

**THE**  
**PARLIAMENTARY DEBATES**  
**(Part II—Proceedings other than Questions and Answers)**  
**OFFICIAL REPORT**

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2755

**HOUSE OF THE PEOPLE**

*Tuesday, 8th September, 1953*

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*The House met at a Quarter Past  
Eight of the Clock*

[**MR. DEPUTY-SPEAKER** *in the Chair*]

**QUESTIONS AND ANSWERS**

*(See Part I)*

—

9-23 A.M.

**LEAVE OF ABSENCE**

**Mr. Deputy-Speaker:** I have to inform hon. Members that I have received the following letter from Shri N. Rachiah:

"I am going to Switzerland to attend the Labour and Industrial Conference which commences on 10th September 1953. I, therefore, request the House through you to grant me leave of absence for the rest of the session."

Is it the pleasure of the House that permission be granted to Shri N. Rachiah to remain absent from all the meetings of the House with effect from the 7th September, 1953, till the end of the current session?

**Hon. Members:** Yes.

*Leave was granted.*

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400 P.S.

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**ESTATE DUTY BILL—Contd.**

**Clause 32.— (Exemptions)**

**Mr. Deputy-Speaker:** Now the House will proceed with the further consideration of the Estate Duty Bill. Yesterday the House was considering clause 32 and we thought that we might be able to finish the clause and pass on to clause 33 also. I will now request the hon. Finance Minister to reply.

**Shri Punnoose (Alleppey):** What is the time-limit?

**Shri U. M. Trivedi (Chittor):** Yesterday I was on my legs. I had not finished.

**Mr. Deputy-Speaker:** There will be an afternoon session today from 4 P.M. to 7-30 P.M.

**Shri Punnoose:** Sir, I submit it is better to sit upto 8-30 or 9 P.M. and finish off the business than sit up every afternoon.

**Mr. Deputy-Speaker:** This must be finished today. The session will go on till the 18th.

**Shri U. M. Trivedi:** Sir.....

**Mr. Deputy-Speaker:** Hon. Member has already taken a lot of time. Now ten minutes will be given to him.

**Shri U. M. Trivedi:** I was speaking about exemption clause yesterday and I had drawn the attention of the hon. Finance Minister.....

**Mr. Deputy-Speaker:** The hon. Member may wait a little; let the noise subside.

**Shri U. M. Trivedi:** Speaking on this exemption clause I had pointed out, as Mr. More and several other Members had suggested, that the cattle which are meant for agricultural purposes may be exempted and that exemption must be embodied in part (c) but at the same time I had suggested that care must be taken to see that this word 'cattle' is not amplified to include race-horses or horses purchased for the purposes other than agriculture. I do not know what the Finance Minister will have to say about it, but I had suggested that Section 60 of the Civil Procedure Code may be kept in view in defining what cattle should mean.

The other exemption that is laid down in part (e)—"wearing apparel, but not including any precious or semi-precious stones or ornaments worked or sewn into the wearing apparel" has next to be considered. Nobody grumbles about the exclusion of precious or semi-precious stones or ornaments worked or sewn into the wearing apparel. If there are rich persons who are used to do such things, they should not be given any benefit of this exemption. But I would very respectfully submit that precious ornaments which are very necessary and which are a very essential feature of the ladies for everyday use—generally women of our place insist upon wearing a particular ornament—must always be exempted as have been exempted in Section 60 of the Civil Procedure Code. So, in this wearing apparel clause, I would suggest that the hon. Finance Minister may take note of it that this also may be exempted.

I am at one with those friends who have said that this exemption provided under part (i) should go. This says:

"drawings, paintings, photographs, prints, manuscripts and any other heirloom, not falling within clause (h), which are re-

tained in the family of the deceased and are not intended for sale;"

The difficulty in this case will arise that initially they may not be intended for sale, but the value is not specified. A time may come when temptations may be greater, when the need of the family would be greater, and under those circumstances, those who have inherited it and though the inheritance would have been probably *bona fide* in the beginning, as their heirloom, —they may like to dispose of them and raise large sums of money. One never knows what the value of an heirloom may be. Mr. Nayar described yesterday that in Travancore, Rajahs and Maharajahs ..

**Mr. Deputy-Speaker:** I will suspend the House for half an hour if this state of affairs continues. It is regrettable that in spite of my repeated requests, hon. Members go on talking here. They may as well go to the lobby if they do not care to listen to what is going on in the House. I will point out individual Members if they go on talking here. I will ask them to kindly clear out of this House.

**Shri C. Bhatt (Broach):** May I sense the proceedings of the House? My feeling is that we have discussed this yesterday, discussed it threadbare- and fibre-bare.

**Mr. Deputy-Speaker:** The hon. Member cannot talk here. He can go out or he can ask for a closure. This is not the way in which he ought to disturb the House—by merely talking. He has no right to do so. The hon. Member will realise that he has no right to obstruct the proceedings of the House. It is open to him to say that he moves for a closure. But this is not the way to reply.

**Shri U. M. Trivedi:** Sir, I was only suggesting that this exemption provided under part (i) may be deleted. The reason for suggesting this is, though you may not have crowns as described by Mr. Nayar, certainly we have no definition of what an heirloom is. Some people—Maharajahs and others—keep

in their family, from generation to generation, precious jewels consisting of big *kantas*, nice ornaments, worth about lakhs of rupees; these cannot be exempted. We cannot grant them exemption for the purpose of availing themselves of the benefit thereof when the necessity so arises. We have no clause, whatsoever, as we have in part (h), under which the rich man will certainly hand it over to the Government of the day if he intends to sell it. If that provision is there, there will be no harm in having the heirloom. But ultimately we may make use of it and if it is only the proviso that is added there, it will only apply to the disposal at the time of the succession when we may have no intention whatever to buy them. Therefore, I will suggest that this clause must go.

Then, about the sub-clause (2). This clause, if I remember aright, is practically in the same language as in the original Bill before it went to the Select Committee. At that time we had discussed that provision, and we were quite vague about what exemptions could be granted by the Government. It will give vast powers in the hands of the Government to act in a very arbitrary manner. That was the reason why all the various clauses in this provision were put down. Under these circumstances, no need remains for still continuing this sub-clause (2). If we do not want to differentiate between citizen and citizen, there is no object in keeping sub-clause (2) as it is. I therefore submit, Sir, that this sub-clause (2) must also go.

**The Minister of Finance (Shri C. D. Deshmukh):** A very large number of amendments have been moved under this clause suggesting either increases in the value allowed in respect of various items or additions in respect of certain items to the list of exemptions or omission of some of these exemptions. This is one of those matters on which it is very difficult to generalize if one considers each exemption individually. Undoubtedly there is a good deal to be said for and against,

but as I said before, one has to take a comprehensive view of the matter. Before I proceed to deal with the arguments, I should like to deal with the point which was raised, I think, by the last speaker that some of the Government amendments are out of order because they violate certain conventions. I am under the impression, Sir, that so far as Government is concerned, the opportunity should constantly be taken to improve the Bill if possible, especially a complicated legislation of this type. Therefore, I think a rigid adherence to any convention, even if there is such a convention on which point I have no ruling from the Chair, is not necessary but I say even if there is a convention, I think it is in the public interest that Government should take the opportunity of moving amendments beyond what they have agreed to in the Select Committee. It sometimes happens to the liking of certain hon. Members; and sometimes it happens to the dislike of certain other hon. Members. There are instances where I have yielded to suggestions made in the general discussion and I have suggested amendments. If all these amendments were to be barred, I think there would be serious interference with the proper consideration of the Bill.

Now, Sir, as I said, the problem has to be viewed with reference to certain basic or relevant considerations. To my mind, these are of two kinds: one is the maximum exemption limit to be prescribed in the Bill and the second is, the exemptions for various other concessions already given in the Bill. As things stand, the maximum exemption limit prescribed is, as the House knows, Rs. 75,000. I do not refer to any possible amendment of it although I have foreshadowed a consideration of that matter arising out of the distinction said to have been made to the prejudice of other Hindu undivided family or Mitakshara. Now, whatever our exemption limit may be, for the purposes of this argument it might be convenient to treat it as Rs. 75,000 for those; other than Hindu undivided families. The limit in the United

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Kingdom is Rs. 27,000. In Ceylon it is Rs. 20,000; in Australia it is the equivalent of Rs. 30,000. It is true that the United States of America has a higher limit, but it will be readily admitted that the conditions there are so different from those prevailing in this country that we cannot institute any kind of valid comparison.

Now, Sir, the additional exemptions which we have already provided for amount to Rs. 5,000 under clause 9 (2) and Rs. 16,500 under the various sub-clauses of clause 32. Then of course there are other exemptions such as books not intended for sale, household articles, works of art, etc. Then there is a provision of Rs. 5,000 for each dependent female relative, exemption for insurance, for advance payments made on account of the estate duty—that is a new exemption—subject to a maximum of Rs. 50,000. The net effect of these is that except for a small amount leviable on account of the principle of aggregation which we shall come to in clause 33, the duty payable will really not be onerous on properties between say rupees one lakh and Rs. 1½ lakhs. In all conscience they will be amounts that could be paid without any serious inconvenience and in addition I think there is a clause—No. 68—where we allow easy instalments to pay.

Now, the consideration that seems to have influenced certain hon. Members in urging further exemptions is that there might be harassment to the assessees. I say that whatever limit you might impose there is bound to be a certain amount of "harassment". When you are trying to find out whether all these articles amount to Rs. 5,000 or Rs. 10,000 or Rs. 2,500 the harassment is bound to be there, and, therefore, it should be the objective of the administration to ensure that it is generally carried on in such a way as to avoid any avoidable harassment. But my point is that you cannot meet the difficulty merely by raising the limits. That drives you to the logical conclusion of removing the limits altogether and if you remove all the

limits then, I submit, that would make a hash of the whole of this pattern of levy of estate duty. You might as well give up the attempt to levy an estate duty.

Therefore, all these matters were considered from one point of view: in a kind of ordinary or common household what is the likely aggregate value of certain things like household utensils, books and so on and in the majority of cases the return would be accepted. Judging from the circumstances of the assessee if the return of household utensils comes to about Rs. 2,000, I do not suppose the administrative officers would put themselves to the trouble of finding out whether it is Rs. 2,000 or Rs. 2,500. In other words it would always involve a matter of judgment and that judgment can only come with experience. That judgment cannot come with any rigid statutory limits.

The danger of removing the limits altogether is that only those whom we do not want to escape will escape. I have seen hung on the walls of some wealthy persons carpets which they proudly inform me cost Rs. 15,000 and if one were to say a carpet is a part of furniture or the furnishings of a house, one can imagine that if only four walls of one room are covered with Persian carpets you may easily make a difference of Rs. 50,000.

Therefore, it would be most dangerous on this specious over-stated and over simplified plea of harassment that there should be no limit. I do not think that is a solution out of the difficulty.

Now among the most persistent additional concessions asked for is the demand for exempting a dwelling house. Now, Sir, some Members have shown moderation and have indicated a limit. Others have indicated no limit and one at least referred to a dwelling house or houses. Now, Sir, a dwelling house could be worth Rs. 10 lakhs or Rs. 20 lakhs and indeed if a house were to be exempted the tendency would be

to lock up more and more capital in houses.

Now, if we take a small limit like Rs. 25,000 then the question that arises for consideration is: is it likely that a person who owns a house worth Rs. 25,000 will have also other property worth more than Rs. 50,000 and therefore he stands the risk of being assessed. I say that usually he will be a person of small means and he would come under some kind of exemption limit. In any case, if that is not so and if he has some extra cash, that is to say some other asset besides a house, then the bottom drops out of the argument. The argument is that a poor man will have to sell his house, he may have no other property and therefore he may be driven out of his house. But if it is a small house then the gap between that and the exemption limit is so large that there will be other property out of the proceeds of which or out of the income of which in easy instalments the estate duty could be paid.

**Mr. Deputy-Speaker:** If it is an ancestral house worth Rs. 25,000 and lands worth Rs. 30,000, what will happen? He will have to sell the house and the only lands he has got.

**Shri Barman (North Bengal—Reservé—Sch. Castes):** This is the very point I wanted to make, but I had no opportunity to speak. Supposing it is only an ancestral house that is the property, in a part of which the descendants live and part of it is rented. These are the cases of hardship.

**Shri C. D. Deshmukh:** The total duty would be so low that it ought to be paid out of current income.

**Shri Gadgil (Poona Central):** Easily.

**Shri C. D. Deshmukh:** In eight annual instalments they might have to pay a few rupees which can easily be set aside for satisfying the minimum and moderate demands of the State for the common good.

