते हैं और टैक्सों का ही काम करते हैं वे इस काम को बहुत बेहतर तरीके से कर सकते हैं। आम तौर से यह होता है कि वही इनकम टैक्स के प्रेक्टिशिनर्स होते हैं और वही सेल्स टैक्स (sales tax) वगैरह के भी होते हैं, तो उनको ही एस्टेट ड्युटी के लिये भी रखने में आसानी होगी। अगर हम इसको नहीं मानते और इस अमेंडमेंट को इसमें नहीं इनक्लूड (include) करते तो दिक्कत यह होगी कि एक फर्म को अपने इनकम टैक्स के मामले के लिये एक इनकम टैक्स प्रेक्टिशिनर रखना होगा और इस्टेट ड्युटी के लिये किसी वकील या चार्टर्ड एकाउन्टेंट को ढूंढने जाना पड़ेगा। इसके अलावा यह भी दिक्कत होगी कि जो इंकमटैक्स प्रेक्टिशिनर उनके यहां का काम करता है वह सब बातें जानता है और वह १५ या २० साल से काम करता आ रहा है इसलिये वह उनके तमाम फाइलों और हिसाब किताब पूंजी सम्पत्ति को समझता है। अगर उनको नहीं रखते तो फिर वही काम दुबारा करना पड़ता है जो कि एक बार इंकम टैक्स के सिलसिले में हो चुका है। यह मेरे खयाल में ठीक नहीं होगा कि किसी फर्म को मजबूर किया जाय कि वह इंकमटैक्स और सेल्स टैक्स के लिये एक एक्सपर्ट (expert) रखे और इस्टेट ड्युटी के लिये दूसरा एक्सपर्ट रखे। अगर मेरा यह संशोधन माना जा सकता है या रूल्स में कोई ऐसा प्राविजन किया जा सकता है कि इंकमटैक्स एक्सपर्ट भी इस काम को कर सकते हैं और उन को भी अपीअर (appear) होने का अधिकार आप दे देते हैं तो इस से बड़ी आसानी हो जायेगी। जो फर्म या कम्पनियां, चाहे वे लिमिटेड हों या प्राइवेट, जो कि एक्सपर्ट रखती हैं उनको बड़ी आसानी हो जायेगी और उनका काम एक ही एक्सपर्ट से चल जायेगा। सरकार को भी इन लोगों से नुकसान तो कोई नहीं होगा। फिर मेरी समझ में नहीं आता कि इसमें कोई आपत्ति हो सकती है। इस संशोधन के मानने से करदाताओं को काफी आसानी हो जाती है इसलिये मुझे पूरी आशा है कि माननीय मंत्री जी और हाउस मेरे इस संशोधन को स्वीकार करेंगे, और इस में किसी को कोई हानि नहीं होगी।

[For English translation, *see* Appendix V, Annexure No. 115.]

MR. DEPUTY CHAIRMAN: The House stands adjourned till four of the clock this afternoon.

The Council adjourned for lunch till four of the clock.

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

SHRI J. R. KAPOOR:

श्री जे० आर० कपूर : माननीय उपसभापति जी, धारा ८३ के सम्बन्ध में जो संशोधन आज प्रातःकाल मेरे माननीय मित्र श्री ओंकार नाथ ने उपस्थित किया था उसका मैं समर्थन करता हूं। आपको उपसभापति जी स्मरण होगा कि इस सम्बन्ध में कल जो विनय-पत्रिका एक सज्जन की तरफ से उपस्थित की गई थी उस पर आज प्रातः विनय-पत्रिका विचारणीय समिति ने विचार किया था। विचार करने के उपरान्त उसने आज अपनी रिपोर्ट इस सदन के सम्मुख उपस्थित की थी। जिस समय इस विनय-पत्रिका पर विनय-पत्रिका समिति में विचार हो रहा था तो कुछ सदस्यों की यह राय थी कि वे अपनी रिपोर्ट

में यह विचार प्रकट करें कि यह एक उचित प्रार्थना है। परन्तु मैंने यह समझा कि ऐसी कोई बात उस रिपोर्ट में लिखना हमारे अधिकार और क्षेत्र के बाहर थी और इसीलिये इस तरह की कोई बात उन की राय के अनुसार नहीं लिखी गई। मैंने इस बात को यहां इसलिये बताया कि यह स्पष्ट मालूम होता है कि उस समिति के कुछ सदस्यों—सम्भवतः सभी सदस्यों—की यह राय है कि इस संशोधन को स्वीकार कर लेना चाहिये।

माननीय उपसभापति जी, यह संशोधन एक साधारण सा संशोधन है जिसको स्वीकार करने में माननीय उपमंत्री महोदय को कोई आपत्ति नहीं होनी चाहिये, अर्थात् इस को मान कर आगे जब वे दूसरा विधेयक इस सम्बन्ध में दो महीने बाद उपस्थित करें तो उस में इस संशोधन को सम्मिलित कर दें। धारा ८३ को देखने से पता लगता है कि कंट्रोलर (controller) और अन्य अधिकारियों के सम्मुख उपस्थित होने का अधिकार वकीलों को दिया गया है, जिस व्यक्ति पर कर लगे उसके सम्बन्धी को दिया गया है और उसको भी यह अधिकार दिया गया है जो कि उस व्यक्ति के यहां नियमित रूप से काम करता हो जिसके ऊपर कर लगता हो, लेकिन और अन्य लीगल प्रेक्टिशिनर (legal practitioner) को भी यह अधिकार दिया गया है। उपसभापति महोदय, आप तो जानते ही हैं कि लीगल प्रेक्टिशिनर की परिभाषा के अन्तर्गत वह लोग भी आ जाते हैं जो वकील नहीं होते, अर्थात् जिन्होंने एल एल० बी० (L.L.B.), एडवोकेसी (advocacy) इत्यादि की परीक्षा पास नहीं की हुई होती वे भी उस के अन्तर्गत आ जाते हैं। जब किसी के सम्बन्धी को अथवा जो किसी के यहां स्थायी रूप से नियुक्त आदमी हो उसे, और अन्य प्रकार के लीगल प्रेक्टिशिनरों को यह अधिकार मिल जाता है कि वह किसी की ओर से कंट्रोलर या अन्य अधिकारियों के सामने जा कर मामला पेश कर सकें तो कोई कारण नहीं मालूम होता कि इनकम टैक्स आफिसर (Income-tax Officer) जिनको अधिकतर बरसों काम करते हुए हो गये और जिन्हें इस सम्बन्ध में विशेष ज्ञान है, वे क्योंकर इस अधिकार से वंचित रखे जायं। यह केवल उनके अधिकारों का ही प्रश्न नहीं है बल्कि यह उन लोगों की सुविधा का भी प्रश्न है जिनके कि ऊपर मृत्यु कर लगेगा। बड़े बड़े शहरों में बहुत से लोग हैं जो वकील न होते हुए भी इस काम को करते हैं। मैंने तो यह देखा है कि बड़े बड़े वकील शायद ही कभी इस काम को हाथ में लेते हैं, बड़े मुकदमों की बात छोड दीजिए, साधारण मुकदमे जो होते हैं उनमें बड़े वकील लोग काम नहीं करते। और जो बड़े बड़े लोग हैं उनके यहां तो रिटायर्ड इनकम टैक्स कमिश्नर (Retired Income-tax Commissioners) तक नियुक्त होते हैं जो इन कामों को करते हैं। उनको भी यह विशेष सुविधा, विशेषज्ञों के सहायता की, आसानी से प्राप्त हो जाती है। लेकिन साधारण स्थिति के अन्य लोग अधिकतर उन्हीं लोगों के सिपुर्द इस काम को करते हैं जो इनकमटैक्स प्रेक्टिशिनर्स होते हैं। चूंकि उन लोगों को वे प्रेक्टिशिनर्स सस्ते में मिल जाते हैं इसलिये साधारण स्थिति के लोगों को इससे बड़ी सुगमता होती है। मेरी यह प्रार्थना है कि इस संशोधन को उपमंत्री महोदय स्वीकार करने की कृपा करें। इस सम्बन्ध में जो विनय-पत्रिका आज प्रातः उपस्थित की गई थी और जिस की प्रतिलिपि सभी माननीय सदस्यों की सेवा में उसी समय वितरण कर दी गई थी, उससे मैं समझता हूं, सभी सदस्य प्रभावित हो कर इस निर्णय पर आये होंगे कि उस विनय-पत्रिका में दी हुई प्रार्थना को वे स्वीकार करायें। मैं आशा और विश्वास

[Shri J. R. Kapoor.]

करता हूं कि माननीय उप मंत्री महोदय भी इसको स्वीकार कर लेंगे ।

[For English translation, see Appendix V, Annexure No. 116.]

SHRI M. C. SHAH: Sir, I am sorry that I will have to disappoint the mover of the amendment as well as my friend, Mr. Jaspat Roy Kapoor.

SHRI J. R. KAPOOR: Not mine this time, Sir.

SHRI M. C. SHAH: He is well aware that this is a very complicated piece of legislation, and as a matter of fact, those who practise, must have some knowledge of accountancy and law. My friend, Mr. Jaspat Roy Kapoor, an old Member of the Provisional Parliament, must be aware of the report of the Income-tax Investigation Commission. He also must be aware that there was an Income-tax Amending Bill wherein a provision of this type was included, but that lapsed and therefore that did not come into force. But generally when we are just enacting a piece of legislation which is very very complicated—it is admitted by one and all that it is a very very complicated piece of legislation—it is absolutely necessary that we should assist those who are administering the law, with regard to appeals, and other matters. There must be persons having knowledge of law and accountancy. And therefore, Sir, it is not possible for the Government to accept the amendment moved. I am sorry, Sir.

SHRI J. R. KAPOOR: Does the hon. Deputy Minister think that a relative of an assessee, or a person who is regularly employed by that person, absolutely irrespective of the qualifications, is more competent to represent than one who possesses the experience of an income-tax practitioner, because a relative or any person whatsoever who may have been to no university, school or college can represent, but not an income-tax practitioner?

SHRI M. C. SHAH: Perhaps, as my learned friend will be aware, the party is entitled to an appeal in all the proceedings and if a party sends its representative, a man in its employ, or one who knows something about the account books, etc., that person has a right, and the party has a right to send its own representative and that does not stand any comparison with the person appearing as a practitioner.

MR. DEPUTY CHAIRMAN: Is the hon. Member pressing his amendment?

SHRI ONKAR NATH: Sir, I beg leave to withdraw my amendment.

The amendment was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 83 stand part of the Bill."

Clause 83 was added to the Bill.

Clause 84 was added to the Bill

MR. DEPUTY CHAIRMAN: Now we come to clause 85. There are two amendments. Dr. Kunzru is not here.

SHRI J. R. KAPOOR: I am not moving my amendment.

Clause 85 was added to the Bill.

The First Schedule was added to the Bill.

MR. DEPUTY CHAIRMAN: We take up the Second Schedule. There are eight amendments to this. Amendments Nos. 60 and 62 are out of order, because they require the President's recommendation. No. 63: Mr. Bisht is absent. No. 64: Mr. Inait Ullah is absent. It also requires the President's recommendation. Nos. 61 and 65: Mr. Kishen Chand.