Then again I would ask the House to hold its soul in patience so to speak, because if some change were to be

made in the exemption limit it would cover much more than a house, it might cover any other property. That point is still to be decided. So, I do not think that this issue ought to be pressed at this stage, although I admit that once you don't press it this is gone so far as clause 32 is concerned and they would just have to take a chance in regard to the total exemption limit. There is also the question of rates. Those two important matters are still open for discussion.

Now, Sir, it has been urged that some exemption should be given in respect of cattle. Here the consideration that influenced us was the administrative difficulty of trying to add up a part of value of all kinds of agricultural implements, ploughs and harrows and things like that. If it is a thing that can be valued and that has a market rate, then the matter could be attended to administratively. I think, Sir, the analogy of section 60 of the Civil procedure Code is somewhat misleading. There it is a question of taking away the whole. You attach it with the prospect of sale in satisfaction of some decree or other and that decree might devour most of the sale proceeds, whereas in this case—and these must only be marginal cases—the actual duty payable will be only a very small fraction of the total property. Therefore, Sir, again without meaning to import any lack of sympathy for the affairs of agriculturists, I think an amendment of this kind would be misconceived.

Then there is an important demand for exempting amounts invested in new industrial concerns and the example of Pakistan has been quoted in favour of granting such exemptions. An appeal to the cupidity of the Finance Minister has been made that for a small lay-out it might be possible to secure a very big expansion in industry. Now it is not as if concessions have not already been made to industries. I deem the charge against the Finance Minister from certain sections of the House is that already too many concessions have been granted and that they have not been attended with any satisfactory response. Now, in this

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matter it is a question of judgement as to where exactly an inducement has failed and that too would depend on the changing circumstances of the case, and it seems to me proper not to import into the measure, which is intended to be permanent, something which has a topical interest, something that will promote industrial activities for the time being. Maybe, circumstances might change and one might be sorry that one has promoted excessive industrial expansion to the prejudice of the public sector. That amendment has to be taken note of by anyone who has an eye on planning.

I referred to concessions already given. There is the special depreciation allowance which, Sir, is very liberal. Then there is exemption from tax upto 6 per cent of the income and there is the new clause which the House passed last time—clause 56A in the Income-tax Act—which exempts from corporation tax the profits earned by companies through investments in certain specified industries. Therefore, Sir, I do not think that a case has been made out for incorporation of a concession in this Bill and I think it would be wrong to accept a principle of this kind, because once you accept it, then the law should be so framed as to encourage something, and give positive incentive to something.

Then our argument in regard to public charities also would lose some force. We say that this is a cold and calculated levy of duty on estates on death and we are not very much concerned with any kind of industrial incentives or any kind of social reforms like inter-caste or inter-communal marriages. These matters are not really germane to the scope of this Bill. But I would like to say this that we are now legislating this perhaps a year ahead of the receipt of the recommendations of the Taxation Enquiry Commission, and I have no doubt that they will devote some thought to the Estate Duty if and when we pass the Bill. I bring it

into operation as the other forms of taxation. Now they will be in a position of advantage in making recommendations because they will have surveyed the whole field of taxation and if, from their broad perspective they feel that some change of this kind should be made in the Estate Duty legislation, that it will be open to Government to promote such an amendment and of course the House can then consider it with the advantage of the observations of an expert body on that subject.

Then there are amendments which seek to exempt savings from provident fund of employees. That, Sir, seems to be a discrimination on certain forms of citizens as against those who make their savings from business, vocation, etc.

Then there was a demand voiced by many Members for raising the exemption from insurance from Rs. 5,000 to a higher figure. There is another concession on account of insurance in the next clause which goes up to Rs. 50,000. It makes sure that the estate duty will be paid. Here as in the case of provident funds it will be difficult to distinguish one class of saving from another. Again, one has to resist the temptation of trying to give inducement to something through the channel of this legislation.

Then there was a reference to timber. Now, in spite of what the hon. Member—he is not here now—has moved, I do not think that conditions are entirely different here from those in the U. K. and with the abolition of the *zamindaris* most of the timber belongs to Government already and that is irrespective of the problem of soil erosion to which a reference was made. That problem will have to be handled on a much vaster scale and not through this petty amendment in regard to exemptions under the Estate Duty Bill.

Then, Sir, I come to the suggested amendments, so to speak, in the opposite direction. First, I must refer to the artful reference of Shri V. P.

Nayar to my craftiness. He is not here now. Frankly I don't even remember whether I was even present in the Select Committee at the time this particular sub-clause was introduced, because as you are aware, it was not possible for me to attend every meeting on account of my other equally pressing official preoccupations, and I think this clause dates from the date of the Selection Committee. Therefore, since the hon. Member has given no notice of amendment, if there is any craftiness, well he is a participator in it, and his motives may be quite different from mine. In spite of all this, I have given some thought to this matter of heirloom. So far as the U. K. Act is concerned, there is a treasury certificate that is necessary before the advantage of exemption can be taken. It is based on—I have not got the number of the clause here—but there are provisions in the U. K. Act wherein it is stated that the satisfaction of the Treasury is necessary in both cases. As the House knows, we have provided for conditions and rules in part (h) and I am myself inclined to think that a similar provision ought to have been made in part (i). I was under the impression that the hon. Member's amendment 454 had reference to this, but I see eye to eye with him because it refers to (i)—he did not do that before!

**Mr. Deputy-Speaker:** But it is the small (i).

**Shri C. D. Deshmukh:** It looks equally clearly and is reinforced by grasses. If that amendment could be transferred to this clause, I think it would be appropriate and I am inclined to accept it.

I would suggest this wording on page 20 .....

**Shri K. K. Basu (Diamond Harbour):** My amendment is No. 454.

**Shri C. D. Deshmukh:** I would suggest this wording:

In page 20, line 3, after "deceased" insert "and are dealt with or disposed of in accordance with such conditions as the Board may prescribe".

I would hand over this form of the amendment to the Secretary.

If the hon. Member is content.....

**Shri K. K. Basu:** I could not follow your language.

**Mr. Deputy-Speaker:** In page 20, line 3, after "deceased" insert "and are dealt with or disposed of in accordance with such conditions as the Board may prescribe".

**Shri S. S. More (Sholapur):** May I ask a further question of the hon. the Finance Minister? Does he not propose to prescribe any saving limit with regard to these "drawings, paintings, photographs etc."? We have been pleading as a matter of fact.....

**Shri C. D. Deshmukh:** When the hon. Member asks "Does he not wish to prescribe" I take it that he means prescribe by rules.

**Shri S. S. More:** I shall be content if any saving limit is prescribed by rules.

**Shri C. D. Deshmukh:** Really this clause arose out of the recognition of a fact that many families have their great-grandfathers' photographs or pictures. However valuable it may be from the point of view of the family, it has no real value. And it was this kind of heir-loom that we had in mind and not crowns of princes. In any case crowns of princes cannot be passed on as heir-loom; they must be passed on to Rulers who are recognised as such. I do not see there is any danger.....

**Shri S. S. More:** I am not emphasising the word heir-loom. I am referring to the drawings, paintings, etc.

**Shri C. D. Deshmukh:** I refer to all of them. I first referred to the great-grandfather's photograph and then to the crown.

**Mr. Deputy-Speaker:** The hon. Member, Mr. More, evidently wants that some pecuniary limit may be prescribed.

**Shri C. D. Deshmukh:** No one has suggested any amendment to this clause originally. Mr. Basu now says that his amendment is to this clause. I have accepted it. Now certain hon. Members suggest a ceiling. I do not think we can go on amending it like this. Then there will be another debate as to the adequacy of the ceiling. I have not come here with my thoughts made up as to what the ceiling should be. All this should be kept within moderate scales, so that one should not encourage the tendency to keep valuable things as heirlooms. But I did not come with any kind of formulation of principle with regard to ceilings.

Then there was an observation by Shri Mishra. He used the strange argument that if you want to give at all, give liberally; otherwise don't give.

**Shri Gadgil:** Accept the latter.

**Shri C. D. Deshmukh:** I am always for moderation which apparently is quite unfamiliar to Mr. Mishra. Therefore I cannot see the validity of that particular argument. In other words there must be readiness to apply one's mind to a difficult situation. One cannot merely say yes or no, or black or white. There are various shades of grey. There is a sort of golden mean. And that is what we have tried to attain here in connection with this, one of the most difficult of clauses in this Bill.

Then there is only one more point, and that is this question of public charities. That ground has largely been traversed and I am sorry to have to disagree with several hon. Members. They are in the habit of appealing to my "open mind". I do not claim to have an open mind on matters on which the pros and cons have been stated *ad nauseam* in previous discussions. And after giving all possible thought to this I have come to the conclusion that one cannot entirely accept this position that no matter what may happen to the public

sector or to social welfare through State organisations, charities should be allowed to be unrestrained and unlimited.

10 A.M.

**Shri Altekar (North Satara):** I have not said unlimited, but to the extent of five per cent.

**Shri C. D. Deshmukh:** And then hon. Members have indulged in a false analogy of section 15B of the Income-tax Act. That relates to annual income, and every year a man may give to charity. What we say here is till six months of his death he can go on giving to charity. Hon. Members spoke as if by merely refusing to accept this amendment the gates of charity are for ever now barred and the stream of charity is for ever dammed. That is not so. All that we are concerned with is gifts made within six months of death. And for that we have made a small provision. I think that is ample. It is hardly worth while to refer to the fact—because hon. Members must have it in their minds—that the State is gradually increasing its own field of social welfare. For the first time a provision of rupees four crores has been made for the aid of just the type of charitable organisations as the hon. Member must have had in his mind—non-official organisations. Wherever there is famine or distress caused by famine or floods, as the House is aware from questions asked every day there is always an expectation that the Central Government on humanitarian considerations and irrespective of any constitutional thought would rush to the rescue of the stricken population. And that responsibility has so far always been accepted by the Centre in accordance with certain formulae the only object of which is to ensure that extravagant claims are not made. That is to say it is a kind of partnership on a sharing basis which is the best safeguard to avoid any extravagant claim. Then there is the talk of providing Rs. 50 crores for unemployment relief. How is the Centre to discharge all these responsibilities if it has also to succour the States in the

execution of their plans and yet at the same time accept the position that any one who wants to subtract property from the liability to pay duty should on the ground of charity be allowed to do so? You cannot run these two steeds at the same time. Therefore I think the provision we have made is adequate.

I think I have dealt with most of the points that I have noted down in the course of the debate, and apart from my own amendments I oppose all the other amendments except the one we have agreed upon in regard to part (1).

**Shri B. P. Sinha** (Monghyr Sadrum Jamui): What about agricultural land?

**Shri C. D. Deshmukh**: What I said about house really applies to agricultural land also in view of the observation that fell from you, Sir. What we are concerned with is the vast majority of cases where land fetches a good sum. If a land is fetching Rs. 15,000 an acre the income must be Rs. 1,000 a year. Therefore out of that income the Estate Duty can be paid. But if the income is, say, Rs. 300 as it is in your unfortunate part of the country, Sir, in that case we will find that it will easily come within the exemption limit.

**Shrimati Sushama Sen** (Bhagalpur South): What about my amendment to exempt one residential house?

**Mr. Deputy-Speaker**: He has been replying to that point.

**Shrimati Sushama Sen**: The Finance Minister said he will consider moderate demands: I think this is a moderate demand. Because we are not asking for exemption of residential houses costing lakhs. The house of an ordinary middle class family which is now assessed at one lakh is worth only Rs. 25,000 originally. Really speaking, it will be very hard for ordinary middle class people. I press my amendment. That is the only thing that the middle classes would like to have.

**Shri C. D. Deshmukh**: I can only say that any reference to lakh shows lack of moderation.

**Shri H. G. Vaishnav** (Ambad). The Finance Minister has not replied to my amendment regarding the possibility of exemption of ex-Rulers from estate duty. No clarification has been made regarding that.

**Shri C. D. Deshmukh**: I do not think the hon. Member was present the other day when I replied to that point. It was raised by one of the Members and I said that there is no exemption.

**Dr. M. M. Das** (Burdwan—Reserved—Sch. Castes): On a point of clarification. The hon. Minister said that so far as *Dayabhaga* families were concerned, the exemption limit of Rs. 75,000 is not going to be increased.

**Dr. C. D. Pande** (Naini Tal Distt. cum Almora Distt.—South West cum Bareilly Distt.—North): It will be considered later.