SHRI KISHEN CHAND: I am not moving them.

MR. DEPUTY CHAIRMAN: No. 66 is out of order. It also requires the President's recommendation. Mr. Kapoor, No. 99.

श्री जे० आर० कपूर : जी नहीं, मैं इसको उपस्थित तो नहीं कर रहा, केवल दो शब्द अवश्य कहना चाहूंगा ।

†[SHRI J. R. KAPOOR: I am not moving it, Sir; but I would like to say a few words only.]

MR. DEPUTY CHAIRMAN: All right.

SHRI J. R. KAPOOR:

श्री जे० आर० कपूर : उपसभापति महोदय, इस सम्बन्ध में, जैसा मैंने अभी एक क्षण पहले कहा था, केवल दो शब्द कहूंगा, कारण, कि विशेष कहने से तो कोई लाभ नहीं, लेकिन फिर भी दो शब्द इस सम्बन्ध में इसलिये कहूंगा कि इसे मैं अपना कर्त्तव्य समझता हूं । यह न समझा जाय कि इस सदन में सब लोग इससे सहमत हैं कि संयुक्त हिन्दू फेमिली (family) में ५० हजार के ऊपर की जो सीमा रखी गई है वह ठीक है.....

SHRI S. N. DWIVEDY (Orissa):

श्री एस० एन० द्विवेदी (उड़ीसा) : कम होनी चाहिये ।

SHRI J. R. KAPOOR:

श्री जे० आर० कपूर : कम हो या अधिक हो इससे मेरा कोई मतलब नहीं । यदि आप कम करना चाहते हैं तो मैं सहमत हूंगा बशर्ते उसके साथ साथ उस एक लाख की सीमा को भी उतना ही कम कर दें जितना ५० हजार को करते हैं उस दशा में जब कि संयुक्त हिन्दू परिवार नहीं है यदि कोई आदमी एक लाख से अधिक की सम्पत्ति छोड़ जाता है तो उस पर कर लगेगा । अन्य दशाओं में ५० हजार की सीमा रखी गई है जो कि उचित नहीं प्रतीत होती है । दोनों को एक ही आधार पर रखना चाहिये था, इसलिये मैं केवल इन्हीं शब्दों को कह कर अपना वक्तव्य खत्म करना चाहता हूं कि इस तरह का अन्तर करने से केवल एक ही बात होगी कि जो संयुक्त हिन्दू परिवार की संस्था है वह धीरे धीरे खत्म हो जायगी । इस संस्था से इस देश को बहुत लाभ पहुंचा है भले ही कुछ लोगों की यह राय हो कि जितनी जल्दी इस को समाप्त किया जाय उतना अच्छा है । लेकिन इस देश में अधिकतर लोग ऐसे हैं जिनकी यह निश्चित धारणा है कि हमारी इस प्राचीन संस्था ने समाज का बहुत उपकार किया है, और यह समाज में एक प्रकार का बीमा सा है उन लोगों के लिये जो कुछ समय के लिये कार्य करने के लिये अशक्त हो जायं या वृद्धावस्था के कारण धनोपार्जन कर सकने में असमर्थ हैं । ऐसी लाभकारी संस्था को जल्दी जल्दी पूर्ण रूप से समाप्त करने के लिये हर एक कानून में नियम लाना किसी भी हालत में उचित नहीं है ।

DR. P. C. MITRA (Bihar):

डा० पी० सी० मित्रा (बिहार) . मैं सिर्फ एक प्रश्न पूछना चाहता हूं कि ५० हजार की जो एक्जेम्प्शन लिमिट (exemption limit) रखी गई है, अगर उससे ऊपर की रकम, मान लीजिये, ५१ हजार रुपये हो तो कितने पर अतिरिक्त कर लगेगा ?

SHRI J. R. KAPOOR:

श्री जे० आर० कपूर . एक हजार पर लगेगा ।

[For English translation, *see* Appendix V. Annexure No. 117.]

SHRI M. C. SHAH: As regards the point raised by Dr. Mitra, Rs. 50,000 is the exemption limit, and only the amount over this limit will be taxed. With regard to the point raised by my friend, Mr. Kapoor, I think that the Hindu joint family will stand to gain by this. I said yesterday and I repeat also today that, if we take a normal Hindu joint family with a father and two sons, then Rs. 1,50,000 will be exempt. Ordinarily there may be three or four or five sons in which

†English translation.

[Shri M. C. Shah.]

case property worth Rs 3 lakhs will be exempt. As I said the other day, gifts to charitable institutions will be accelerated by this measure rather than discouraged. This estate duty, instead of disrupting the joint Hindu family as is feared, will perhaps consolidate the joint Hindu family and place it in a much stronger position, because the limit of exemption will be higher than in individual cases and this will be an incentive to remain undivided in order to get the benefit of this higher exemption. What will happen, I cannot say, but the effect of this Bill will not be to disrupt the joint Hindu family, as is feared by my hon. friend, Mr. Kapoor. I request that the House may be pleased to accept this Schedule which is very fair.

MR. DEPUTY CHAIRMAN: The question is:

"That the Second Schedule stand part of the Bill."

The motion was adopted.

The Second Schedule was added to the Bill.

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

SHRI M. C. SHAH: Sir, I move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill be passed."

DR. P. C. MITRA:

डा० पी० सी० मित्रा : मैं फाइनेन्स मिनिस्टर साहब को इस बिल को लाने के लिये बधाई देता हूं। लेकिन एक बात है जो हमारी समझ में नही आती कि आदमी के जीते जी गवर्नमेन्ट के इतने टैक्स लगे हुए रहते है और हमारा खयाल होता है कि जब आदमी मर जाता है तो वह आखिरी टैक्स हो गया है। मालूम पड़ता है कि अब गवर्नमेन्ट के टैक्स वसूल करने के जितने भी सोर्सेज (sources) थे वे सब समाप्तप्राय, एक्ज़ास्ट (exhaust), हो गये है और अब यही टैक्स बाकी रह गया। मृत्यु के ऊपर जो टैक्स लगाया जा रहा है उस के साथ टैक्स वसूली के जितने तरीके थे वे भी लगता है मृत्यु को प्राप्त हो गये। अब तो गवर्नमेन्ट यह सोचने लगेगी कि जितने आदमी मरेंगे, और खासकर अमीर आदमी, उतनी ही हमारी तरक्की होगी और नफा होगा। अब आप यह उम्मीद करने लगेंगे कि जितने बड़े आदमी मरेंगे उतना हमारा काम होगा।

MR. DEPUTY CHAIRMAN: Dr. Mitra, please address me.

DR. P. C. MITRA:

डा० पी० सी० मित्रा : तो मैं यह बतलाता हू कि यह सुख की बात है कि यह टैक्स हमारा आखरी टैक्स हो गया है। गवर्नमेन्ट के दिमाग में जो कुछ टैक्स वसूली के जरिये थे वे सब एग्ज़ास्ट हो गये है तभी तो आखिर दम मृत्यु पर टैक्स लगाया जा रहा है। तो यह भी तमाम कन्ट्री (country) के लोगों के लिये रिलीफ (relief) की बात है कि आगे अब कोई टैक्स लगाने की गुंजायश नही रहेगी।

लेकिन एक बात है, जो आदमी मरने लगेगा उसके भी दिल में धड़कन रह जायगी कि क्या जाने मेरे मरने के बाद हमारे लड़के के ऊपर कितने जुल्म होंगे? इसी वास्ते जिसकी मृत्यु होगी वह मरते वक्त भी चैन से न रहेगा और उसे कई चिन्तायें होंगी। गवर्नमेन्ट को भी अच्छा बहाना मिल जायगा यह कहने का कि हमारा रेवेन्यू (revenue) कम इसलिये हो गया क्योंकि भाग्यवान् आदमी नही मरे जैसे हम देखते है कि जब हमारे रेलवे की इनकम (income) कमती होती है तो उसकी वजह यह बता दी जाती है कि पैसेन्जर (passenger) कम चले या गुड्स (goods) इधर से उधर कम तादाद में भेजे गये। और बाद को आप जानते हैं उसका क्या रिएक्शन (reaction)

होगा ? अभी तो ५० हजार रुपये तक एक्जेम्पशन (exemption) है, कल जब आमदनी कम हो जायगी और रुपयों की जरूरत पड़ेगी तो उसे भी घटा कर ५,००० रुपये कर देंगे, फिर जब यह भी अनसक्सेसफुल (unsuccessful) हो तो उससे भी कम करते जायेंगे और अन्त में वह लिमिट (limit) एक रुपया में पहुंच जायगी । मैं कहता हूं कि यदि कैपीटल फार्मेशन (capital formation) की गवर्नमेन्ट को जरूरत है तो मृत्यु के ऊपर वह क्यों टैक्स लगाये ? क्यों न जन्म के ऊपर, शादी के ऊपर वह टैक्स लगाये ? इस तरह से बहुत ज्यादा रुपया गवर्नमेन्ट को मिल जायगा क्योंकि हर रोज सैकड़ों जन्म होते हैं, शादियां भी होती है । शादी पर टैक्स रख देते तो लोग खुशी से उसे दे देते । फिर यह मरने पर टैक्स कैसा यह हम नही समझ सकते । बर्थ (birth) के ऊपर टैक्स लगाने से आपको सेंसस (census) के खर्चे में भी बचत हो जाती क्योंकि बर्थ का रजिस्टर रखने से आपको मालूम हो जाता कि कितने बच्चे पैदा हुए, उनकी कितनी संख्या है ? एम्प्लायमेन्ट (employment) के वक्त किसी की उम्र का पता लगाने में दिक्कत पैदा नही होती, बर्थ रजिस्टर को देख कर उसे पता कर सकते । आखिर में मै दुहाई देता हूं फाइनेंस मिनिस्टर साहब को ऐसा बिल लाने के लिये कि उन्होंने आखिर तक हमें टैक्स देने से नही छोड़ा । साथ ही मै उनसे यह भी कहूंगा कि आगे इसका खयाल करें कि टैक्स को और ज्यादा न बढ़ावें ।

[For English translation, *see* Appendix V, Annexure No. 118.]