**Mr. Deputy-Speaker**: The hon. Member will kindly wait and see. I will now put the Government amendments to the vote of the House and then the other amendments. The amendments are 534, 536, 537, 538 and 539. The first is a formal amendment.

**Shri C. D. Deshmukh**: It is a case of looking before and after.

**Mr. Deputy-Speaker**: The next relates to the limit of Rs. 50,000.

**Shri U. M. Trivedi**: I have an amendment to amendment No. 537. That may be put first.

**Mr. Deputy-Speaker**: Yes. The question is:

In the amendment proposed by Shri C. D. Deshmukh, omit "but not exceeding rupees fifty thousand".

*The motion was negatived.*

**Mr. Deputy-Speaker**: The question is:

In page 19, line 24, for "from" substitute "before".

*The motion was adopted.*

**Mr. Deputy-Speaker:** The question is:

In page 19, line 39, *add* at the end: "but not exceeding rupees fifty thousand".

*The motion was adopted.*

**Mr. Deputy-Speaker:** The question is:

In page 19, *after* line 39, *insert*:

"(ff) moneys deposited with the Government in such manner as may be prescribed for the purpose of paying estate duty, together with the interest which has accrued due thereon at such rate as may be prescribed, to the extent of the amount of duty payable but not exceeding rupees fifty thousand;"

*The motion was adopted.*

**Mr. Deputy-Speaker:** The question is:

In page 19, line 43, *after* "or" *insert* "archæological or".

*The motion was adopted.*

**Mr. Deputy-Speaker:** The question is:

In page 20, *for* lines 4 to 9, *substitute*:

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

*The motion was adopted.*

**Mr. Deputy-Speaker:** There is the other amendment number 454. I have no objection to treat this as an alternate amendment to that amendment. Or is this in substitution?

**The Deputy Minister of Finance (Shri M. C. Shah):** It is only a question of language.

**Mr. Deputy-Speaker:** The question is:

In page 20, line 3, *after* "deceased" *insert* "and are dealt with or disposed of in accordance with such conditions as the Board may prescribe".

*The motion was adopted.*

**Mr. Deputy-Speaker:** I will put all the other amendments to the vote of the House.

The question is:

In page 20, *after* line 9, *insert*:

"(k) gifts, settlements or other dispositions made in favour of the Central Government or the State Governments or in favour of any local or public authority;

(l) moneys invested by the deceased in any new industrial undertaking under conditions to be prescribed by Government."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, *for* lines 23 to 25, *substitute*:

"(a) property taken under a gift made by the deceased for a prescribed public charitable purpose;"

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, *for* lines 23 to 25, *substitute*:

"(a) property taken under a gift made by the deceased for such public charitable purposes as may be prescribed;"

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, lines 24 and 25, omit "within a period of six months from his death, to the extent of rupees two thousand and five hundred in value".

*The motion was negatived.*

**Mr. Deputy-Speaker:** Amendment No. 315 is similar to the one just now negatived. So that also goes.

The question is:

In page 19, line 24, after "from his death" insert "which is not accidental".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, lines 24 and 25, omit "to the extent of rupees two thousand five hundred in value".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19,

(i) line 24, before "charitable" insert "or"

(ii) line 25, for "two thousand" substitute "twenty-five thousand".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In the amendment proposed by Shri Jhunjhunwala, for "one-fifth of his property" substitute "five per cent. of his property".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, in line 25, add at the end

"or to the extent of five per cent. of the value of the whole

estate of the deceased whichever may be higher."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, in line 28, add at the end

"or to the extent of three per cent. of the value of the whole estate of the deceased whichever may be higher."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, omit lines 26 to 28.

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, omit lines 4 to 9.

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, lines 27 and 28, omit "within a period of two years before his death, to the extent of rupees one thousand and five hundred in value".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, lines 27 and 28, omit "to the extent of rupees one thousand and five hundred in value".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, line 28, for "rupees one thousand and five hundred" substitute "five per cent. of the deceased person's estate".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19,

(i) line 29 before "household" add "residential house"; and

[Mr. Deputy-Speaker]

(ii) after line 32, add:

"Provided that if the value of the house does not exceed rupees one lakh".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 5, in line 17, add at the end:

"Unless the Court otherwise determines the *bona fides* of the disposition on a suit filed by the aggrieved party within six months of the determination of the *mala fides* of the gifts."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, after line 9, insert:

"(k) one dwelling house to the extent of rupees twenty five thousand in value".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, after line 17, insert:

"Provided that the class of persons to whom such additional relief is sought to be given does not belong to the princely order, Rulers of the former Indian States or their family members".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, line 29, after "agricultural" insert "cattle and".

*The motion was negatived.*

**Mr. Deputy-Speaker:** Amendment No. 489 is similar to the one just now negatived. So that also goes.

The question is:

In page 20, lines 4 and 5, after "consideration of" insert "the education and".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, line 5, after "his" insert "male or".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, lines 31 and 32, omit "to the extent of rupees two thousand and five hundred in value".

*The motion was negatived.*

**Mr. Deputy-Speaker:** Amendment No. 535 is the same as the one just now negatived. So that also goes.

The question is:

In page 19, line 32, for "two thousand and five hundred" substitute "five thousand".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, lines 34 and 35, for "but not including any precious or semi-precious stones or ornaments worked or sewn into the wearing apparel".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, omit lines 36 to 39.

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, for lines 40 to 42, substitute:

"(g) to the extent of one fifth of the principal value of the estate leviable to duty or rupees fifty thousand whichever is less".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, lines 41 and 42, for "five thousand" substitute "twenty five thousand".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, lines 41 and 42, for "rupees five thousand" substitute "rupees ten thousand".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, lines 4 to 6, for "gifts made by a deceased parent or natural guardian in consideration of the marriage of any of his female relatives dependent upon him for the necessities of life" substitute "gifts made by the deceased in consideration of or on the occasion of the marriage of any person."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, line 5, after "female relatives" insert "or for the education of minor male relatives."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, line 9,

(i) for "relatives" substitute "female relatives";

(ii) after "relatives" add "and a like amount in respect of education of

such minor male relative or relatives."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, line 9, after "such relatives" add:

"and dealt with or disposed of in accordance with such conditions as the Board may prescribe."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, after line 9, add:

"(k) one dwelling house in which the deceased ordinarily resided;

(l) gratuities and all the moneys received or receivable by the deceased or his nominees from any provident fund in which he was a member and salary or pension received or receivable for two months prior to death;

(m) monies invested by the deceased in any industrial undertaking which has begun manufacturing at any time within a period of five years before his death or such further period as the Central Government may, by notification in the official Gazette, specify with reference to any particular industrial undertaking;

(n) heirlooms, property consisting of drawings, paintings, prints, manuscripts, works of art of scientific collection;

(o) property taken under gifts which form part of the normal expenditure of the deceased, reasonably having regard to the amount of his income or to the circumstances;

(p) gifts to recognised charities which are exempted from income-

[Mr. Deputy-Speaker]

tax under section 15B of the Indian Income-tax Act, 1922;

(q) gifts from State".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, after line 9, add:

"(k) one residential house belonging to the deceased and if there is only one residential house the whole of it irrespective of the value."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, after line 9, add:

"(k) one residential house".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, after line 9 insert:

"(k) agricultural land to the limit of ceiling fixed by the State or equal to the value of rupees twenty five thousand;

(l) one dwelling house occupied by the family members."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, after line 9 insert:

"(k) ancestral dwelling house to the extent of rupees ten thousand".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, after line 9 insert:

"(k) gifts made by the deceased to persons who have married outside his own caste or

community, or who is born of an inter-caste marriage."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, after line 9 insert:

"(k) dwelling houses in which the heirs and near relatives of the deceased actually lived during the lifetime of the deceased and have continued to live thereafter."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, omit lines 10 to 17.

*The motion was negatived.*

**Mr. Deputy-Speaker:** Amendment No. 355 is the same as the one just now negatived. So that also goes.

The question is:

In page 20, after line 9 insert:

"(k) gratuities and all the monies received or receivable by the deceased or his nominees from any provident fund in which he was a member and salary or pension received or receivable for two months prior to death".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, after line 17 insert:

"(3) Where an estate in respect of which estate duty is payable comprises land on which timber, tree, wood or underwood are growing, the value of such timber etc., is not taken into account in estimating the value of the estate and the estate duty is not payable thereon; but the estate duty is payable (i) on any net moneys, after deducting all necessary outgoings since the death of

the deceased, which may be received from the sale of timber, trees or wood when felled or cut during the period until the land again becomes liable or would but for this provision become liable, to estate duty on a subsequent death; and (ii) if the timber, trees or wood are sold either with or apart from the land on which they are growing, on the principal value thereof which, but for this provision, would have been liable to duty on the death of the deceased, after deducting the amount of any estate duty paid in respect of the timber etc. since that date.

(4) In the case of any agricultural property which comprises cottages occupied by persons employed solely for agricultural purposes in connection with the property no account is to be taken of any value attributable to the fact that the cottage is for residential purposes of any persons other than agricultural labourers or workmen on the estate.

(5) The Union Government may declare from time to time the holding of any Government Security issued or to be issued, as free from liability to pay estate duty.

(6) The Union Government may exclude investments made in new ventures from the estate of the deceased".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, line 33, after "books" insert "declared to be".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, omit lines 36 to 39.

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 19, omit lines 40 to 42.

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, line 5, omit "female".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

"That clause 32, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 32, as amended, was added to the Bill.*

**Shri K. K. Basu:** Mr. More's amendment should be put separately.

**Mr. Deputy-Speaker:** That is, about inter-caste marriages? That was put and negatived.

**Shri K. K. Basu:** It is a very important social point.

**Clause 33.—(Aggregation)**

**Shri C. D. Deshmukh:** I beg to move:

In page 20, for lines 19 to 25, substitute:

"33. Aggregation—(1) For determining the rate of estate duty to be paid on any property passing on the death of the deceased, all property to so passing, excluding—

property exempted from duty under clauses (c), (d), (e), (h) and (i) of sub-section (1) of section 32, but including—

(i) property on which no estate duty is leviable under section 34,

(ii) property exempted from duty under clauses (a), (b), (f), (ff), (g) and (j) of section 32, and

(iii) agricultural land situate in any State not specified in the First Schedule, shall be aggregated so

[Shri C. D. Deshmukh]

as to form one estate and the duty shall be levied at the rate or rates applicable in respect of the principal value thereof."

I do not move amendment No. 540. I have now altered it. So, I have moved this amendment.

**Shri V. B. Gandhi** (Bombay City—North): I beg to move:

In the amendment proposed by Shri C. D. Deshmukh, omit part (a).

**Shri Tulsidas** (Mehsana West): I cannot move amendment 695. It is a consequential amendment.

**Mr. Deputy-Speaker:** Amendments Nos. 695 and 696 will go because No. 540 is not moved, and in its place No. 720 has been moved.

Amendment No. 697 is an amendment to amendment No. 540.

**Shri Barman:** The new amendment moved by the Finance Minister is exactly the same in other particulars. I had given an amendment to No. 540.

**Mr. Deputy-Speaker:** He has included this. What is the trouble? All right. Amendment No. 697 will be treated as an amendment to No. 720. Is that all right? For the figure 540, insert 720. So Mr. Barman's amendment is also there.

**Shri Barman:** I beg to move:

In the amendment proposed by Shri C. D. Deshmukh, omit "(iii) agricultural land situate in any State not specified in the First Schedule."

**Shri V. B. Gandhi:** I beg to move:

In page 20, lines 21 to 23, for "excluding property on which no estate duty is leviable under section 24, but including property exempted from

duty under section 32 and" substitute:

"including property exempted from estate duty under section 22 and section 34 and also including".

I am not moving Nos. 273, 274 and 277.

**Shri Ramachandra Reddi** (Nellore): I beg to move:

In page 20.

(i) line 22, after "section 34" insert "and section 32"; and

(ii) lines 22 and 23, omit "but including property exempted from duty under section 32 and agricultural land situate in any State not specified in the Schedule."

**Shri G. D. Somani** (Nagaur-Pali): I am not moving.

**Shri Kanavade Patil** (Ahmednagar North): I beg to move:

In page 20,

(i) line 22, after "section 34" insert "agricultural lands to the extent of 50 acres and the dwelling house in any State".

(ii) omit line 23.

**Dr. Krishnaswami** (Kancheepuram): I beg to move:

In page 20, lines 22 and 23, omit "but including property exempted from duty under section 32 and agricultural land situate in any State not specified in the Schedule".

**Mr. Deputy-Speaker:** Amendments Nos. 320 and 559 are the same as moved by Dr. Krishnaswami.

**Shri C. D. Fande:** I beg to move:

In page 20, line 22, omit "but including property exempted from duty under section 32".

**Shri C. D. Deshmukh:** I beg to move:

In page 20, line 23, for "the Schedule" substitute "the First Schedule".

**Shri Tulsidas:** I beg to move.

(i) In page 20, after line 31, add:

"Provided further that any property which passes or is deemed to pass on the death of the deceased or is deemed to be included in the property passing on the death for the sole reason that the prescribed period of time has not elapsed prior to the death shall not be aggregated with any other property, but shall be an estate by itself and the estate duty shall be leviable at the rate applicable in respect of the principal value thereof.

When any property is an estate by itself the person in possession and enjoyment of such property shall alone be liable to account and to pay estate duty thereon."

(ii) In page 20, after line 34, add:

"Provided that if any income is included in the estate which is not subsequently realised or recovered or if the estate has been overvalued as a result of allowable deductions not having been made, refund shall be made of any additional duty paid by reason thereof."

**Shri Barman:** I beg to move:

(i) In page 20, omit lines 38 to 47.

(ii) In page 20, lines 46 and 47, omit "and also any agricultural land situate in any State not specified in the Schedule".

**Shri Tulsidas:** I beg to move:

In page 20, lines 45 and 46, omit "any property which is exempt from estate duty under section 32 and also".

**Shri C. D. Deshmukh:** I beg to move:

In page 20, line 47, for "the Schedule" substitute "the First Schedule".

**Dr. Krishnaswami:** I beg to move:

In page 20, omit lines 38 to 43.

**Mr. Deputy-Speaker:** All these amendments, together with clause 33, 400 PSD.

are now before the House for discussion.

**Mr. Raghuramaiah.** Unless there is any point of order, regarding this matter, I shall call upon the hon. Finance Minister.

**Shri Raghuramaiah (Tenali):** It is a point of order, Sir. The point of order relates to both the amendments and the original clause, in so far as they seek to include within the aggregate, for purposes of determining the rate of taxation, agricultural land situated in non-scheduled States. May I explain the point, Sir?

**Mr. Deputy-Speaker:** Briefly.

**Shri Raghuramaiah:** The point is this. For purposes of determining the aggregate, it is proposed to include within the estate all agricultural land in non-scheduled States. Agricultural land in non-scheduled States is not now liable to tax under this legislation, unless later on those States come into the Schedule. The effect of the present provision will be, so far as the taxable property in a non-scheduled State is concerned, that the percentage will go up and a higher rate of duty will in effect be imposed on it. Suppose there is taxable property in a scheduled State, worth Rs. 75,000, Rs. 50,000 is exempted, and on the rest, viz. Rs. 25,000, tax is levied at the rate of five percent, which comes to about Rs. 1,250. Suppose in a non-scheduled State, a man has property, taxable property, worth Rs. 75,000 and agricultural property which is not taxable, worth about Rs. 25,000, the rate of taxation on the Rs. 75,000, excluding the limit of Rs. 50,000 will be about Rs. 1,850. In other words, in a Scheduled State, a man having a taxable property of Rs. 25,000 pays only Rs. 1,250, while in a non-scheduled State, a man having an equal amount of taxable property worth Rs. 25,000 will be paying Rs. 1,850. It does, in my view, offend article 14 of the Constitution, which enjoins equality before law and equal protection. It has been held in an American case, in a matter pertaining

[Shri Raghuramaiah]

to equality of law, that the right conferred on a citizen regarding equal treatment before law, and equality before law applies to taxation statutes also. I would like to invite your attention to Mr. Basu's commentary on the Constitution of India, on page 72:

"In the United States, it has been held that the guarantee of equal protection extends to taxation laws..."

**Mr. Deputy-Speaker:** Apart from the question of law, to which I shall come presently, if it is a State which is scheduled, then agricultural land also will come in for purposes of aggregation. If it is not scheduled, even then agricultural land is taken into account. So this argument that there is a discrimination will fall to the ground in both cases.

**Shri A. M. Thomas (Ernakulam):** It means that it is not a question of discrimination, but a question of indirectly taxing an item, which is exempted in the Constitution.

**Shri Raghuramaiah:** I will come to that other point later. The discrimination arises this way. If a person in a scheduled State has got Rs. 75,000 worth of non-agricultural property, and nothing more than that, he pays for the entire taxable estate, only Rs. 1,250, whereas in a non-scheduled State, for the same taxable property—he may have other non-taxable property, but that is irrelevant; for purposes of taxation, we are only concerned with the taxable property in the State—instead of imposing on him the same amount of tax, viz. Rs. 1,250, by taking something extraneous into consideration, a greater amount is charged. So, the same type of property is not dealt with in the same manner. There is one pertinent observation in Basu's Commentary to which I would like to draw your attention:

"This does not mean that every person should be taxed equally,

but property of the same character should be taxed by the same standard."

Here is property of the same character, that is, non-agricultural property, for which a man pays Rs. 1,250 in one State, while in another State, for the same type of property, he pays Rs. 1,850. That, I would submit, is discrimination.

If it is not discrimination, then it must be treated as an indirect taxation, because, if a man has got in a non-scheduled State a certain amount of agricultural property, you are compelling him to pay more by reason of that property. To the extent of such excess it is an indirect tax on agricultural property.

**Mr. Deputy-Speaker:** I am not able to follow. My difficulty is this. In a State which has agreed to allow the estate duty to be levied in its territory on agricultural property, this agricultural property comes in for the purpose of aggregation and tax. In the case of a State which has not agreed to allow a tax to be levied on agricultural land, even there, agricultural land is taken into account for the purposes of aggregation. Why does the hon. Member say there is discrimination? In both cases, both kinds of property are taken into account, for the purpose of the rate.

**Shri Raghuramaiah:** In one case, you are taking only taxable property. In the case of a State, which has come under the Schedule, agricultural land is taxable...

**Mr. Deputy-Speaker:** Whether taxable or non-taxable, in either case, it is taken into account, for the purpose of fixing the rate.

**Shri Raghuramaiah:** If I may be allowed to explain my point, my contention is that even for fixing the rate we cannot take into account in the case of one State, only taxable property, and in the case of another State, property which is not taxable. For

instance, Sir, in the case of income-tax can we lay down that in the case of a person not paying agricultural income-tax in a State in which that tax is imposed, there ought to be a higher rate in the income-tax of that person? That would be discrimination. What the type of property is in respect of which this Parliament can legislate is specified in the Constitution.

**Mr. Deputy-Speaker:** The hon. Member will state his points.

**Shri Raghuramaiah:** This is my first point, that it is discrimination.

**Shri C. D. Deshmukh:** How does he make out, Sir, that in the case of a State which is not in the Schedule the tax will be higher?

**Mr. Deputy-Speaker:** I am not able to follow.

**Shri Raghuramaiah:** I have given an example. Suppose in a Scheduled State a man has got only Rs. 75,000 worth of non-agricultural property. You charge him at the rate of five per cent. in excess of the exemption limit. That is, he pays about Rs. 1,250. In a non-Scheduled State a man has got the same amount of non-agricultural property; but suppose he has in addition some agricultural property also. Then you take his agricultural property which is not liable to taxation, add it for the purpose of aggregate value and charge him at a rate applicable to that aggregate. Then it may work out at the rate of 7½ per cent.

**Mr. Deputy-Speaker:** Total is different.

**Shri C. D. Deshmukh:** He is not comparing equal things. He says in one case there is no agricultural property and in another there is agricultural property. Then he proceeds to say that in the other case, the rate will be higher.

**Shri Raghuramaiah:** You have got to ignore agricultural property. The point is: what is the taxable property? The standard must be the same in respect

of the same class of property. That is one point. The other point is, that if it is not held to be discrimination, there is no escaping the fact that it is at least an indirect tax on agricultural property in a non-Scheduled State which the Constitution prohibits. It is an established maxim of law that what cannot be done directly cannot be done indirectly. These are the two points I wish to urge, Sir.

**Shri S. S. More:** May I make a submission, Sir?

**Mr. Deputy-Speaker:** On this point?

**Shri S. S. More:** Yes. My submission is that under article 246 of the Constitution, in the Seventh Schedule certain Lists have been given. According to this article, List No. I falls entirely within the exclusive domain of the Union Government.

**Mr. Deputy-Speaker:** Is he answering the point?

**Shri S. S. More:** I am emphasising it from a different point of view. My submission is that the present amendment moved by the Finance Minister will be out of order—against the Constitution.

**Mr. Deputy-Speaker:** The present amendment or the clause itself?

**Shri A. M. Thomas:** The clause itself.

**Shri S. S. More:** I will say, not the clause, but this particular part.

**Mr. Deputy-Speaker:** We are going into another point. Let me come to it later.

**Shri T. S. A. Chettiar (Tiruppur):** On this very point, if I may make it clear, I will cite an actual case.

**Mr. Deputy-Speaker:** Let me dispose of one hon. Member first.

**Shri S. S. More:** I am referring to amendment No. 720.

**Mr. Deputy-Speaker:** I am coming to it later. The objection is to the very clause itself.

**Shri S. S. More:** The whole of it?

**Mr. Deputy-Speaker:** Aggregation. Aggregation in relation to agricultural property.

**Shri T. S. A. Chettiar:** The reference is only to part (iii) in the amendment moved, that is, for purposes of aggregation including agricultural land situate in any State not specified in the First Schedule. Sir, let me take a concrete example of a particular person. Suppose somebody has...

**Mr. Deputy-Speaker:** Is it not in the clause itself?

**Shri T. S. A. Chettiar:** It is a new provision.

**Shri Raghuramaiah:** The original clause also says that.

**Mr. Deputy-Speaker:** "Including property exempted from duty...and agricultural land situate in any State...". That is there in the clause itself. It has been put as a sub-clause in the amendment.

**Shri T. S. A. Chettiar:** Sir, the point is this. Suppose one has rupees five lakhs worth of property which is taxable even without the resolution. Madras, for example, has not passed the resolution. 'A' has got rupees five lakhs worth of property which is taxable without the resolution. He has Rs. 20 lakhs worth of agricultural property. Under the normal procedure, without taking into consideration agricultural property, he will have to pay a tax of nearly Rs. 50,000. Now without that resolution, no estate duty can be levied on the agricultural property. But what is sought to be made out is that that property is included for purposes of aggregation and it is taken as being worth Rs. 25 lakhs and on the rupees five lakhs worth of non-agricultural property tax is levied and that tax will come to about rupees five lakhs. So the result is that even though that State has not passed the resolution for the inclusion of agricultural property for the purpose of the Estate Duty Bill, the tax that should be levied normally without the agricultural property is

not Rs. 50,000 but instead rupees five lakhs is being levied, and the question is whether this is not an indirect tax on the agricultural property itself. As a defence, Sir, this argument is adduced: that under the Income-tax Act, it is the world income which is taken into consideration for the purpose of levy of tax. But, Sir, that is on a different footing altogether, for this reason, that under the Constitution agricultural property is definitely set apart as something belonging to the State List which the Government of India or this Parliament cannot tax except with the consent of the States. As far as world income is concerned, there is no such ban under the Constitution. So, Sir, definitely under the Constitution itself, there is a ban on the taxation of agricultural property unless a resolution is passed under article 252. This applies to States from where such a Resolution is not forthcoming. Personally, I should think, Sir, that a tax like that is good from the point of view of the State. Perhaps this will induce the States to come forward with a Resolution adopting this Act, but taking a legal point of view I think it will be *ultra vires* the Constitution. Lawyers like Shri Alladi Krishnaswami Iyer have been consulted on this matter and they have advised that this will be *ultra vires* the Constitution. I think, Sir, if it goes to court, it may not stand on this very basis that this is an indirect tax on agricultural property which is completely within the province of States. This will be *ultra vires* in the case of States which have not passed that resolution.

**Shri Dabhi (Kaira North):** May I say one word Sir?

**Mr. Deputy-Speaker:** I will come to it.

**Shri S. S. More:** My submission is with reference to part (iii) of the amendment No. 720 moved by Mr. Deshmukh, that is, for the purpose of aggregation, agricultural land situate in any State not specified in the First Schedule.