SHRI B. P. AGARWAL (West Bengal): Mr. Deputy Chairman, from the discussions which we had in this House and elsewhere it is clear that the objects of this Bill have been welcomed by every section of the people. There is no difference of opinion on that account. Even amongst the capitalist groups, they realize that the times now have sufficiently advanced and inequalities in society are not desired. It is in the interest of all that these inequalities should be removed but there are differences of opinion about the methods of approach. There are people who believe that the rich people who are supposed to be holding large fortunes, the number and the riches are not so very vast with them that by drawing on their riches, even if the entire riches are taken from them, there will be sufficient money available so that it can be spread widely to raise the general level of the masses. Of course, that may give some material but whether that will be sufficient to raise the general level is very doubtful because the poverty amongst the masses is large and that cannot be removed by this method simply. What is necessary is to develop the natural resources. There is a vast field in that connection and our Five Year Plan which has been devised, I think, is an effort in the right direction. By putting all stress on that and putting all our energies and making that successful, perhaps we shall be able to make our country prosperous and get the wealth which we are so anxious to have and to spread it among our masses, so that the general level can be raised. But apart from that, although the general principles of this Bill are acceptable to one and all, yet there are certain provisions of this Bill which have been discussed at length in the other House and we have discussed also during the course of the last two days in this House as well, which shows that all the features of the Bill are not such as are acceptable to the people at large. There are many amendments which are needed in that respect. Various amendments have been moved in this House but—I think I am voicing the feelings of the Members of the House in general—everybody has this impression in mind that the Bill is more or less an accomplished fact in the present form and there is very

[Shri B. P. Agarwal.]

little chance of any of the amendments being accepted. In fact, the Finance Minister himself said that he has found certain mistakes in the drafting of the Bill and he finds it difficult now as to how to put it right. So in a way it is seen that the Bill is more or less an accomplished fact and what we are having is more or less a sort of academic discussion. I think an injustice has been done to the Members of this House by denying them the right of being associated at the Select Committee stage. The hon. Finance Minister the other day said that this was not done because he was not sure whether this Bill was a Money Bill or otherwise. It is true, there has been some difference of opinion or confusion on that account but when there was this doubt in the mind of the hon. Finance Minister, if he was very favourably disposed to this House, he should have given the benefit of doubt to this House instead of dissociating the Members of this House at the Select Committee stage. The handicap of the Select Committee stage cannot be removed. We know that the form, which a Bill takes, is mostly at the Select Committee stage and what Members can do and impress at the Select Committee stage, it is very difficult to do at a later stage. You know so many Bills have come up to this House and if you examine them, you will find that very few amendments moved in this House have been given effect to. So not associating this House with the Bill at the Select Committee stage has been a serious injustice and I hope this thing will not be allowed to happen in future in the case of other measures which will be coming up soon and which are also important ones. If the facility of considering the Bill at the Select Committee stage is not afforded to this House, it will be unfair to hon. Members of this House. I do not see why that distinction should have been made.

It is a matter of gratification, however, that the Finance Minister has stated that this Bill is only an experimental measure at this stage, though this experiment is on a very large scale and it will affect the fortunes of millions of people in this country. However, the Finance Minister has assured us that he proposes to bring out an amending Bill very soon. I hope that after gaining the experience of working this measure, and with suggestions that have been placed by hon. Members before him, the Finance Minister will bring forward a suitable amending Bill. Although none of the amendments has been pressed to the stage of hard voting, still the views of the Members have been placed through their amendments and I hope they will be given due consideration.

I would not like to take much time, but would only recapitulate some of those suggestions already made here and draw the hon. Finance Minister's pointed attention to them so that they may be fresh in his mind.

First of all, I would suggest that charities should be allowed without the imposition of any time restrictions. Another suggestion is that gifts for charity made for the benefit of any section of the people or for religious purposes should be treated as public charity. The way public charity has been described—although the hon. the Deputy Minister assured us yesterday that charities meant for certain sections of the people or for religious purposes will not be excluded—the language of the clause is not clear and there may be difficulties. So either in the rules or otherwise the necessary provision should be made to this effect.

Then, again, there should, in my opinion, be no limit imposed for gifts to daughters who have no rights of inheritance. Yesterday the point was raised that ancestral property could not be gifted. But it is not a question of ancestral property alone. There is self-acquired property also. While we have no right to bestow on daughters, I think it is but just that they should be given the benefit of

gifts Otherwise they would have no right left in the father's property *Streedhan* has been treated all along in our society as a sacred thing and it has come to the help of many a woman in times of difficulty But under the proposed law there is no special facility afforded in that respect and many families will be put to great difficulties Therefore, I feel that this right should not be denied under the new law It should not be open to the estate duty collecting authority to question the *bona fides* of a gift even after the lapse of a reasonable time

The word *bona fide* has been debated at great length in the other House and for some time in this House as well If the question of *bona fide* and *mala fide* remains open for an indefinite period many families will be put to great difficulties It is right that there should be no *mala fide* cases allowed but at the same time, there should be a time limit imposed so that these things may not be open for an indefinite period As the law at present provides, these difficulties do not appear to have been properly looked into

I think, Sir, dwelling houses and household articles should be exempted from the list of property Regarding dwelling houses, it was argued the other day by the Finance Minister that the exemption of Rs 50,000 or the one lakh of rupees provided should cover them The value of the other household articles like furniture or utensils should have been exempted It would have been better, even if the rates had to be increased, to have exempted these things Otherwise, this will create a great heart-burning amongst many families There are many families which possess such things from the time of their forefathers and these things have never seen any light Now, if these things are to be listed by an officer from the duty collecting authority this will create hardship Firstly, people will resent it, secondly, there is not much of police protection in the villages and small towns There are many widows and helpless women who possess these things, they have been having these things so far but if everything is to be exposed now, you will be exposing these things to serious risks There are all sorts of elements in society who will be casting their eyes on the property and these people will be put to serious difficulties

The question of unfortunate cases of quick succession has been also debated in this House but much has been said in the other House I think Sir in this matter, the provision in the Bill will be very harsh, on the one hand it is just possible that owing to cases of contagious diseases or the like, there may be deaths in the family one after the other and the family will lose earning members one after the other Following that they will also be getting the Controller's kick instead of getting any consolation In this matter, Sir I think the law as it stands in the United States of America should have been followed where five years' exemption has been allowed and after that a graduated scale has been provided

One other thing is that no duty should be collected from the families where the value of the estate left by the deceased is within reasonable limit and where there is no bread earner left in the families There may be a family where there is some small estate but no hard cash and there is no bread winner left If immediately following the death of the bread earner that family is called upon to shoulder the burden of the estate duty the conditions will be very hard for those people

As regards insurance policies, exemption has been provided only up to a sum of Rs 5 000 I think that this limit is put at a very low figure and feel that this should have been put at Rs 25,000 because people in this country are not so much insurance minded as in other countries and it is in the interests of the nation, Sir, that the insurance habit is

[Shri B P Agarwal]

created By this provision you will only be discouraging them

MR DEPUTY CHAIRMAN Mr Agarwal, we are in the third reading stage All these details are beyond the scope of the third reading

SHRI B P AGARWAL I have finished, Sir There is not much to say now

It has been suggested, that an independent appellate tribunal should be provided to which an appeal both in regard to facts and as regards law could go I think that it has been admitted that this is a very complicated law and after this law is made, everybody now will be more or less in some sort of confused state I think the best advisers of the Government also are not fully able to say how the law will operate and in these circumstances, if an independent authority had been provided instead of putting the burden of this Bill on the departmental authorities, I think, it would have created more confidence amongst the people, and it would have been in the interests of the proper working of this estate duty if an independent authority had been provided for

Then, the hon the Finance Minister has admitted that the law is very complicated I would appeal to the hon the Finance Minister that as the law is so complicated and it is so difficult for the ordinary man to understand its implications it will be necessary to see that utmost care and sympathy is exercised in this respect Otherwise, there will be serious trouble which the people may have to face

Finally, I would appeal to the hon the Finance Minister that—although none of the amendments have been accepted yet they have given expression to the views of the people—he should see that these suggestions which have been made to him are considered at a very early opportunity so that all these hardships are removed at the earliest possible moment

SHRI KISHEN CHAND Mr. Deputy Chairman, I welcome this Bill and now that it is being passed let us give our benediction to it The hon Finance Minister has rightly said that this is an experimental measure and he has given his promise that any difficulties found in its working and any complications will be set right The next stage is the distribution of the proceeds of this tax I submit, Sir, that when the proceeds of this duty are being distributed among the States it should be on the basis of population entirely and not as in the case of the income-tax divisible pool where 80 per cent is divided on the basis of population and 20 per cent on the tax collection basis This duty when divided amongst the States should be divided entirely on the basis of population

Secondly, the Ruling Princes have enjoyed their privy purses and their accumulated wealth free of income-tax but I do hope that their estates will bear this estate duty and that they will not likewise get an exemption from this as in the case of income-tax It was with this point in view that I had suggested in the Schedule a higher rate of tax on estates of Rs. 50 lakhs and a crore of rupees and over but that suggestion could not be put forward because there was not the sanction of the President As the Ruling Princes are squandering money outside the country without contributing anything to the Exchequer by way of taxes, special care should be taken to see that the due amount is collected from them, if possible, at progressively higher rates These enhanced rates are all the more important, as this section of the people does not contribute anything to the capital formation of the country—the amount is entirely spent on personal luxuries —and if the duties are levied at enhanced rates there is not likely to be any repercussion on capital formation in our country

Sir, when the proceeds of this measure are distributed among the States, though it is not possible for this House to impose any condition on the States about their expenditure, I do

hope that a way will be found either through planning commissions or some sort of internal directives that this amount be earmarked for the spread of education. We are all aware that our Constitution has imposed a statutory obligation that progressively we should make effort for propagating literacy in our country. No democracy is possible in an illiterate country and above everything else our primary need is education and more education. The States are unable to introduce compulsory education for want of funds. The hon. Finance Minister has wrongly estimated and stated it in the House that compulsory primary education will cost about Rs. 400 crores. I beg to submit that it is a very exaggerated estimate of the cost. Many competent authorities have estimated that the expenditure will not exceed the sum of Rs. 120 crores and over half this amount is already being spent by the States on education. If in years to come it is possible that the income from this duty comes to Rs. 30 to 40 crores per year, it may be possible to get this law of our country as stated in our Constitution enforced in the sphere of compulsory primary education.

With these words I once more welcome this Bill and give my wholehearted support to it.

SHRI C. G. MISRA (Madhya Pradesh): Mr. Deputy Chairman, I oppose this Bill. My object in opposing it is not, of course, to get it rejected by this House, because I do not expect that this House will reject it, but it is to indicate certain points which I think should be taken into consideration by the Government.

I admit that the Bill, so far as it goes, is a useful measure and such measures are required in order to solve the economic questions in our country. But it is a very sad thing that so far as the rights of this House are concerned, this House is helpless and that is evident from the fact that not even the slightest amendment has been accepted by the Government. Perhaps the fear was that if an amendment was accepted, however reasonable and proper it was, this measure would be delayed and Government, of course, would have to take the trouble of getting the Bill through after considerable delay. But I regret to say that in the case of such Bills as are sent by the other House to this House, this House has really no right and when the Government does not accept any suggestion of this House, I think this House is practically powerless, and we have no right to do anything about them. In that case, it is better that such Bills do not come here. Therefore, my suggestion is that if the Government is not able to accept the amendments, let them at least take them into consideration at any suitable time and get the portions of the Bill which have been the subject-matter of useful suggestions, suitably amended. I hope the Government will take an early opportunity of going through all those provisions of the Bill, keeping in mind the various suggestions that have been made in the amendments, and then get those portions of the Bill suitably amended so that there will not be any harassment to the people.

Then, Sir, I may refer to the case of an amendment proposed by Shri Inait Ullah with respect to which there was a lot of discussion and the hon. the Deputy Finance Minister said that the word 'religious' was covered by a provision in the Constitution and that therefore it was not necessary to accept that amendment. The case which was referred to by the hon. Member who moved the amendment was that religious institutions should be more liberally treated and the hon. the Deputy Finance Minister said that religious institutions were covered by the provisions of article 28 of the Constitution. In my opinion a distinction should have been made between religious institutions and charitable institutions in the light of the wording of article 28 of the Constitution. This is an instance to show that a most reasonable amendment

[Shri C. G. Misra.]

was suggested which would have removed all the complications that, of course, might arise if the matter went to court, but it was not accepted.

Then the second point which I would refer to is what was stated by the hon. the Finance Minister the other day, namely, that in having this Bill passed the Government felt bound by the party decisions. If the party decisions go so far as to bind the hon. Minister and other Government members not to accept any amendment, however reasonable it may be, then there is no use having the discussions in this House. The Government, of course, is carried on, practically speaking, by the Congress Party and if there are any decisions arrived at by the Congress Party then the hands of the Ministers are tied and they have to abide by those decisions. That creates a peculiar position and we become hopeless of persuading the hon. Minister here in this House to accept any suggestions or any amendments because they think they cannot go against the decisions of the Congress Party. This is rather an anomalous position.

DR. SHRIMATI SEETA PARMANAND: Is the procedure different in the Socialist Party?

SHRI C. G. MISRA: Please see the constitution of the Socialist Party or discuss the question with me elsewhere.

SHRI S. N. DWIVEDY: If she would join the party she would know.

SHRI C. G. MISRA: Party decisions outside the Legislature of course should not be taken to mean that the whole machinery of the Government is run by the Party decisions in every detail and that the Party should not give to the hon. Ministers any scope for accepting even reasonable amendments if they think them proper. Here it has been made clear more than once that in view of the Congress Party decisions, no amendments can be accepted. It is very difficult for the hon. Ministers to go beyond the decisions of that Party. I think that was the substance of the statement made by the hon. the Finance Minister the other day.

SHRI GOVINDA REDDY (Mysore): He said: You must convince him of the necessity of the amendment and he would accept it if satisfied about its necessity.

SHRI C. G. MISRA: I do not remember these words but the substance of his speech was that he was bound by the Party decisions. Even if you convince him of the reasonableness of the amendment suggested.....

MR. DEPUTY CHAIRMAN: Please go on with your remarks, Mr. Misra.

SHRI C. G. MISRA: Now as to the merits of the Bill, it has been very severely criticised by some of the hon. Members of the Congress Party itself, apart from the other Members who are in the Opposition and I do not know whether in view of their criticism and their opposition to the provisions of the Bill they will now vote for it or against it. From the way they have voiced their opposition to the provisions of the Bill I think that they must oppose it because the Bill cannot be accepted in part. Either it may be accepted as a whole or rejected as a whole. It is no use saying at this stage that they accept part of the Bill, because the stage now is to accept the Bill as a whole or reject it as a whole. So I hope that the Members who have so very severely criticised the provisions of the Bill and thus have spoken against it now would see their way to oppose it and to vote against it.

Then, Sir, there are certain provisions in the Bill which have been referred to by some hon. Members and I do not want to repeat the same thing again and again. There is no provision in the Bill for exemption of residential houses. Many Members of course have expressed their strong feelings on this matter and they have expressed a desire for some special

consideration in respect of these residential houses. The residential houses of the agriculturists including portions used for cattle-sheds and for keeping agricultural material should also be exempted.

Then with regard to gifts much has been said about gifts to relations, to daughters, to religious institutions and so on and I think the Government will kindly reconsider these provisions and make them as liberal as possible in respect of the gifts made to religious institutions, charitable purposes. educational institutions and near relations as daughters and others.

Then it is very clear that the provisions of the Bill, in so far as the procedure which should be adopted for collecting the estate duty is concerned, is rather very much complicated and would cause a good deal of hardship to the people who are not expected to know the law. It may be sometimes difficult even for the lawyers to give proper advice in respect of the liabilities of those who will have to pay the estate duty. So these provisions should be simplified as far as possible.

Then, Sir, as to valuation of the property, I think there will be some hardship to the people though we must hope of course that the hon. the Finance Minister with a very kind heart—of course he has a soft heart—will try to mitigate the inconvenience that would otherwise be caused to the people, by appointing officers who would be fit to discharge their duties properly in this new sphere. It is well known that Government officials who are not properly trained sometimes do their work in a way which is very harsh upon the public and creates a lot of trouble for it. We have a large number of such old type officers but now I hope that this department will be manned by officers who are trained and who would take into consideration the inconvenience of the people and deal with the cases coming before them in a proper way so that we may not have to make repeated complaints to the Government as regards the method of their work.

Then the question of honesty is very important. The Government, the Congress Party and all of us are very particular about the honesty of the Government officers. Well, it is admitted, I think, in several places and by several people that at present the moral standard of the people of the country and amongst them also the persons who are in Government service, is rather at a very low ebb and it is a very difficult matter. How to raise this moral standard of the people is a question, I think, which the Government has been trying to tackle, but I think it will be long before this question will be solved satisfactorily. So it must be seen that the officers who are appointed to deal with cases arising under this Act are very honest men apart from the fact that they are intelligent and hard-working. If they are honest men then much of the inconvenience and discomfort caused to the public will be done away with.

5 P.M.

Then, Sir, there is another point and that is that the donee must know when a donor dies. When a person who has made any donation to any society dies, it will be difficult in the case of public institutions to keep themselves always informed of the fact of the death of that person especially if after making the donation to the institution he has left the country and gone elsewhere. For instance, a man may have made a certain gift or donation to the Hindu University and after that may have gone and settled somewhere in Europe or in Pakistan. It is difficult to see how a donee will be able to keep itself or himself informed of the fact of death or the date of death of the donor, for after the death of the donor a statement will have to be submitted to the Government. In many cases this difficulty will arise though in a majority of cases it should not, because the donee must know where the donor

[Shri C G. Misra]

is and he can know it There may be special cases like the public institutions the administrators of which will not always be in a position to know about the death of the donor Some rules should be made in order to give facilities in the case of such institutions as regards time for submission of statement and so on

These are the only suggestions which I have to make and I appeal to the Government to consider the substance of the discussion on the Bill the amendments that have been brought forward and which have not been accepted and try to make rules, where rules are necessary in such a way that the difficulties arising out of the working of the Bill may be avoided

MR DEPUTY CHAIRMAN Mrs Nigam You have to be very brief Madam

SHRIMATI SAVITRY NIGAM.

श्रीमती सावित्री निगम उपाध्यक्ष महोदय, आखिरकार डिबट (debate) खत्म होत होत मुझे भी फाइनेंस मिनिस्टर महोदय को काग्रेचुलेट (congratulate) करने और इस बिल का, जो कि समाज मे आर्थिक और सामाजिक एकीकरण का श्रीगणेश कराने वाला है, समर्थन करने का मौका मिल ही गया । लगभग ३३ घटे इस सदन मे और लगभग ६५।। घटे उस सदन मे बडे प्रतिभापूर्ण ढग मे और मनोरजक ढग से इस बिल पर बहस हुई और बिल की एक एक धारा पर अच्छी तरह से विचार किया गया । सदन के दोनो ही ओर से समता और इक्वालिटी (equality) की पुकार आती रही है और सचमुच यह बडा ही शुभ लक्षण है । ऐसा लगता है कि धीरे धीरे बूरज्वा मेनटैलिटी (bourgeois mentality) का अत हो रहा है और लोग श्रम तथा समान वितरण पर विश्वास करना सीख रहे है । सचमुच मुफ्त का उत्तराधिकार मे मिला हुआ धन पाने का और उसका मनमाना उपभोग करने का किसी को भी अधिकार नही है । जनतत्र मे सबको समान रूप से आर्थिक सुविधाये अवश्य ही मिलनी चाहिय और इसीलिये यह और भी जरूरी है कि किसी न किसी प्रकार आर्थिक समानता लाई जाय । इसमे भी कोई शक नही है कि यह उसी समय सभव है जब कि पूजी के इस प्रकार के सकलन को रोकने के लिये ऐसे कानून बनाये जाय जिनके द्वारा समता आ सके और समाज मे आर्थिक इक्वालिटी बढ सके ।

यह भी कहा गया है कि यह बिल इक्वालिटी लाने के लिये बिल्कुल नाकाफी है और इस दिशा मे हमने जो कदम बढाया है वह बहुत धीमा है, परन्तु इसमे सन्देह नही है कि धीमा होते हुए भी हमारे कदमा मे दृढता है । जल्दबाजी मे उठाये हुए कदमो मे गिरने और ठोकर खाने का बहुत कुछ अदेशा रहता है लेकिन दृढता से उठाय हुए कदमो मे ऐसा कोई अदेशा नही होता । एक प्रकार मे हिसा द्वारा ही जल्दी से उठाया हुआ कदम देश मे किसी प्रकार का सुधार ला सकता है परन्तु दूसरा मार्ग धीमा होते हुए भी अहिसा पूर्ण है । यह तो आप जानते ही है कि हिसक और अहिसक मार्गों मे से कौन सा मार्ग ग्रहण करने योग्य है । हमारे सामने तेज और धीमे दोनो प्रकार के कदमो का बहुत सुन्दर नमूना है । तेलगाना मे देखा गया कि इक्वालिटी लाने के लिये किस प्रकार तीन साल तक खूरेजी होती रही, हजारो आदमी मारे गये, और उस सब का उद्देश्य यह था कि जमीन का बराबर बटवारा हो जाय । हालाकि कदम बहुत तेजी से उठाया गया था लेकिन तीन साल मे केवल ३ हजार एकड भूमि ही गरीबो मे बाटी जा सकी परन्तु उसके बाद ही क्या हुआ ? फौज और मिलीटरी आयी और उस ने उस तमाम जमीन को उनके पुराने अधिकारियो को वापस दिला दिया । परन्तु तेलगाना से ही शुरू हुये धीरे कदम का यह नतीजा हुआ कि

विनोबा भावे ने जो आन्दोलन शुरू किया उसके द्वारा तीन वर्ष में २२ लाख एकड़ ज़मीन इकट्ठी की जा चुकी है और गरीबों को दिलाई जा चुकी है। इसलिये भले ही हमारा यह कदम धीमा दिख रहा हो परन्तु इसमें सन्देह नही है कि अपने देश की स्थिति को देखते हुए धीरे धीरे समता की मंजिल पर हम एक न एक दिन अवश्य ही पहुंचेंगे।