Sir, I want to submit that the Constitution was very particular to chalk out the different domains, either of the Union Government or State Governments, as far as taxation was concerned. According to List I read with article 246, it will be evident that the Central Government can impose estate duty on non-agricultural land. This article 246 plus List No. II, item 48, empowers the State Governments exclusively, subject to certain conditions, to levy estate duty on agricultural land. Now, the only exception that is provided for as a matter of convenience is article 252 which says that if a certain State passes a Resolution making a request to the Central Government or Parliament to pass legislation imposing estate duty even on agricultural land, then this Parliament gets a right to proceed in that manner. If such a Resolution is passed, any State which did not initially join in making a request can adopt this particular Act and then levy estate duty on agricultural land.

Now, I submit, Sir, that agricultural property in non-scheduled States should be deemed to be non-existent. If in the aggregation, agricultural land is included.....

**Mr. Deputy-Speaker:** Hon. Member is aware that reference to points of order must be brief and the points only have to be stated. The point has been stated.

**Shri S. S. More:** Sir, it is a complicated point having reference to so many provisions and therefore it is impossible to state the point in categorical terms.

**Mr. Deputy-Speaker:** What are his points?

**Shri S. S. More:** This particular part of the amendment runs counter to articles 246 and 252 read with.....

**Mr. Deputy-Speaker:** It is in the original clause itself. The hon Member takes exception to the inclusion of that portion in the original clause.

**Shri S. S. More:** Under clause 33, the first part of which is sought to be amended, agricultural land in non-

Scheduled States are included for the purposes of aggregation which means that indirectly they are subject to levy because if they are included or if their valuation is included or taken into account, then the assessable value will go up and there will be practically no exemption as far as agricultural land is concerned. Of course, I know the Explanation says:

"For the purposes of this subsection property which is exempt from estate duty means any property which is exempt from estate duty under section 32 and also any agricultural land situate in any State not specified in the Schedule."

I find it extremely difficult to reconcile this. It is not a question of exemption. Regarding certain items of property, the Central Government have a right to impose estate duty but in their own generosity they may say, 'we exempt this item as we have given exemptions under clause 32'. But agricultural land in non-scheduled States is not the kind of property that can be said to be exempted by the Central Government. I think I have made myself clear. Only that property may be exempted by Government which alone is subject to levy by them. Therefore, Sir, in the light of clause 5 also, the inclusion of agricultural land situate in the State not specified in the Schedule, will run counter. This particular amendment which I am now challenging will run counter to what we have decided in clause 5.

**Mr. Deputy-Speaker:** What has the hon. Minister to say?

**Shri Raghavachari (Penukonda):** May I say something, Sir? The Select Committee proceeded on the basis that it is perfectly permissible under the Constitution to include the value of agricultural property in non-scheduled States in fixing the rates determinable on the entire estate. In fact, the objection now raised will result in not equality but inequality. Not only under the law agricultural

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land cannot be taxed at all, but if it is excluded in determining the rate of tax assessable on the other portion, it will not only reduce the rate payable but will mean a further discrimination in favour of those living in States where agricultural property is not taxable; while in other States not only will the rates on that portion of the property be higher, but they will pay also on the agricultural property. So, this will not make for equalising but will further accentuate the unequal distribution of the duty. This is one consequence that will follow directly.

**Shri C. D. Deshmukh:** Follow from what?

**Shri Raghavachari:** From the exclusion of the agricultural property in States not specified in the schedule.

**Shri C. D. Deshmukh:** So, the hon. Member is for inclusion?

**Shri Raghavachari:** Yes, I am. I am only submitting to the House that this point was considered by the Select Committee and inclusion was advised to be legal and permissible and that the inclusion would only make for an equal treatment or equal taxation in all parts of the country and the present objection is calculated to go the other way.

Then, Sir, I may mention that during the course of the examination of the witnesses before the Select Committee, the idea was to find out whether this difficulty could not be obviated by fixing separate lesser duties on agricultural property. So, I think the inclusion would be necessary.

**Shri Shobha Ram (Alwar) rose—**

**Mr. Deputy-Speaker:** How many people should speak on this point? I have asked the hon. Minister to reply to the point of order.

**Shri Shobha Ram:** I only want to have some points cleared.

**Mr. Deputy-Speaker:** The hon. Finance Minister will reply. I do not

want to have an elaborate argument on the point of order. All right, let the hon. Member speak.

**Shri Shobha Ram:** Under clause 33 it has been clearly mentioned that agricultural land situate in any State not specified in the schedule will be excluded for the purpose of taxation but not for the purposes of aggregation. Now, I give one concrete illustration. Supposing in the non-Scheduled State there is non-agricultural property worth one and a half lakh of rupees and agricultural property which is not liable to taxation worth another one and a half lakhs, then the aggregate becomes three lakhs. On three lakhs will the rate be 12½ per cent., 10 per cent. or 7½ per cent. or 5 per cent.? The taxable property will be only Rs. 150,000. I would like to know exactly what would be the rate of tax on this property, whether it would be 12½ per cent., 10 per cent. or what rate. This point should be made clear.

**Shri N. Somana (Coorg):** Sir, may I point out one thing?

**Mr. Deputy-Speaker:** How many hon. Members will take part in this?

**Shri N. Somana:** Sir, I will point out that in article 366 it is laid down like this.

Clause (9) of article 366 says:

“‘estate duty’ means a duty to be assessed on or by reference to the principal value, ascertained in accordance with such rules as may be prescribed by or under laws made by Parliament or the Legislature of a State relating to the duty, of all property passing upon death or deemed, under the provisions of the said laws, so to pass;”

So, so far as the calculation of rates is concerned, this Parliament has power to legislate on the agricultural land. No tax can be levied by the Parliament but so far as the rates

are concerned, under this provision I think it is quite within our powers to legislate as regards the rates taking into account all the property owned by the person.

**An Hon. Member:** It is a point on which the Law Minister ought to speak here.

**Shri C. D. Deshmukh:** There are two points that have been raised—one is the equality of taxation and the other is the constitutional position. The first point is an easier one. In regard to that there are rules elsewhere in the United States. There also there is a guarantee of equal protection extending to taxing laws.

Now it has been held that it does not mean that every person should be taxed equally but that "persons under the same circumstances or property of the same character should be taxed by the same standard." It goes on to say that "in fact inequality in the result is no test for determining whether equal protection has been denied for even taxation of similar properties but the same basis may result in inequality in specific instances". This is page 72 of Basu's *Commentary on the Constitution of India*.

**Mr. Deputy-Speaker:** It arose in connection with similar taxes.

**Shri C. D. Deshmukh:** It does not arise out of the estate duty case.

**Mr. Deputy-Speaker:** It refers to a similar property which is not probably taxable by the Federal Government but taxable only by the State Government.

**Shri C. D. Deshmukh:** I am not dealing with the constitutional point; I am dealing with the result. This is in reply to the point made by the hon. Member that irrespective of the constitutional considerations, the fact that you find that in certain cases the result is one and in certain other the result is another does show that the tax is unequal or the protection of

equality has been withdrawn from that citizen. It is an attempt to reply to that point only.

In regard to the other point the hon. Member said that Shri Alladi Krishnaswamy also had referred to this matter.

**Shri Raghuramaiah:** May I seek a clarification in respect of the first point? The passage which the Finance Minister read from Basu says, "property of the same character should be taxed by the same standard". In one case, that is, in a Scheduled State for purposes of determining the rate of levy you are taking only "taxable property" into account whereas in non-Scheduled State in determining the rate of levy you are taking non-taxable property also into account. So the standards vary and that, I submit, would offend the very passage the Finance Minister was good enough to read *viz.* "property of the same character should be taxed by the same standard".

**Shri C. D. Deshmukh:** It all depends on what definition you give to the word "standard". We are not referring to the actual rates. We are referring to the standard, that is to say, when the value of the property is so much then a certain rate shall apply, no matter where the property is.

Then as I was going to say that the hon. Member referred to a doubt in the mind of one of the hon. Members of the other House, Shri Alladi Krishnaswamy Aiyar. Now he had also addressed communications to us on the same point and we consulted the Law Ministry. I am giving you the gist of what they have advised in this respect:

"A question has been raised as to whether the aggregation of agricultural land in a non-Scheduled State would be constitutional. A further contention may also be raised that as the Parliament is acting as an agent of the Scheduled States, the agricultural lands

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in those States should be treated as separate estates. The doubt arises from the fact that the States which have not agreed may pass their own legislation to assess an estate duty on such lands and further because in the Income-tax Act the agricultural income arising in a state which is exempted from income-tax is not included for that purpose. The power given to the Parliament to legislate on the subject of estate duty in respect of property other than agricultural land should necessarily be construed in its widest amplitude and it would be open to Parliament to adopt any method by which property within its jurisdiction are assessed to estate duty."

There can, therefore, be no unconstitutionality in the provision which states that for the purpose of levying estate duty on property within the jurisdiction of Parliament all property passing on death of a person shall be aggregated and the actual rate of estate duty in respect of property situate within its jurisdiction determined with reference to the value of such aggregated property. In doing so the Parliament is not imposing a liability on property outside its jurisdiction, but is only prescribing a machinery for the purpose of calculating the duty. No objection can be taken to the manner in which the duty is to be calculated. On the same reasoning it is not incumbent on the Parliament to treat agricultural properties in the Scheduled States as separate estates. It will be equally competent for a State which has not surrendered its power to the Centre in this behalf, to provide for aggregation of agricultural lands situated in any State in India for the purpose of determining their rate of duty. For purposes of income tax, agricultural income arising in a State is not included for rates purposes because no serious attempt has yet been made

to change the law in this respect, which has been in force since 1886. In other words, we have really refrained from applying our mind to that particular problem in regard to income-tax".

The note continues:

"It may be added that some States agricultural Income-tax Acts provide for inclusion of non-agricultural income to determine the rate to which refund should be allowed to the shareholders of the company which pays agricultural income tax (for instance the Assam Agricultural Income tax rules)".

Therefore, there is a clear distinction between the power to tax and the power of inclusion of the corpus on which the tax is calculated. And indeed if one or the other arguments must be valid, if it is a charge of inequality then it assumes that it is constitutional.

There is one last point. There were amendments to the effect that immovable property in other countries should be included, and the House decided not to accept it not on the point of constitutional incompetence but on the point that it was well-established international convention. There it seems to me, that by implication the House has accepted the position that had it not wanted to protect the convention and to face all the consequences, it had the constitutional power to include even that property for purposes of aggregation.

**Shri S. S. More:** In the Law Ministry's opinion does the word "jurisdiction" mean territorial jurisdiction or taxing jurisdiction?

**Shri C. D. Deshmukh:** It means taxing jurisdiction.

**Mr. Deputy-Speaker:** Regarding the point of order that for the purposes of aggregation, agricultural land in a State which by a resolution of the Assembly of that State has agreed for

the inclusion of agricultural property for the estate duty, could be included, I wish to say this. It is true that State estate duty, so far as agricultural land in concerned, is in the States list. Under article 269 of the Constitution, Parliament has got a right to impose a duty on all States only in respect of property other than agricultural land. This is article 269(1)(b): "estate duty in respect of property other than agricultural land". My attention was drawn to the definition in article 366(9) of the Constitution. It says: "estate duty means a duty to be assessed on or by reference to the principal value...of all property passing upon death or deemed, under the provisions of the said laws, so to pass". The definition section refers to the definition of estate duty, and estate duty is referred to both in the Union list and also in the State list. It has no particular reference to the rate. The definition is of no assistance to us in deciding this matter.

I feel a difficulty in accepting that this House has got the right to include the agricultural land for purposes of aggregation. The conflict may arise where the State may like to impose a heavier duty on agricultural property than the Centre imposes, if by a resolution that property could be included in the schedule here. They would like to get as much by way of estate duty and if individually they pass a law in a State, that State can impose any duty. It is therefore reserved for them exclusively: whereas if they should include it here, I do not know, and I do not believe that it is open to us to impose different duties for different States under article 269. Under article 269, "the following duties and taxes shall be levied and collected by the Government of India but shall be assigned to the States in the manner provided in clause (2)." It is Parliament that has got a right to impose an estate duty on all property other than agricultural land. When it is competent to do so, it is not open to Parliament

to discriminate regarding the rate between one estate and another estate or property in one State as different from property in another State. Therefore, there seems to be only a uniform rate of duty. Whatever individual property we have, it is different. While it is so, this power can be indirectly taken away by adding agricultural property to this for the purpose of aggregation. In such a case, it will not be open to any State, which has gone in deliberately for the purpose of augmenting its revenues and which is not satisfied with the rate of duty that is imposed by the Centre, to levy more duty. A conflict may easily arise when that State will try to impose as much duty as possible for purposes of aggregation from the other property when this higher rate is taken away. This provision can be easily made nugatory. It will make it impossible for the State to impose a separate duty on agricultural land. If this power is given away to the Centre to aggregate both, and whatever has to be realised from this agricultural land, indirectly, to a large extent, it can be taken away from the other property. I believe there is a conflict. I am personally of the view that this ought not to go for the purposes of aggregation. But in all these matters, as you know, I do not take the responsibility of deciding the issue by myself. Fortunately, the hon. Minister has given an amendment, separating this particular clause—agricultural land—so as to draw the particular attention of the House to that aspect. I will put that subclause separately from the other portions of the amendment, and take the view of the House. It is the House that has to decide in this matter.