इस बिल के बारे में बड़े ज़ोरदार शब्दों में कहा गया कि इसको लाने में बड़ी देरी की गई और बार बार इसको पोस्टपोन (post-pone) किया गया। देरी लगने के भी कई कारण है। सबसे बड़ा कारण यह है कि जब देश के सामने बहुत सी समस्यायें होती हैं तो प्रायरिटी का (priority) प्रश्न आ जाता है कि कौन सी समस्या पहले ली जाय और किस समस्या को सुलझा कर देश में सब से पहले राहत पहुचाने की ज़रूरत है। इसीलिये यह प्रश्न इतनी देर तक टलता रहा और अब जा कर इस की बारी आई है। सभी को ज्ञात है कि किस प्रकार सन् १९४६ मे यह प्रश्न उठा और फिर १९४८ में उठा और टलता रहा क्योंकि देश में मुसीबतें आती रही और तरह तरह के काम्प्लीकेटेड प्राब्लम्स (complicated problems) आते रहे जिनकी वजह से इसको पोस्टपोन करना पड़ा। इसके अतिरिक्त एक और भी बहुत बड़ी बात इस बिल को देर में लाने के सम्बन्ध में है और वह यह है कि जनतंत्र में कोई भी नियम और कानून उसी समय लाया जा सकता है जब कि युग उसकी मांग करे और ज़माना उस की मांग करे और लोगों का जो मानसिक उत्थान है वह इतना हो जाय कि वे उन कानूनों और उन नियमों को ग्रहण कर सकें। इसका सबसे अच्छा सबूत यह है कि जब शुरू में हिन्दू कोड बिल (Hindu Code Bill) पेश किया गया तो उसका कितना विरोध किया गया परन्तु अब जब कि उसको एक एक धारायें कर के लाया जा रहा है तो उतना अधिक विरोध नही होता। समय से पहले यदि कोई चीज़ लाई जाती है तो वह एक तरह से समाज पर लादी जाती है और आज के जागृत युग में जनता बिल्कुल तैयार नहीं कि बिना उसकी मर्जी के कोई भी नियम उसके ऊपर लादा जाय। अब भी हम देखते है कि इस सदन में जो डिबेट हुई उसमें एक पक्ष के लोग कहते हैं कि बड़ा जुल्म हो रहा है और अभी इस बिल की आवश्यकता नही है, इससे बहुतों को नुकसान होगा और यह मृत्यु कर है, इतना जुल्म हो रहा है कि मरते वक्त भी आदमी को शांति नही मिल पायेगी। दूसरी ओर यह कहा जा रहा है कि दरें बहुत कम है और दरे कम होने की वजह से यह बिल इनएफेक्टिव (ineffective) है। कोई भी जिम्मेदार सरकार यही कर सकती है कि इन दोनों विरोधी विचारों के बीच में संतुलन लाने के लिये देश में जनमत पैदा करे।

बिल के काम्पलीकेटेड होने की भी जबरदस्त शिकायतें हुई है और यह भी कहा गया है कि इससे वकीलों का रोज़गार बढ़ जायेगा और बहुत मुकदमेबाज़ी होगी, जनता को काफी कष्ट उठाना पड़ेगा और तरह तरह से जनता को हैरास (harass) किया जायेगा। किन्तु, श्रीमन्, इतने बड़े विशाल देश में, इतने तमाम तरह के विश्वास के लोगों के अनुकूल जब कोई चीज़ बनाई जाती है, जब कोई नियम बनाया जाता है तो उन सबको संतोष देने के लिये अनेक धाराएं रखनी पड़ती है। एक सबसे अच्छी बात इस दिशा में यह है कि एक गाइड (guide) तैयार की जा रही है जिससे काम्पलीकेशंस (compli-cations) नही होने पायेंगे और आसानी रहेगी।

इस कदम के बारे में जागीर तबके के लोगों ने यह भी कहा है कि इससे कैपिटल फारमेशन (capital formation)

[Shrimati Savitry Nigam.]

बन्द हो जायगा । मेरा इस सम्बन्ध मे यही कहना है कि बहुत से ऐसे मुल्क है जहा यह चीज़ वर्षों से चल रही है परन्तु वहा अभी भी कैपटलिस्ट्स (capitalists) होते है । इस तबके के लोगो न परेशान हो कर क्रान्ति की भी धमकी दे डाली है और यह भी कहा है कि पूजीपति वर्ग इसका तजी से विरोध करेगा हालाकि पूजीपति वर्ग क कई जिम्मेदार लोगो ने इसका पूरा समर्थन किया है । मुझे उनसे यही कहना है कि क्रान्ति की धमकी देने से पहले उलूकवाहिनी लक्ष्मी पक्षो को समझ लेना चाहिये कि क्रान्ति उनके बस की चीज नही है, चन्द मुट्ठी भर जागीरदार और पूजीपति लोग कभी भी देश मे सफल क्रान्ति ला नही सकते और यदि वह क्रान्ति लाये भी तो वह फौरन खत्म कर दी जायेगी ।

श्रीमन्, एक बहुत ही विचारणीय बात है कि इस बिल के सम्बन्ध मे एडीशनल आफिशियलसेटअप (additional official set-up) रखा जायेगा और उस मे २० लाख रुपये के खच की बात कही गई है । यह अवश्य ही विचारणीय प्रश्न है, क्योकि आफिशियल सेटअप पर होन वाले खर्चे ही से जनता परेशान है और बार बार कई तरह से इसका विरोध भी कर चुकी है । इसलिये इनकम टैक्स प्रैक्टीशनर्स (income tax practitioners) और इनकम टक्स विभाग द्वारा ही अधिक से अधिक काम ले कर इस सम्बन्ध मे खर्च को कम से कम कर के ज़रूर एकोनोमाइज़ (economise) करना चाहिये क्योकि जब यह पूरी तरह से पता नही है कि इससे कितनी आय होने वाली है तब इतना अधिक खर्च बढाना कुछ उचित नही प्रतीत होता ।

इसके अतिरिक्त, श्रीमन्, श्री रेड्डी महोदय ने फ्यनरल (funeral) पर होने वाले खर्च के लिय.....

MR. DEPUTY CHAIRMAN: You need not repeat all the arguments other Members have said.

SHRIMATI SAVITRY NIGAM:

श्रीमती सावित्री निगम . एक हजार से अधिक एग्जम्पशन (exemption) मागने की जोरदार अपील की है । उन्होने कुछ किस्से सुनाये है, लेकिन मेरी समझ मे वे थोडी बहुत दिलचस्पी कराने के अलावा कुछ महत्व नही रखते क्योकि आपको विदित है कि किस प्रकार जन्म और मृत्यु मे होने वाले खर्चो से मध्यम वर्ग परेशान हो चुका है और इन खर्चो को अपनी आर्थिक दशा को देखते हुए, उठाने मे अपने को विवश पाता है । ये सब कुछ तो परम्परा से चली आई है और उसी परम्परा को तोडने के लिये इस बिल के द्वारा एक तरह से एक पथ दो काज हो रहे है क्योकि अब लोगो को बडी आसानी से अपने बचाव का मार्ग मिल जायगा और वह कहने लगेगे कि हम इस तरह के श्राद्ध नही कर सकते है क्योकि एक हजार रुपये के अन्दर हम को सब कुछ करना है । इस तरह से मध्यम वर्ग को अपनी रक्षा का एक जरिया मिल जायगा । इसलिये इस एग्जेम्पशन को हरगिज नही बढाना चाहिये क्योकि आज के आर्थिक सकट के युग मे एक हजार रुपया श्राद्ध इत्यादि खर्चो के लिये काफी है ।

श्रीमन्, जौइन्ट फेमिलीज (joint families) के अन्दर यह बिल बहुत प्रभावकारी सिद्ध होगा, और ऐसी शका करना कि उन्हे तोडने मे, उनमे विषमता पैदा करने मे और उन्हे बरबाद करने मे इस बिल का हाथ रहेगा, बिलकुल निर्मूल है । यह भी विचारणीय प्रश्न है कि आज हमारे यहा कितनी ज्वाइन्ट फेमिलीज है ? इसके बाद यह भी सवाल उठता है कि कितनी ऐसी फेमिलीज है जिनके हर एक हिस्सेदार की इनकम ५० हजार होगी ? फिर उसके बाद एक प्रश्न और है कि यदि उनकी आमदनी

५० हजार है तो उनको थोडी सी इस्टट ड्यूटी देने मे आपत्ति क्यो होनी चाहिये ? इसलिये इस सम्बन्ध मे कोई शक करना बिलकुल गलत है और खास तौर से जब कि यह बार बार कहा जा चुका है कि यह एक प्रयोगात्मक आधार पर बनाया गया बिल है और अनुभव के बाद दूसरे दूसरे सशोधन आदि आसानी से लाये जा सकेगे जिस मे यह बिल अधिक से अधिक उपयोगी बनाया जा सके ।

(Time bell rings)

श्रीमन्, यह भी सवाल उठता है कि डेवलेपमेण्ट (development) के लिये किस प्रकार से यह रुपया .

MR. DEPUTY CHAIRMAN I think sufficient has been said about the appropriation of the money

SHRIMATI SAVITRI NIGAM How many minutes more, please? I didn't get a chance at the first reading

MR DEPUTY CHAIRMAN We are in the third reading of the Bill You will have to be very brief

SHRIMATI SAVITRY NIGAM

श्रीमती सावित्री निगम यह भी शक किया गया है और सुझाव भी इस तरह के दिये गये है कि यह रुपया या तो एजूकेशन (education) पर लगाया जाय या पुअर हाऊसेज (poor houses) बनाने मे लगाया जाय, लेकिन जब यह रुपया एकत्र होगा तब भी वही प्रश्न प्रायोरिटी का आयेगा । जिस किसी स्कीम (scheme) की सबसे अधिक आवश्यकता होगी उसमे कम से कम इतना तो विश्वास रखना चाहिये कि हम लोग जनमत के द्वारा इस बात पर सरकार को मजबूर कर दे कि डेवलपमेट के किस कार्य मे वह रुपया लगाया जाय ।

इसी तरह धारा ३३ (क) पर मुझे भी कुछ थोडा सा शक है । श्रीमन्, स्त्री की निर्धनता और उस से पैदा होने वाले खतरो से आप सभी लोग भलीभाति परिचित है और स्त्री की निर्धनता के कारण ही उसकी मैरेज मार्केट (marriage market) मे कितनी वैल्यू (value) कम हो गई है जिसके कारण माता पिता को बहुत काफी लम्बी रकम देकर ही सुयोग्य वर पाने का अवसर मिलता है, यह बात किसी से छिपी हुई नही है । फिर देश मे कितने प्रगतिशील विचार रखने वाले लोग है यह आपको महन्ती साहब की स्पीच (speech) से पता हो गया होगा । उनकी इस बात से मुझे बडा इतराज है कि चूकि स्त्रिया समान अधिकारो की माग करती है इसलिये लडकियो की शादी मे जब ५,००० का एग्जेम्पशन दिया गया तो लडको की शादी मे भी उतना ही एग्जेम्पशन देना जरूरी है । उनकी यह माग जितनी विचित्र है विशेष कर जब हम इस देश मे बगाल, बिहार, यू० पी० के इलाको मे दहेज की शर्मनाक प्रथा पर दृष्टिपात करते है । इस स्थिति मे स्त्रियो की ५,००० की इनकम की छूट पर कुछ भी कमी नही करनी चाहिये । श्रीमन्, इस कृपा के लिये कि स्त्रियो के हक मे यह ५,००० की जो छूट दी गई है मै तमाम नारी वर्ग की ओर से धन्यवाद ही नही देना चाहती हू बल्कि यह भी प्रार्थना करती हू कि वह छूट बढा कर दस हजार कर दी जाय । और खास तरह से मेहर के बारे मे मुझे जरूर यह निवेदन करना है कि यह जो ५,००० की रकम रखी गई है उसे बढा कर १५ हजार तक अवश्य कर दिया जाय क्योकि मुसलमान बहिनो को.....

[For English translation, *see* Appendix V, Annexure No 119]

MR DEPUTY CHAIRMAN All the amendments have been discussed and you have been repeating those arguments I won't allow any more repetitions Yes, Mr Sundarayya

SHRI P SUNDARAYYA (Andhra): Sir, at last the Estate Duty

[Shri P. Sundarayya.]

Bill is going to be on the Statute Book shortly. But we do not think the two objectives which the Government expect to achieve are ever going to be fulfilled. One is that the present inequality that is existing in society should be lessened. These laws are existing in the western countries and in other countries, but inequalities have not decreased but they have increased. The second objective is that they should get a substantial revenue which would be spent on the real development of the country. I agree here with the first portion. Government may get Rs. 10 crores or 15 crores or more, but we are very doubtful whether this revenue will be ever spent on the real development of the country or in the relief of unemployment or even for the compulsory introduction of primary education. In fact, the way in which the whole Bill has been brought in and the long delay that has occurred from 1946 onwards, show only that the Government is not bringing this Bill to lessen the inequalities. They have brought in this Bill because they are hard-pressed for money. But all the same we have supported this Bill for the very simple reason that at least some of the riches that have been accumulated by a large number of persons can be tapped, and then we can demand of the Government that they may be utilised for the beneficial activities of the people. Sir, we are sorry that the properties of the Princes are going to escape this kind of taxation. We do not know the full details whether all the properties of the Princes are going to come under this Act. Of course, the Princes have been given constitutional guarantees. The hon. Finance Minister would certainly say that this Bill cannot go beyond the Constitution and the Covenants that the Government of India have entered into with the Princes will have to be respected, and, therefore, to that extent, the Princes will escape the provisions of this Bill. I do not see why a clause has been put here, according to which the properties of the Princes who had taken plenty of our money outside and purchased immovable properties, abroad will escape the provisions of this Bill. Similarly, Sir, we are sorry that the properties owned by foreign concerns under the plea of prevention of double taxation are also going to escape many of the provisions of this Bill. And the result would be that the very rich, the feudal rich, the feudal princes and the foreign capitalists would not be affected at all. We are also sorry to see that the rates which have been incorporated in this Bill are not equitable, because the people who own Rs. 1 crore have to pay only 34 per cent. and even those people who own more than Rs. 20 lakhs will have to pay about 20 per cent. That is the figure that is given here. Sir, I do not want to make any comparison of these rates with those prevailing in the United Kingdom, because that would be completely irrelevant. The hon. Finance Minister said that in respect of the lower rungs—between Rs. 1 lakh and Rs. 10 lakhs—the percentage prescribed was very small and the tax was not heavy. In fact, we would not have minded if the exemption limits in the lower categories had even been extended and made higher, because the very purpose of this Act was not going to be defeated if the lower limits of exemptions had been made a little bit higher. In fact, the feudal princes and foreign capitalists and big monopolists deserve to be taxed more and more. But here they come with proposals to tax the smaller units. The hon. Finance Minister has said in the other House and also in this House that "the capacity of the bigwigs, big property-owners is such that I have resigned myself to the position that many of them will escape many of the clauses contained in this Bill; however careful I may be in the legal terminology, they will find ways and means to escape this duty; therefore, ultimately my revenue will come in only from the smaller catagories." And that is why he said, "I am very careful in fixing the lower percentages." Sir, if this is the final outcome of this Bill, then natu-

rally, nobody would be very anxious or very jubilant about this Bill, because the revenue of Rs. 15 crores or Rs. 20 crores will have to be collected only from the smaller fry. If this is going to be the object of this Bill, then certainly the people are not going to be deceived for long over the merits of the Bill itself. Sir, I would certainly demand, our Party would certainly demand, of the Government that if the feudal princes big property-owners try to find every means to evade this estate duty, the Government must come with much more drastic steps, so that their huge properties can be taken over by simple and straightforward methods than by these too complicated methods contained in the Bill. And we would like the Government to see that these bigwigs and feudal princes do not adopt the same tactics as were adopted by Lord Linlithgow. When he died, he left an estate worth only £500. That is what I read in the press. Lord Linlithgow was an ex-Viceroy and he was drawing Rs. 20,000 per month, and he had got his own huge landed estate, but at the time of his death he left an estate worth only £500. And I hope the Finance Minister and the Government of India are not going to allow our Indian Lords, the Indian Princes or Indian Lord Linlithgows to get away leaving only Rs. 500 worth of property. Then at least the people will feel that the Government has really started taxing the rich people for its own expenses instead of taxing the poorer people. Sir, with these words, we support this Bill.

PANDIT S. DUBE (Madhya Pradesh): Mr. Deputy Chairman, I do not propose to act as Cassandra and a prophet of evil and I wish that the Bill should fulfil all the expectations which the hon. Finance Minister has in view. Nevertheless, one point does strike me as likely to give rise to certain complications and that point was not debated in this Council. Somehow or other, it was passed over. It refers to clause 59 of the Bill. Clause 59 says that "no proceedings for the levy of any estate duty under this Act shall be commenced after the expiration of twelve years from the date of death of the deceased in respect of whose property estate duty became leviable." That is to say, it is possible for proceedings for fixing the estate duty to drag on for 12 years, or at any rate not to be initiated till the eleventh year. Now, Sir, is there any guarantee that the person who succeeds the deceased will live to that extent, and that he may not be succeeded by another person and a third person? The result of this would be that when the grandson comes to the estate, he would not only have to pay the duty due by his father, but the duty due by his grandfather also. I anticipate that there would be a lot of difficulty in this connection and I therefore wish that some more reasonable period were fixed for the purpose of initiating proceedings for levying this estate duty. Of course, no amendment has been given notice of, but as the hon. Finance Minister has promised to look into at least one matter by bringing forward some amendment, I hope that this matter would also be kept in mind.

Then, Sir, one point which I wish to be made clear is this, that in the course of the debate it was said that the proceedings of this Council could be quoted in courts of law. I submit that I have got a very sad experience of quoting the proceedings of this Council in a court of law with complete failure.

It will be within the recollection of the Members that in Bihar there is such a thing as agricultural income-tax, and it was said that the price of timber which the zamindars got in Bihar was agricultural income and therefore it should be taxed. The zamindars held that it was not agricultural income and the courts held that it was not agricultural income. Curiously enough when the last Income-tax Act was before the Council,

[Pandit S. Dube.]

Sir Malcolm Hailey gave an assurance that agricultural income would not be taxed, and timber which is agricultural income, should not be taxed. When proceedings started in the province, it was held that this was non-agricultural income and therefore could be taxed under the Income-tax Act. When the undertaking given on the floor of the Council was quoted, it was held by the court that the courts could not possibly go into the proceedings in the Council. Therefore my submission is that when an assurance is given on behalf of the Government that such and such a thing will be done, then it should be done in such a manner that may really enable the people to get the benefit of it. My submission in a case of this kind is that it is just as well to put things beyond any doubt.

One more point upon the question of public utility purpose. I can say from my personal experience about what happened in a case in my own province. One gentleman, by name D. Lakshmi Narain, left a will in which he left Rs. 40 lakhs for the establishment of a technical institute at Nagpur and saying that that technical institute should be for the benefit of the Hindu students only. In course of time when the institute was erected and came into being, it was found that the money was not enough and so a representation was made to Government to help it, but Government, on legal opinion, held that as it was not a public utility open to all the communities but only to the Hindus, Government could not come to its assistance. The result was that the trustees of that institute had to change, with the consent of the court, the terms under which they accepted the trust and make the institute open to all the communities with the result that the Government then gave the necessary help to that institute. Now, it is said that religious institutions, whether Hindu or Muslim, would be covered by the provisions relating to exemptions, but my submission is that unless the thing is made clear that religious institutions of all denominations would be covered by the term "general public utility", it is not likely to be held that general public utility will include offerings or gifts made for the benefit of special communities and not to the general public.

Then, Sir, no suitable reply was forthcoming to the amendment moved by my hon. friend, the Nawab of Chhattari. He asked whether death meant natural death or did it include deaths in accidents also. Death is death, there is no doubt about that, but still it is rather extraordinary that when a man who has made a considerable gift suddenly dies, it should enable us to tax the whole property. It is curious that the provision should be so comprehensive as to deny the benefit of the gifts to the donee. In cases of such sudden deaths, I hope some way will be found to meet the requirements, and that the Bill will fulfil the objects for which it has been brought before the House and will be to the benefit of the country.

SHRI ONKAR NATH:

श्री ओंकार नाथ : उपाध्यक्ष महोदय, मैं आपके द्वारा अर्थ मंत्री जी की सेवा में कुछ सुझाव निवेदन करना चाहता हूं और आशा करता हूं कि वे इन पर अवश्य गौर करेंगे। मेरा ख्याल यह है कि इस बिल के द्वारा जो भी रुपया कर के रूप में वसूल किया जाय उसका ९० प्रतिशत रुपया उसी स्टेट (State) में लगा दिया जाये जहां से वह वसूल किया गया हो।

दूसरी तजवीज मेरी यह है कि इस बिल द्वारा जो भी रुपया वसूल किया जाय उसके बारे में हम को कोई न कोई निर्णय कर लेना चाहिये ताकि हम जनता को बता सकें कि इस चीज के लिये यह धन व्यय किया जायेगा। अक्सर यह कहा जाता है कि देश में जो निर्माण कार्य हो रहे हैं और दूसरे उन्नति के जो कार्य हो रहे हैं उन पर यह रुपया लग या

जायेगा, यह बात वेग (vague) है। मेरा सुझाव यह है कि इस टैक्स में से जो रुपया वसूल किया जायेगा उसका अधिक हिस्सा जनता के लिये मकानात बनाने में व्यय किया जाना चाहिये। खाने और कपड़े की समस्या को हमने बहुत हद तक हल कर लिया है। इस के बाद सबसे अहम व जरूरी समस्या हाउसिंग (housing) की है। अगर यह सुझाव पसन्द नहीं है तो बच्चों और औरतों की उन्नति या इंडस्ट्रियल ट्रेनिंग (industrial training) देने के लिए ईयरमार्क earmark) कर दिया जाना चाहिये। मुझे आशा है कि सरकार की तरफ से इस बारे में साफ साफ जनता को बतला दिया जायेगा कि इस चीज के लिए यह रकम ईयरमार्क की गई है ताकि जनता का सहयोग प्राप्त हो सके।