11 A.M.

**An Hon. Member:** Will it not be possible to hear the Attorney-General here?

**Mr. Deputy-Speaker:** If hon. Members would like to have this point made clear either by the Law Minister or the Attorney-General.....

**Shri A. M. Thomas:** It is necessary. Being a very serious matter, it is necessary.

**Mr. Deputy-Speaker:** The Attorney-General is not here. He will be coming only on the 10th.

**The Minister of Law and Minority Affairs (Shri Biswas):** About the 11th.

**Mr. Deputy-Speaker:** The hon. Law Minister is here. Let us hear him. So far as my ruling is concerned, I have given it. The House has to decide the issue. I will never take the responsibility of deciding such constitutional issues by myself. It is ultimately to be decided by the House, so that the House may have an opportunity of knowing what exactly the situation is. I would like to hear the hon. Law Minister and the Attorney-General also. But the Attorney-General is not here now.

**Shri Biswas:** I will give my views only. I do not propose to question the ruling of the Deputy-Speaker. I cannot think of questioning his ruling.

**Mr. Deputy-Speaker:** There is no question of questioning my ruling. I shall be glad to be informed whether what I have stated is right or wrong. I have stated what I wanted to say.

**Shri Biswas:** In order to come to a decision on this clause, the point we have got to determine is, what is the property on which estate duty is to be levied. Now, the question of determining the rate at which the duty should be levied and the question as to what is the property or the estate on which it should be levied are separate from each other. These are two different questions and ought to be kept separate. Now, Sir, for the purpose of determining the rate, you are not bound to include only the property which has to be the subject matter of the levy. You can aggregate other properties with it, and then ascertain and fix the rate. That has been done not merely here, but even some of the States in the Union have

followed that course. Take, for instance, the Assam Legislative Council. They have got estate duty there, and there, the aggregation has been made in the way which is indicated in this particular clause. Sir, if you refer to the definition in clause 5 where provision is made for levy of estate duty, you will find:

"In the case of every person dying after the commencement of this Act, there shall, save as hereinafter expressly provided, be levied and paid upon the principal value ascertained as hereinafter provided of all property, settled or not settled, including agricultural land situate in the States specified in the Schedule to this Act, which passes on the death of such person, a duty called "estate duty" at the rates fixed in accordance with section 34."

**Mr. Deputy-Speaker:** They have agreed to do so. That is a different matter.

**Shri Biswas:** The words that I am laying stress upon are these: "the principal value ascertained as hereinafter provided of all property". Now, the estate duty is to be levied upon the principal value of all property which is referred to here. The duty is levied on the property. The question of the rate at which the duty should be imposed is a different one. These two are separate. Now, is there anything in this Act, in the Constitution or anywhere else which says that for the purpose of determining the rate, you cannot take any other property into account? Reference has been made to the Income-tax Act. As the Finance Minister pointed out, there was no such aggregation there, because this had been going on since the year 1866, and therefore it was thought that no departure should be made; but that did not establish any legal principle that this cannot be done at all. Certainly there is nothing in the Constitution which forbids such aggregation.

**Shri R. K. Chaudhury (Gauhati):** There is a distinction between what cannot be done and what should not be done.

**Shri Biswas:** That is a matter of policy: whether it should be done or should not be done is a different thing altogether. But the point of order raised on the constitutional issue must be discussed apart from the question of policy.

**Mr. Deputy-Speaker:** May I ask the hon. the Law Minister: when the entire estate duty that is levied under article 269 of the Constitution has to be distributed to the States, why did the Constitution make a difference and give the power of imposing the estate duty to the States so far as agricultural land is concerned? Not a pie of this will be taken by the Centre or will go to the Consolidated Fund of the Centre. Therefore, whatever is collected, whether on agricultural land or non-agricultural land, will certainly go to the States. Why then did the Constitution clothe the State with the power over agricultural land and give the power over the rest of the property to the Centre, unless it means that indirectly what has been taken away from the Centre by way of jurisdiction ought not to be interfered with by other methods like aggregation.

**Shri Biswas:** Article 269 says:

"The following duties and taxes shall be levied and collected by the Government of India and shall be assigned to the States in the manner provided in clause (2), namely:

- (a) duties in respect of succession to property other than agricultural land;
- (b) estate duty in respect of property other than agricultural land;"

**Mr. Deputy-Speaker:** That is the very clarification I am seeking; why should it exclude agricultural land?

**Shri Biswas:** I do not think, Sir, that as a matter of fact that right is being infringed at all. There is no imposition of any estate duty on agricultural land.

**Mr. Deputy-Speaker:** The hon. the Law Minister has not understood me, or I am sorry I have not made myself understood.

The point is agricultural land cannot escape estate duty both from the Centre and from the States. The State can impose estate duty on agricultural land. The Centre can impose estate duty on non-agricultural property. In between both the Centre and the States every item of property, agricultural land and non-agricultural property, can be taxed. The Centre cannot tax unless the State consents to include it also in the schedule so far as agricultural land is concerned. That is admitted. When the State does not consent, the question is whether agricultural land can be taken into account for aggregation.

It is argued that these two things, aggregation by way of tax and imposition of tax on property ought to be kept distinct. All right. Then, if so, why should agricultural land be excluded from the purview of Article 269: what is the object gained? After all every pie that is collected by way of estate duty, whether from agricultural land or non-agricultural property, goes only to the State and the Centre does not take anything. Why should this distinction be made, unless it is intended to exclude the jurisdiction of the Centre for any purpose, whether the levy of the duty in the first instance, or aggregation, directly or indirectly,—why should there be any distinction and separation?

**Shri C. D. Deshmukh:** May I answer that question, Sir?

It has been kept separate because the States have been given discretion either to come under a system of uniform legislation at the time or

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afterwards, or to have their own scheme of taxation, so far as agricultural land is concerned. Indeed one or two States have said that they would await the results of this legislation. If they like it, then all that they have to do is to adopt the law that we shall pass here. But there may be other States—there are only two or three—which have an intention of having their own assessment.

**Mr. Deputy-Speaker:** A higher duty?

**Shri C. D. Deshmukh:** It may be a higher duty, or it may be a lower duty. But if in that process aggregation takes place both at their end and at our end there may be hardships on the property concerned. In other words, a situation may well arise where State A—not A Class State—may have its own scheme of taxation which is heavier than ours and which may not give this rebate to certain agricultural property. Now for purposes of aggregation we include the entire property and have a high rate. But the actual duty, of course, is raised on the non-agricultural property. The State on its side might conceivably aggregate the non-agricultural property in the State for the purpose of deducing its own rates and either because of that, or because the rates are initially higher, that particular property may have to pay a high rate of agricultural estate duty in that State. Now, those will be cases of hardship, but they will not be cases necessarily of infractions of the Constitution.

**Shri Biswas:** I have very little to add to the clarification you have just heard from the hon. Finance Minister. As a matter of fact there is no question of the Union imposing a duty on land which it is not authorised to charge, just as, as has been pointed out, when a State does not come into the Schedule, and wants to levy the duty, that duty will be levied only on agricultural land within that State, but in fixing the rate at which the

duty shall be levied there, the State might just as well include non-agricultural land which is within the jurisdiction of the Union Legislature.

**Mr. Deputy-Speaker:** Would it not amount to a higher duty with respect to non-agricultural property in the two cases?

**Shri Biswas:** In any particular State, Sir, where the State is imposing the levy there might be difference, higher or lower, as the State might consider. The State will probably not fix a lower duty, because the proceeds will go to the State, and the State will be anxious to have as much revenue as possible. The chances are the State will levy a duty at a higher rate than Parliament here may choose to do.

Leaving that aside, whether it is higher or lower, the State can impose an estate duty only on agricultural land lying within the State. The question of rate is different. The Union will levy a duty only on non-agricultural land, but the rate may be fixed as a result of such aggregation as is contemplated here, of land within its own legitimate jurisdiction, and land within State jurisdiction in respect of States which have decided to authorise legislation by the Centre by passing resolutions under article 262.

The question of discrimination was raised. As a matter of fact there is no discrimination. So far as the Union legislation is concerned, the rates of duty will be uniform for all kinds of property, non-agricultural land within the Union and agricultural land within such States as have decided to have the legislation to the Centre. If you look at clause 5 it would be found that other States when they pass such resolution will be deemed to be included in the Schedule. Therefore, the category which is specified here is one and the same. There is no discrimination.

Several Hon. Members rose —

**Mr. Deputy-Speaker:** I am not going to allow any other hon. Member to speak on this point. Of course in the course of the discussion on the clause and the amendments, hon. Members may refer to this point as well. The clause and the amendments are now open to discussion. Others who have not tabled amendments may also speak. First of all, the Finance Minister will refer to his amendment and I will then call upon other Members in a particular order to speak. I have already said I will leave it to the House to decide. There is a precedent for what I have said:

“Now let us look at the position from a practical point of view. So far as Government measures, which form the bulk and the most important part of the legislative business which the Assembly has to deal with, are concerned, the Assembly would naturally rely upon the Government not to put forward a Bill or an amendment unless their Law Officers were satisfied that the Assembly was competent to make such a law. In the case of a non-official Bill or amendment, though there may be no such guarantee, there will always be the Law Officers of the Government and other lawyers to advise the House whether a certain legislative proposal is or is not within the competence of the Legislative Assembly (now this House). The President (now the Speaker) if he thinks fit, may also under Standing Order 32 address the Assembly on the subject in order to help the House in its deliberations but whatever views he may so choose to express will not be binding on the House not being a decision on a point of order under Rule 15.”

I have stated my own views. I leave it to the House to decide. The House has heard the views of the Law Minis-

ter, the Finance Minister and the Members who have raised the point of order and my own views and the House is entitled to come to its own conclusion in regard to this matter. I will separate that portion in amendment No. 720, put the balance to vote and then this portion separately to vote.

**Shri C. D. Deshmukh:** In support of amendment No. 720, it occurred to us...

**Mr. Deputy-Speaker:** One word more. If this clause—clause 33—is discussed before lunch today, the only other clause that will remain is 34. Regarding clause 31, there can be no more concessions than what the Finance Minister has already indicated.

**Shri Sarmah (Golaghat—Jorhat):** There should be further discussion under certain contingencies.

**Mr. Deputy-Speaker:** Now if clause 33 is not disposed of by lunch time, we will have to sit this afternoon and we can finish clause 34 tomorrow. What is the reaction of the Finance Minister?

**Shri C. D. Deshmukh:** I am only concerned, Sir, with our following the time schedule that has been set by the Business Advisory Committee. As to how you do it I leave it to you and to the House. Of the three days allotted, we have only spent yesterday and today.

**Mr. Deputy-Speaker:** Therefore there is one more day available. If we don't finish it in the morning tomorrow, we shall have to sit in the afternoon tomorrow. As hon. Members seem to be a little jaded on account of sitting somewhat late yesterday, we shall finish off clause 33 now and have an off-day this afternoon. We will finish off the rest tomorrow.

**Shri C. D. Deshmukh:** I am agreeable on the assumption that we finish clause 33 today.

If you look at the original amendment No. 540, then in the light of the Schedule as we have now appended, the duty will be calculated on lower incomes than we had anticipated, because if that amendment were allowed to stand, then the exemption limits of Rs. 50,000 and Rs. 75,000 which are to be excluded from the aggregation, according to the language of the present clause, for determining the principal value of the estate by virtue of sub-clause (1) will have to be excluded. But in accordance with the schedule of rates attached to clause 34, we have put estate duty against these very exemption limits. No duty shall be leviable on such persons who form part of the first slab. In other words, we overlooked the fact that we are dealing with the slab system and we thought that the logical way of dealing with the problem was to include it, not to exclude, but to put against that particular slab either in the first part or in the second part the rate 'nil' and it is this intention that is secured by this amendment, the pattern of the schedule now remaining the same.