तीसरी तजवीज मेरी यह है कि इस बिल के द्वारा टैक्स के रूप में जितनी भी रकम वसूल की जायेगी वह एक बहुत बड़ी राशि होगी। आजकल जनता जो कुछ भी टैक्स देती है उसमें छोटे छोटे टैक्सों की वसूली के विभागों में ही देश के अन्दर काफी भ्रष्टाचार और रिश्वतसितानी फैली हुई है। यह जो जनता पर नया कर लगाया जा रहा है उसके द्वारा जो भी रकम वसूल की जायेगी उसकी मात्रा बहुत अधिक होगी। उसकी मात्रा सैकड़ों या हजारों में नहीं होगी बल्कि लाखों और करोड़ों तक जायेगी। मेरा अर्थ मंत्री जी से यह निवेदन है कि इस कर को इकट्ठा करते समय इस प्रकार की कड़ी व्यवस्था करें जिससे जो इस रकम को वसूल करने में किसी प्रकार का लीकेज (leakage), भ्रष्टाचार और करप्शन (corruption) न होने पावे। इसके साथ ही साथ इस बात की पूरी कोशिश की जानी चाहिये कि इस बिल द्वारा जनता से जो भी रकम वसूल की जानी है वह पूरी की पूरी वसूल की जावे। इस कर को देने वाले जो कर दाता हैं वे इस देश के गरीब लोग नहीं हैं बल्कि करोड़पति और लखपति हैं।

चौथी तजवीज मेरी यह है कि जब इस कर को वसूल करने के लिये किसी से मृत्यु के कुछ अरसे में करीब ६ महीने के अन्दर वसूली की जायेगी तो वह अपने ही मातम में होगा। वह और उसके परिवार वाले मृत व्यक्ति के शोक में होंगे इसलिये उनके साथ सहानुभूति और हमदर्दी का बर्ताव किया जाना बहुत उचित होगा। मेरी अर्थ मंत्री जी से यह प्रार्थना है कि वे अपने कर्मचारियों के लिये जो इस तरह का कर वसूल करन जाते हैं एक डाइरेक्टिव (directive) जारी करें कि वे मृत व्यक्ति के परिवार वालों के साथ मनुष्यता का और सौजन्यता का व्यवहार करें। उन कर्मचारियों को कर के वसूल करने में किसी प्रकार की कमी नहीं करनी चाहिये मगर कभी किसी का पति मर जाता है तो सिर्फ उस परिवार में औरत के सिवाय छोटे छोटे बच्चे ही रह जाते हैं, तो ऐसे समय में इन कर्मचारियों का कर्त्तव्य हो जाता है कि वे इस तरह के परिवार वालों के साथ बहुत ही नम्रतापूर्वक और हमदर्दाना तरीके से व्यवहार करें। जो भी कर वसूल करना हो वह भी बहुत ही नम्रतापूर्वक वसूल किया जाना चाहिये।

पांचवी तजवीज मेरी यह है कि जब इस बिल पर बहस चल रही थी तो सब पार्टियों की ओर से इसमें तरह तरह के सुझाव और संशोधन आये। इस सदन के करीब करीब सभी सदस्यों ने इस बिल का स्वागत किया है। मेरी अर्थ मंत्री जी से यह प्रार्थना है कि जिन सुझावों और संशोधनों पर आम एग्रीमेन्ट (agreement) है उनको वे अगले सैशन (session) में संशोधन के रूप में रखने की कोशिश करेंगे। मुझे आशा है कि यहां पर जो कुछ भी सुझाव इस बिल के सुधार के लिये

[Shri Onkar Nath.]

दिये गये हैं उन पर अर्थ मंत्री जी अवश्य गौर करेंगे ।

छटी तजवीज मेरी यह है कि देश में जो भी कर लगाये जाते हैं उनके द्वारा सरकार के सारे कार्य चलाये जाना तो होता ही है मगर इस बिल द्वारा जो टैक्स जनता पर लगाया जा रहा है वह सारे देश में जो आर्थिक असमानता है उसको दूर करने के लिये भी लगाया जा रहा है, उस उद्देश्य को भी सरकार को पूरा करना है । मगर इसके साथ ही साथ मैं यह भी कहना चाहता हूं कि जो लोग इस कर के अलावा वालेन्टैरिली (voluntarily) दान देना चाहते हैं उनको सरकार द्वारा प्रोत्साहित किया जाना चाहिये । इस चीज़ का हमारी सरकार को विशेषतया ध्यान रखना चाहिये कि जो भी व्यक्ति वालेन्टैरिली इस किस्म का कोई एक्शन (action) करे, उनको प्रोत्साहित किया जाये । हमारे प्रधान मंत्री जी ने भी इस तरह के वालेन्टैरिली रकम देने के लिए लोगों से कहा है । अगर ऐसा होता है तो वह देश के हित के लिए ही अच्छा होगा और सरकार की ओर से ऐसे व्यक्तियों को प्रोत्साहन दिया जाना चाहिये और मैं समझता हूं कि इस तरह की प्रवृत्ति इस कानून के लिये लाभदायक ही होगी ।

सातवीं तजवीज़ मेरी यह है कि इस समय सारे देश के अन्दर जो लोग इनकमटैक्स (Income-tax) देते हैं, उनकी संख्या करीब ६ लाख है और मेरा अनुमान ऐसा है कि इस नये कर द्वारा जो लोग टैक्स देंगे उनकी संख्या दो लाख से ज्यादा नही होगी । १०-५ हजार इधर उधर हो सकती है । मेरा सुझाव यह है कि अगर हम स्टेटवाइज़ (Statewise) हर जिले की इस तरह की लिस्ट (List) बना लें कि उस जिले में किस किस के पास कितनी कितनी प्रापरटी (property) है, जो कि इस बिल के अन्तर्गत आती है और हम उनके बारे में हर तीन साल या पांच साल के बाद फिर छानबीन करें तो इससे हमको बहुत सुविधा हो जायेगी और यह सरकार के लिये भी एक सुविधा होगी कि वह ठीक तरह से हर जिले में उस आदमी पर समय समय पर टैक्स उचित रूप से वसूल कर सके । इस से एक फायदा यह भी होगा कि उस आदमी की जितनी भी प्रापरटी इकट्ठी हो जायेगी उस पर मरते समय ठीक तरह से टैक्स लगाया जा सकेगा ।

मुझे उम्मीद है कि जिस तरह से अर्थ मंत्री जी ने अभी तक काफी योग्यता और उदारता के साथ सब लोगों की तजवीज़ों के ऊपर ध्यान दिया है उसी तरह से जो मैंने उनके सामने ७ सुझाव रक्खे हैं अगर उनमें से कोई उनके काम के हों, या वे उचित समझते हों तो उन पर अवश्य गौर करेंगे । अन्त में मैं इस बिल का हृदय से स्वागत करता हूं और आशा करता हूं कि यह देश की उन्नति में सहायक होगा ।

[For English translation, *see* Appendix V, Annexure No. 120.]

DR. SHRIMATI SEETA PARMANAND: Mr. Deputy Chairman, I would like to make a few remarks on.....

MR. DEPUTY CHAIRMAN: No repetition please.

DR. SHRIMATI SEETA PARMANAND:.....what has happened particularly during the second reading stage of the Bill. I should like to know from Government what particular object has been served by sending the Bill to the House without a money certificate.

MR. DEPUTY CHAIRMAN: You need not go into all that now. Enough has been said about that.

DR. SHRIMATI SEETA PARMANAND: I am not going into all that. I would also like to mention that the Government's non-acceptance of all the amendments was.....

MR. DEPUTY CHAIRMAN: The House has not accepted.

DR. SHRIMATI SEETA PARMANAND: Yes. But in practice it is the Deputy Minister who first has to say that he accepts or does not accept and then the House does accordingly. What I would like to say by way of suggestion for the future is that such amendments as ask for nothing else except this:

> "Provided that the full report of all such cases shall be laid on the Table of the House annually".

could have been easily accepted. Of course, it would have meant that perhaps the Bill would have had to go to the other House again but the hon. Finance Minister had assured us that two or three months' delay even he was prepared to agree to. I do feel that there were two or three amendments, at least, which could have been accepted by the House if the leave had been given by the Deputy Minister. It is very discouraging Sir, for Members to devote so much thought and care to these amendments and then see that they are not accepted, more or less on the ground that they might delay the passage of the Bill. Of course, I am all for not accepting any amendments which are meant to weaken the Bill, or any amendments which are meant to help evasion of the duty. That much I shall say on this point.

The discussion on the Bill has been, in my opinion, a very good study in human nature, and I was reminded of the old Sanskrit saying:

धनाशा जीविताशाच जीर्यतोऽपिनजीर्यते ।

So I think this House should have given a lead by not bringing in a single amendment which was calculated to weaken the Bill or which would have helped people to evade payment. While giving my blessing to the passage of this Bill, I would also say that success of the Bill is going to be a good test of national character, and national character particularly amongst the capitalists and the rich because such people have great claim to culture as they have the leisure, and the opportunities for developing it. It is for them to prove that this measure is a success. It will not be a test of the Government's strength or Government's ability to administer this law but it will be a test of how people respond to new ideas and to Government's efforts towards public welfare.

Here I would like to make one suggestion. So much stress was laid on people's desire to give money in charities. If the Government were to devote the proceeds of this duty for the new children's homes which are proposed under the Children's Bill that has been introduced in this House, that desire of the people would be met and people would get the satisfaction that their money would go to the best possible purpose, that is to say, the care of young and destitute children.

One word about another subject. Reference was repeatedly made during the course of the discussions here on the necessity of seeing that the officer-class is honest in this respect, that is to say, in respect of working the Act. But I would like to say that before we as Members of the Legislature try again and again to cast aspersions on the officer-class, it is necessary for us here and in the State Legislatures in official and non-official capacities, to remind ourselves of that old proverb—"Physician, heal thyself". I think we should not indulge in this cheap type of attack on the officers until we are sure that everyone of us in this House can get up and say that we do not do anything that is against the rules or that cannot be considered dishonest by the highest standard.

Lastly, I would like to remind the House that very few women have

[Dr. Shrimati Seeta Parmanand.]

taken part in these discussions and that is because women feel that they have neither anything to get nor hardly anything to give. I hope this state of affairs will soon be changed and women will also be.....

MR. DEPUTY CHAIRMAN: The hon. Member has more than made good their lapse.

DR. SHRIMATI SEETA PARMANAND: And women will get their proper shares.

I conclude by again saying that this is a very necessary measure and I give it my wholehearted support.

SHRI M. C. SHAH: Mr. Deputy Chairman, we are grateful to all sections of the House for the co-operation given towards the easy passage of this Bill. We very much regret our inability to accept the amendments that were moved here. A grievance has been made that we did not propose to accept any amendment because if accepted, it would delay the passage of the Bill. But may I remind the House that it was very clearly stated by the Finance Minister in his reply to the general debate that if any new point was brought forward, or if any new argument was brought forward which could convince us.....

SHRI S. N. DWIVEDY: But you were determined not to be convinced.

SHRI M. C. SHAH: If we were convinced that we should reverse the decision taken on certain matters, then certainly we were prepared to consider.

As for delay in the passage of the Bill, I may state that this Bill was introduced on the 5th of November in the House of the People.

The Government were then very anxious to get this Bill passed as early as possible and, therefore, they had a motion referring the Bill to a Select Committee on the 10th of November. Though Government were very serious in wanting to get this Bill passed early, today it is the 22nd of September 1953 and we have taken about 11 months in passing it with the result that two more months would not have mattered much. During these eleven months many wealthy persons may have died and may have escaped the duty; some more may die within these two months and may escape duty but that was not the consideration. The consideration was that this Bill was before the public for the last seven years. The Bill was once referred to a Joint Select Committee in the Constituent Assembly. Thereafter also it was referred to a Joint Select Committee of the House of the People. That Select Committee had nearly twenty-one sittings. Thereafter, we met informally those Members of Parliament who were interested and had proposed amendments. We had meetings with them nearly four or five times.

MR. DEPUTY CHAIRMAN: Mr. Shah, there was only one House; the Constituent Assembly was the Parliament of India. There were no two Houses and so there could not have been Joint Select Committees. The Constituent Assembly was the interim Parliament—there was only one House—and there could not have been Joint Select Committees.

SHRI M. C. SHAH: I did not mean a Joint Select Committee. I said only a Select Committee. I am sorry if I have made a slip.

SHRI C. D. DESHMUKH: It slipped out.

SHRI M. C. SHAH: This Bill was referred to a Select Committee by the Constituent Assembly; then again, in the House of the People, the matter was referred to a Select Committee which had nearly twenty-one sittings. Thereafter, we had consultations with the Members of Parliament who were interested in moving amendments. We also met various sections of the people. From the 28th of July, we have met so many people over this Bill and we have discussed this not

only with the Members of Parliament but with leading members of the public in various walks of life. Again, in the other House, all these matters were discussed at great length—it was stated there by one Member that they had discussed all those matters not only threadbare but fibrebare.

SHRI B. P. AGARWAL: Most of the discussion with Members of Parliament took place, when the Council of States Members were not here.

SHRI M. C. SHAH: The Members of the Council of States were not here; those who were interested in participating were welcome but, if the Council was called at a later date, we are not responsible.

SHRI C. G. K. REDDY: We cannot tolerate a position of sufferance.

SHRI M. C. SHAH: When all these arguments were brought forward, we came to certain decisions after hearing these arguments. Now, if those decisions are to be changed, fresh arguments throwing fresh light ought to have been advanced and we regret that we have not found that new material here to change our decisions which had already been taken.

As a matter of fact, there was also one complaint made by two or three hon. Members that this Bill ought to have been referred to a Joint Select Committee. In order to do justice to the Finance Minister I can tell you, without offending against anything about revealing our secrets that on November 3 he himself suggested to me that we should refer this Bill to a Joint Select Committee and he asked me to contact the Minister for Parliamentary Affairs. Next day it was brought to his notice that possibly this would be a Money Bill. At the same time we were very keen to get this Bill passed soon and the Council was not to sit till November 24 and because doubts were expressed that this Bill might be considered as a Money Bill, that idea had to be dropped. So as a matter of fact just in the early stages we had an idea of referring this Bill to a Joint Select Committee of both the Houses but because of those circumstances it was not possible to refer the Bill to a Joint Select Committee. So I think it is not fair to accuse us and say that knowingly this was not referred to a Joint Select Committee or that the Government were indifferent to this House. That is far from the truth. Therefore I say, Sir, that if we did not accept any amendment it was because we did not see any new light thrown on those matters or because no convincing arguments were advanced so as to make us change our decision. Therefore it was not our intention to rush through this Bill. As a matter of fact.....

SHRI C. G. K. REDDY: Does the hon. Minister mean "new and convincing arguments" or "new or convincing arguments" which, he says, this House has not put forward?

SHRI M. C. SHAH: New arguments or any further convincing arguments, both. No new light has been thrown on these matters which are being discussed. Almost all the amendments are with regard to the same points that were raised in the other place and so we regret we have not been able to accept any of the amendments.

SHRI C. G. K. REDDY: We regret that the hon. Minister is a Member of this House.

SHRI M. C. SHAH: I am a Member of the Council of States and I always like to see that this House is respected more and more.

Now, Sir, we are venturing into an entirely new field of taxation and we have tried to draw from the experience of several other countries. Experience alone will show what lacunæ and loopholes there are in the Bill. We shall always watch our step and if any serious faults are found, we shall not hesitate to come before the House again. The points of view expressed in the Council will be carefully borne in mind in that connection. Here I may say, Sir,

[Shri M. C. Shah.]

that Mr. Sundarayya had raised two or three points. Though supporting the Bill he said that he believed that the bigger estates will somehow or other escape the estate duty by resorting to some of the methods that they may be advised to adopt under this complicated Bill.

SHRI S. N. MAZUMDAR: That has been stated also by your spokesman the Finance Minister.

SHRI M. C. SHAH: As we have already pointed out, the ultimate object of this Bill is to reduce inequalities in the distribution of wealth. It has been said that they may try to escape from the provisions of this Estate Duty Bill by dividing all these big estates. So there will be smaller estates. To that extent it would be reducing the inequalities in the distribution of wealth. As a matter of fact if we find that there are any loopholes and if we find that there are certain methods of evasion adopted by certain people, then, Sir, as I have stated, by experience we will come to know about the lacunæ and the loopholes and we will try to plug those loopholes and we will not hesitate to come before the House to amend the Bill in order to plug those loopholes.

About the Princes too the position is very clear. Clause 6 of the Bill says that whatever property a person is capable of disposing will be liable to duty If the Princes have got properties which they can dispose of then certainly those properties will be liable to duty There is no distinction made between the Princes and other citizens. So my friend need not be afraid of any evasion by the Princes

6 P.M.

Now, there were so many complaints made about the administrative set-up and harassment We have already assured the House and we again assure the House that we feel a sense of responsibility so far as the administrative set-up is concerned. We will try our level best to see that no harassment is caused to the prospective assessees and all possible steps will be taken to see that when we frame the rules, all possible harassment is avoided. As a matter of fact, the House is aware that these rules will be published in the *Gazette of India*. All hon. Members do get the Gazette and we shall be grateful to them if they carefully go through those rules and send their suggestions to us if they find that any change is necessary or any improvement is necessary We will welcome those suggestions and we will give due consideration to all of them.

SHRI B. K MUKERJEE (Uttar Pradesh): Only if the argument is very convincing.

SHRI M. C. SHAH: After all, we have to administer, and when we change a rule, the argument must be convincing That is taken for granted Before we accept any suggestion made by an hon. Member, it must be tested and it must be found that it is absolutely necessary in order to give protection to the prospective assessees or in order to avoid harassment Therefore we feel there is a great responsibility on us with regard to the administrative set-up and we will try to ensure that without loss of revenue we administer the Act as sympathetically as possible so as to enjoy the public support which we have received during the passage of this Bill

Sir, I will not repeat the arguments on the points that have been raised again during the third reading as I have already replied to them at the clause by clause consideration stage So I do not think it is necessary for me to reply to all those points.

With regard to valuation also doubts have been expressed about the procedure for valuation and appeals. It will be our special concern to create confidence in the public mind about these matters, and as we have already stated, I may repeat that statement that if by experience in the administration of this Act for a cer-

tain period we find that there is a necessity to change that procedure, we will not hesitate to bring an amending Bill to remove any doubt or to remove any difficulty that we may have experienced in the administration so far as the assessee's confidence is concerned.

Without going through all the points over again, I say, Sir, that we expect that this measure will by itself help to remove economic inequalities and also provide funds for the development schemes. But it will be too much to expect all that to happen all at once. By and by reduction in inequality will be attained and it will take some time. We cannot expect too much all of a sudden or overnight. It is not our claim that with this measure within a measurable space of time we will be achieving reduction in inequality in the distribution of wealth but this is a step towards that ideal and we hope that slowly and slowly as times change, we will be in a position to attain that objective.

As regards the income also, we do not think we will be getting too much to help the States to a very great extent, but this is a measure which will bring some revenues for the developmental expenditure of the States. So many Members have spoken about the distribution of these collections on certain conditions. Under the Constitution it is not possible. It is by an Act of Parliament that you can legislate about methods of distribution. About the expenditure we are sure that the States will use these funds in the best interests of the citizens of those States and that will be towards the developmental expenditure of those States. I commend the Bill to the House.

Sir, I move that the Bill be passed.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 8-15 tomorrow morning.

The Council then adjourned till quarter past eight of the clock on Wednesday, the 23rd September 1953.

COUNCIL OF STATES

Wednesday, 23rd September 1953

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

LEAVE OF ABSENCE TO SHRI ALLADI KRISHNASWAMI

MR. CHAIRMAN: I have to inform hon. Members that the following letter has been received from Shri Alladi Krishnaswami:

> "Owing to illness I am still confined to bed and I am not in a position to attend this session of the Council of States. I therefore request you to place this letter before the Council and obtain permission of the House for me to be absent from the meetings of the House during this session."

Is it the pleasure of the Council that permission be granted to Shri Alladi Krishnaswami to remain absent from all meetings of the Council during its current session?

(*No hon. Member dissented.*)

Permission to remain absent granted.

PAPERS LAID ON THE TABLE

STATEMENT SHOWING ACTION TAKEN ON ASSURANCES, PROMISES AND UNDERTAKINGS GIVEN BY GOVERNMENT DURING THE SESSIONS.

THE LEADER OF THE COUNCIL (SHRI C. C. BISWAS): Sir, on behalf of Shri Satya Narayan Sinha, I beg to lay on the Table the following statements showing the action taken by the Government on various assurances, promises and undertakings given during the sessions shown against each:—

(i) Statement No. V, Second Session, 1952, of the Council of States.

(ii) Supplementary Statement No. IV, Third Session, 1953, of the Council of States.

[*See* Appendix V, annexure Nos. 121 and 122.]

MOTION ON FOREIGN POLICY

THE PRIME MINISTER AND MINISTER FOR EXTERNAL AFFAIRS AND DEFENCE (SHRI JAWAHARLAL NEHRU): Mr. Chairman, I beg to move:

> "That the present international situation and the policy of the Government of India in relation thereto be taken into consideration."

Almost in every session of this House some such motion is brought forward at the instance and desire of many Members. I am happy that this should be so, and this House should give some of its time to the consideration of international problems, because ultimately the responsibility for carrying out any policy rests on Parliament. While we discuss this matter from time to time in this House and in the other House, almost always, in the course of discussion, some hon. Members say that we waste time or we waste energy in getting entangled in international affairs. We have got great problems in India. Why not concentrate on them rather than look abroad for adventures? We have got the tremendous problem of unemployment, of raising standards and all that. Now, nobody doubts that we have these great domestic problems. Nobody doubts that these domestic problems for us are ultimately of far greater importance than any international problem, because the international problem, or any part that we may play in it, ultimately depends upon our internal situation, upon our internal strength, upon our internal cohesion and all that. There is no conflict between following a domestic policy and an international policy. They react on