[SHRI PATASKAR in the Chair]

**Shri V. B. Gandhi:** I am glad to see that the Finance Minister has moved this new amendment 720 to the original clause 33. I am glad, because I believe I was one of those who had had a feeling of doubt on this point as to whether the aggregation as contemplated in clause 33 should be arrived at after excluding the minimum limit allowed under clause 34. As you will see, Sir, the whole difference between the two amendments moved by the Finance Minister, his previous amendment 540 and the new amendment 720, is this. The difference is just precisely this that in the new amendment this allowance, the minimum exemption allowance under clause 34, is to be

included, whereas in the previous amendment it was to be excluded. Really to some of us it appears that if the original clause 33 were to be allowed to stand un-amended, or even if we were to accept the Finance Minister's previous amendment, No. 540, the effect would have been that the allowance of Rs. 50,000 or Rs. 75,000, according to the nature of the property passing on death, would have been made twice over—once under the slab scheme and once under clause 34. As soon as the Bill as reported by the Select Committee was presented to us I had tabled an amendment very early and it reads:

In page 20, lines 21 to 23, for "excluding property on which no estate duty is leviable under section 34, but including property exempted from duty under section 32 and" substitute:

"including property exempted from estate duty under section 32 and section 34 and also including" agricultural land etc.

Now, Sir, this was my original amendment of which notice had been given a long time ago, several weeks ago. But subsequently the Finance Minister tabled his amendment No. 540 making certain changes also in respect of the exemptions under clause 32, and therefore I had to give notice of another amendment, No. 694 which also I have moved today.

The net effect of all these amendments is that the allowance, the minimum exemption allowance under clause 34 should not be excluded but should be included in the aggregation. (An Hon. Member: It is included). I say this is so now under the new amendment of the Finance Minister. It was not included in the original clause, nor was it included in the Finance Minister's first amendment, No. 540. That is all what I have to say. Now it is included and I support it.

**Pandit S. C. Mishra** (Monghyr North-East): It is for the Finance Minister to satisfy the House that such lapses are not a regular feature of his Department. As far as we can see, it is not an exception. It often happens that we start in some direction and then suddenly midway or midstream we begin to steer in another direction. That is what happened to his original motion—I mean the first part of the Bill that was introduced and the slab that was later introduced. The two things have not gone together. If only in the slab or in the Schedule the first line had been left out—that is Rs. 50,000 not to be included, rate nil for the first Rs. 50,000—if that much had been taken out, I do not think the Finance Minister would have had the necessity either to put in his amendment No. 540 or his amendment No. 720. So much for him and for his own Department.

As far as we can see, at one place we have given an exemption for Rs. 2,500 for charitable purposes, in clause 32 (1) (a). Now in the Schedule the Finance Minister says that at least this must be aggregated for the purposes of determining the rates. I think the Finance Minister is not unaware of the tendency that we generally have. It is often difficult for those people who carry on charitable institutions to get some donations from people. And by the manner that you are putting this, there shall be always a tug between the donor and his heirs. It may be that you yourselves, even our Government, and many other Governments—we can say almost all Governments—depend to some extent on charitable institutions etc. for carrying out the business of the nation. Therefore, even for good purposes, for purposes that are approved by the State or by the people that rule, if a charity or donation is required, even if the person is inclined to give it his heirs will always be against it. Because they will say: it will not only take away that portion, but it

may put us on a higher slab of taxation.

Therefore I appeal to the Finance Minister that Rs. 2,500 won't make much difference. But by this process you are putting all these charitable institutions in a difficulty, at least so far as the successors are concerned. They will always insist on their parents not giving anything to charities so that they may not be thrown into a higher slab of taxation.

At least for that reason I would request the Finance Minister to take out (a). He has been good enough to take out (c) in respect of which an appeal was made so vehemently from so many friends on our side. That is one good thing he has conceded. As I said, this Rs. 2,500 will not make much difference in the revenues that his Department will get. On the other hand it will be a pretext for the heirs to prevail upon their parents not to give to charities. Therefore I appeal to the Finance Minister that he should include (a) also along with (c) and the other sub-clauses that he has put in for the purpose of exclusion from the aggregation.

**Shri Kanavade Patil:** I want to confine my speech only to landed property. I would like to submit that very careful attention has not been paid to the fact that under the present Bill it is very difficult to include agricultural property for the purpose of taxing. If we look to the provisions of article 252 of the Constitution we will see that this clause can be applied only to those States which have passed the resolution necessary for the purpose of taxing agricultural property in their respective States. Therefore in my humble opinion it is very difficult to apply the provisions of this Bill so far as agricultural property is concerned.

I would like to submit that in the actual working of this measure there will crop up many difficulties in the

[Shri Kanavade Patil]

way. We all know that the prices of lands are not quite uniform in the various States, and at the time of assessing the tax it will be very difficult even for the Valuers or the Controllers to have a right valuation of the landed property. In Bombay, for instance, the price of *Bagayat* land varies from Rs. 500 to Rs. 2,000 per acre. And in the same locality, if the population is less or if the lands are not fertile, the price of even *Bagayat* land is not more than Rs. 500 or Rs. 1,000 per acre. At the same time, I would like to submit that the prices of *gerayat* land also in some parts are from Rs. 100 to Rs. 500 per acre. So, it is very difficult, according to my own appreciation of the problem, to come to very definite conclusions regarding the valuation of the landed property. There are likely to be great hardships. Ordinarily, it will be very difficult for the Controller to come to exact conclusions as to the price of the land on which the tax is to be levied. I would like further to submit that the prices of lands also rise and fall suddenly. Suppose there is a person with a big landed property and the Controller or Valuer goes there to assess the valuation of the property. It is common knowledge that even though they have big landed property, they are very often without any money. It may be that if the tax is demanded within a specified time, it will not be possible for the agriculturists to pay the money at once for meeting the taxes. The agriculturists may be forced to sell their landed property. It is not always that we get customers to purchase landed property. Therefore I believe that in the case of the agriculturists, apart from the legal aspects of this Bill, there are likely to be hardships in the matter of taxing the landed property of the agriculturists. In view of these circumstances, I would like to submit that it would have been better if the agricultural property had been totally exempted at least for some

time till all the States in the Union have passed a uniform resolution allowing the imposition of this tax by the Centre on their lands.

**Shri K. K. Basu:** He is arguing that agricultural property should not be taxed. He is raising a fundamental question again. We are now dealing with aggregation.

**Shri Kanavade Patil:** Generally lands are supposed to be very precious property, and therefore are sold at higher prices, considered in proportion to the income that is derived from the land year by year. Therefore, there is also the likelihood of miscalculating the valuation of the land. I would like to quote a passage from a book by Dr. Gadgil and Vithal Babu: *Studies in Death Duties*. They say:

"The Central Land Owners Association in England argued before Colwyn Committee that death duty 'press with exceptional severity upon agricultural land, because it has a market value relatively far in excess of its income-producing value'. It is common knowledge that in England expenditure involved by a large agricultural estate in the payment of death duty is very heavy. Death duty break up landed estates, constitute more expenditure and lessen eventually employment of agricultural labour. Land owners have had singularly few opportunities as compared with other members of the community with equal wealth, of saving out of the income for the purpose of meeting death duty."

This is on page 207 of Dr. Gadgil and Vithal Babu's book. Therefore, I would like to submit that so far as the agriculturist is concerned, there ought to have been an exemption to the extent of at least 50 acres of land.

**Mr. Chairman:** This clause relates to aggregation only. The hon. Member should concentrate on that.

**Shri Kanavade Patil:** For the purpose of aggregation of property, at least 50 acres of land should have been kept out. It should not have been included for purposes of aggregation. One dwelling house and 50 acres of land should have been exempted, in spite of the exemptions granted in clauses 32 and 34. That is what I want to submit.

**Mr. Chairman:** His point seems to be that this should not be taken into account for purposes of aggregation.

**Shri Kanavade Patil:** At least 50 acres of land.

**Shri Gadgil:** You have missed the bus; you should have spoken on clause 32.

**Shri Kanavade Patil:** That is all I have to submit.

**Sardar Hukam Singh** (Kapurthala-Bhatinda): Besides the difficulties that are being experienced by the small agriculturists, that I pointed out yesterday, there is another difficulty under this clause that I feel I must bring to the notice of the Finance Minister. The previous speaker was pleading the case of the agriculturists. He was confronted with the plea that already in clause 5 that we have passed, we have accepted that agricultural land shall be subject to estate duty, as regards the States that are specified in the Schedule. So far as the other States are concerned, as for instance, Punjab and Madras, they are not specified in the schedule and unless they pass a resolution, they would not be included in the schedule and they will be free from this duty. So far as their case is concerned, I would point out respectfully that there can be cases of double taxation as well. So long as they do not agree to come into the Schedule, they have the choice to pass legislation levying estate duty on land in their States. What would be the fate of these States?

**Shri Raghavachari:** On that agricultural property, under this Bill there

is no taxation at all; not to speak of double taxation.

**Sardar Hukam Singh:** Let me finish. Suppose the Punjab State passes legislation for levying Estate duty on lands that are situated in the Punjab—I do not see any bar precluding them from passing such a legislation—what would be the fate of the peasant there? So far as agricultural property is concerned, if they proceed on the lines that are indicated here in this section, the Punjab State would charge the duty on agricultural land alone but for purposes of aggregation, they would include other property as well. The Centre would be competent to charge estate duty on other property and they would include agricultural property for the purpose of aggregation. This would be very hard in the circumstances. I was interrupted by my hon. friend when I was pointing out that there would be double taxation. There is no bar under the law as it stands now. When we have enacted that the States who have not so far come into this category are not included in the schedule, at least their case is very strong unless they thought it fit to suffer themselves to be included in the schedule.

**Shri V. B. Gandhi:** On a point of information, Sir, I thought that the Deputy-Speaker.....

**Mr. Chairman:** Is it in connection with the plea of the hon Member?

**Shri V. B. Gandhi:** Yes, Sir, I believe Sardar Hukam Singh is speaking on part (iii) of amendment No. 720. I thought the Deputy-Speaker had informed the House that he would take this part separately afterwards, and that he would first take the other parts. I am expecting that the House will have a chance to consider this part (iii) separately.

**Mr. Chairman:** The discussion is open on all the amendments as well as the clause.

**Shri Hukam Singh:** If that be the case, and it is not being taken up now.....

**Shri V. B. Gandhi:** In that case, when I had a chance to speak, I did not deliberately refer.....

**Mr. Chairman:** That was the choice of the hon. Member. It cannot be a point of order.

**Shri V. B. Gandhi:** That was the understanding we had from the Deputy-Speaker. Since he did not want to give a ruling and said he would leave the matter to the decision of the House (*Interruptions*).

**Mr. Chairman:** Let the hon. Member Sardar Hukam Singh proceed with his observations.

**Sardar Hukam Singh:** I was submitting that there is fear of a double taxation for the same property, at least in those States that have not joined in this Schedule. So long as they do not do that,—and for instance, I may take the case of Punjab or Madras—they are at perfect liberty to pass a legislation authorizing the Government to levy estate duty on lands situated in those States. When they do so, they can, following the suggestion in the present provision in this Bill, include non-agricultural property as well for purposes of aggregation. In such a case, I was submitting certainly there is danger that the property would be subject to double taxation, which is not permitted. My hon. friend the Finance Minister does not agree, and is nodding his head, but I will try to make myself clear. If I am wrong, I am subject to correction. I do not claim that I must be right. But I want some clarification on this point. Suppose, Punjab passes a legislation levying estate duty, and for the purposes of aggregation, just on the lines indicated here by the latest amendment, it includes non-agricultural property as well, I ask, would Punjab be competent to do that or not?

**Shri C. D. Deshmukh:** Yes.

**Sardar Hukam Singh:** If it is competent, when it charges estate duty on agricultural lands, it will, for the sake of aggregation, include non-agricultural property as well. The Centre, while charging estate duty on non-agricultural property, would include agricultural land as well. So the same property would be counted twice, once by the Central Government,.....

**Shri C. D. Deshmukh:** The rates will be higher in both cases.

**Sardar Hukam Singh:** I am not clear enough. The hon. Finance Minister wants an escape on this ground. The rates would be enhanced in this case also, by the Centre including agricultural property for purposes of aggregation, and the rates would be enhanced by the States also by including non-agricultural property. The result is that the peasant suffers on both accounts. He suffers double loss, and the already pitiable plight of the peasant, that I had occasion to describe yesterday, in Punjab—I am referring to that of the small land-owners—would be very much worse than that of a similar peasant in any other State.

Therefore I submit that at least in the case of those States that have not joined in this Schedule—I would plead for all States, but if the House does not accept it, at least for those States, that have not been included in the Schedule—agricultural lands or property should not be included, when the aggregate is arrived at.

**Shri Mulchand Dube** (Farrukhabad Distt.—North): I find that aggregation is defined in Dymond's *Death Duties*, on page 219 as follows:

“Aggregation only affects property which is actually or notionally chargeable with estate duty on the death, so that where property passing is exempt from estate duty, it is not liable to aggregation.”—Finance Act, 1894 Section 4.

Now, there are two kinds of property. Certain items have been exempted under clause 32 of the Bill. Estate duty is not proposed to be levied on certain properties, or to a certain extent on properties, under clause 34. The question now before us is whether those properties on which estate duty is not leviable under clause 34, and those that have been exempted under clause 32 can be brought in for the purpose of aggregation. My submission is that they could not be brought in for aggregation. Estate duty, is only a duty, after all. It is not confiscation of property. Supposing you do not grant exemption, then these properties would have been there for aggregation. But if you grant exemption, then I do not think you can include them for aggregation. Under clause 32, they were neither confiscated nor attached by Government. If you do not grant exemption, you can include them. But if you grant them exemption, then, what is the point in granting it if you say they will be included, for purposes of aggregation? My submission is that properties that have been exempted under clause 32, or on which duty is not leviable, under clause 34, should not be brought in at all, for the purpose of aggregation. I would like to draw the attention of the hon. Finance Minister to this point.

Then I come to agricultural land. My submission is that agricultural land should not be included, whether the States concerned have passed a resolution or not, granting the Centre power to legislate on their behalf in this respect. The agriculturist of our country has not yet acquired the habit of paying very heavy taxes. He has been particularly free from such taxes, for all these so many years, but now if we go on imposing tax after tax upon him, he is bound to be discontented and harassed.

I would like the hon. Finance Minister to consider these points.

**Shri K. K. Basu:** I must say that the hon. Finance Minister has tried

to improve the original clause that was reported upon by the Select Committee. In the original clause, there were certain doubts as to the property which could be left out for aggregation purposes, and which should be taken into consideration. From the discussion we had now, it seems that we have a certain misconception about the purpose and scope of this particular clause. This clause provides that for the purpose of aggregation, these will be taken into account for the purpose of determining the rates. In view of the slab system of taxation, which we have adopted, it is absolutely necessary that even the properties which are exempt under clause 32 should be taken into account. Normally speaking, about Rs. 15,000 to Rs. 20,000 will be left off, under clause 32. Since we are adopting the slab system of taxation, even if this amount is included, at the highest slab, the assessee will have to pay Rs. 7,000 or Rs. 8,000 more—I am therefore suggesting it to the hon. Finance Minister subject to what amendments we try to put without being favourably considered—to include the amount in aggregation. As when 40 per cent. rate is being applied, the value of the property would be nearly Rs. 10 lakhs or more and for such a person, to pay another Rs. 7,000 or Rs. 8,000 will not be such a burden as to hurt him or such persons as come under that stratum of society.

The hon. Finance Minister has moved an amendment, whereby he wants to exclude household goods, books, wearing apparels, drawings etc. under sub-clause (h), and heirloom, family paintings etc. under sub-clause (i), but wants to place a restriction as to the amount that can be exempted under this clause.

I wish at least so far as sub-clauses (d) and (e) are concerned, the Finance Minister should not have excluded them from aggregation. Because in the case of (d)—books not intended for sale—we have not put any limit to its value, and also, I

[Shri K. K. Basu]

suppose even under the rule-making powers the Government are not competent to put a limit to its value. Similarly, Sir, also is the case of wearing apparel, but not including any precious or semi-precious stones or ornaments worked or sewn into the wearing apparel. I would therefore like to say, Sir, that wearing apparel normally does not cost much. But there are certain types and certain specimens which may be costly. We have known of Kashmiri shawls worth thousands of rupees and there are 'Banarsi' sarees and there are 'achkans' which the feudal lords wear. These cost thousands of rupees. Therefore, for aggregation purposes, in view of the fact that no limit has been put to the value which an individual may own, it should have been taken into consideration.

So far as sub-clauses (h) and (i) are concerned, in view of the provision therein and also in view of the assurance that the Finance Minister has given to this House in reply to Mr. More's query that he will try under the rule-making powers to put some sort of limit as to the value which a person will be entitled to hold, they may be there. But so far as (d) and (e) are concerned, in view of the fact that there has been no limit put to the value, they should be taken into consideration for aggregation. As for the other sub-clauses (h) and (i), as I have said just now, there is a limit to the value. So we do not mind these being left out for aggregation purposes.

Then I come to the other point which has been discussed previously, about the feasibility of including agricultural land in States which are not in the schedule. Some friends on the other side and some on this side also have tried to make out that agricultural land should not be taken into consideration, because they think there would be discrimination. But I think the discrimination would be the other way round. Suppose all the property situated within India of a

person is taxed, including agricultural land he holds, by aggregation. We have to take this into consideration when a State adopts the provisions of this Bill applicable to agricultural land. That means, instead of two different pieces of legislation, one for India excluding agricultural land and another for agricultural land situated in a particular State, we are having one legislation which applies to the two categories. In one case, the aggregation will be of the entire assets that he has in the whole of India including agricultural lands. In the other case, when a person has non-agricultural property and also agricultural land in a non-scheduled State, if we accept the proposition that agricultural land should not be taken into consideration for aggregation, he will pay much less on the same property. So my submission is that if we leave out agricultural land in the non-scheduled States from aggregation, the discrimination would be against those who have property in the Scheduled States. Therefore, I think the proposition mooted by some friends that discrimination is going to happen if we accept the amendment of the Finance Minister is I think, the other way round.

12 Noon.

Then, Sir, so far as double taxation is concerned, we are only considering for the purpose of aggregation. That means we are adding up the value of that property for determining the rates at which the property which is applicable under this Bill is going to be taxed. We are not taxing agricultural land situate in a State which is not in the schedule. Therefore, it is not a question of double taxation. If in a particular State there is estate duty on it, then there may be a little hardship here and there.

Then, Sir, it has been pointed out that there may be some constitutional difficulty. I think it is not correct. Here Parliament may legislate in respect of immovable property outside India belonging to Indians; we have

made a provision that because of international conventions, that should be determined according to the law of the land where it is situate. But it is competent for Parliament—it may be hardship for the particular person—to include that property for levying estate duty. Therefore, there is no question that by this particular provision we are doing something which may be said to go against the provisions of the Constitution. Therefore, I feel that the Finance Minister's amendment; with the modifications that I have suggested—I do not know whether under the rule-making powers it is possible for him to accept the principle underlying my suggestion—must be accepted. It is a definite improvement on what it was previously. Because, as I said previously, in the slab system of taxation all this property must be taken into consideration and if a person with Rs. 10 lakhs is going to pay Rs. 3 or Rs. 4 lakhs as estate duty, he might very well pay Rs. 7,000 or Rs. 8,000 more. There will not be any hardship on that account.

Therefore, I feel that the point of order raised about the constitutional propriety is not tenable. I would rather say it would be the other way round if you leave out agricultural land situate in a non-scheduled State from aggregation. Therefore, the House should accept the amendment with my suggestion to the Finance Minister, if he is willing, that (d) and (e) should be taken into consideration for aggregation unless he is willing to put a ceiling on the value which an individual is entitled to hold under these categories.

**Mr. Chairman:** The point involved is important. But I think there is hardly anything left.

**Shri Tulsidas rose—**

**Mr. Chairman:** I am not going to curtail discussion. But if we are able to finish this clause and clause 31 before 1-15, we may not have to come in the afternoon. Of course, I

do not want to exclude anything which could be said in addition to what has been said, but repetition of points may be avoided. It is to the convenience of the House.

**Shri Tulsidas:** I have moved two amendments to this clause, Nos. 134 and 135. I will first deal with amendment No. 135. I was told when we had a meeting with the Finance Minister in considering the amendments that this amendment should be studied with clause 60. But, Sir, I feel that the wording of sub-clause (2) and of the whole clause—and clause 60—does not provide for these difficulties. If you read sub-clause (2): "Every estate shall include all income accrued upon the property included therein down to and outstanding at the date of the death of the deceased". Now, Sir, my amendment is to the effect that if there is any interest or rent or any other liability which is included in the property—any other amounts which are receivable and are included in the property—but not realised, later on, then to that extent, the value of the property should be reduced and aggregation should not be there.

Similarly, supposing there is a question of income-tax liability. You know very well, Sir, that the income-tax authorities can re-open account to the extent of 4 years; and assessments can also take place after 4 years. One does not know when the income-tax liability comes. If the income-tax liability comes on a person after the estate is valued and the duty is already paid, then to that extent the property is to be reduced and to the extent to which the property has been reduced by way of any other payment not realised, to that extent aggregation should not be allowed. That is the point which I have raised in my amendment No. 135. Besides, by the aggregation, to the extent of the amount not realisable, the higher rate of duty will have to be paid. I think if this amendment is accepted, these difficulties would not arise.

[Shri Tulsidas]

Then, Sir, I refer to amendment No. 134. I would rather like to read the amendment so that it may be quite clear as to what I mean. It reads:

"Provided further that any property which passes or is deemed to pass on the death of the deceased or is deemed to be included in the property passing on the death for the sole reason that the prescribed period of time has not elapsed prior to the death shall not be aggregated with any other property, but shall be an estate by itself and the estate duty shall be leviable at the rate applicable in respect of the principal value thereof.

When any property is an estate by itself the person in possession and enjoyment of such property shall alone be liable to account and to pay estate duty thereon."

Sir, if you refer to Dymond, pages 230 and 219, on page 219, he says:

"Aggregation only affects property which is actually or notionally chargeable with Estate Duty on the death, so that where property passing is exempt from Estate Duty it is not liable to aggregation."

Then, Sir, with regard to Former Settled Property.

"In the case of deaths between the 2nd August, 1894, and the 8th April, 1900, property subject to a disposition not made by the deceased, which passed immediately on his death to persons other than the wife, husband, ancestor or issue of the deceased, was not aggregable with any other property. (Finance Act, 1894, s. 4.)

"In the case of deaths between the 18th April, 1907, and the 28th July, 1927, property passing under a disposition made by a person

dying before the Finance Act, 1894, which would have been liable to Estate Duty on the settlor's death if he had died after the Act, forms an estate by itself."

Sir, there is a precedent in England. When this Act was passed, any estate which would have passed or which would have been liable notionally, that estate should be considered as settled estate. What I am trying to point out is that such estates should be considered as settled estates and there should be a levy of separate duty. In England they had provided for that before the Act was passed. Therefore, you read here:

"In ascertaining whether the property 'would have been' liable to Estate Duty, only the death should be projected forward, the facts being taken as they stood in 1894 and not at the actual date of death. Property which has been disentailed and resettled is regarded as passing for this purpose under the resettlement, not under the original disposition."

This shows clearly that when this Act was passed in England, these difficulties were envisaged and they had provided that such estates which had been disposed of before the Act was passed had to be considered as a separate property. I am pointing out to the Finance Minister that to this extent my amendment is in line with English law which we have copied.

I have got another amendment, No. 136. Many hon. Members have spoken and I do not wish to say anything further. The only point I would like to refer to is that under the U. K. Act those properties on which the Estate Duty is levied are those where it is actual or notional and those which are exempted should not be aggregated. That is the point which I have already pointed out.

Shri Bansal (Jhajjar-Rewari): I want a clarification from the hon. Finance Minister. What I want to know is this. In the report of the

Select Committee as also in the amendment, it is proposed that certain kinds of properties will be aggregated for rate purposes. What is the meaning of aggregation for rate purposes as far as estate duty is concerned? In income-tax I can understand that, because if a particular portion of the income is added up, then the entire income will attract the tax at a higher rate but here, in estate duty, what will happen? I will give an example. Supposing there are two kinds of properties of the value of 50,000 and 50,000 or 50 lakhs and 50 lakhs; then it becomes one lakh or one crore, whatever it is. What is the rate at which it will be taxed? There is no rate as such and I do not know what it will mean in effect. I would be glad if he will give me a clarification. As soon as you charge at the rate of the aggregate then it means that the whole property is charged.

**Shri Gadgil:** It is exempt.

**Shri Bansal:** How do you exempt, I would like to know. Please let me know; you are intervening on behalf of Government at every stage. For example, there are two properties worth Rs. 5 lakhs each. The aggregate is 10 lakhs. According to this table the first 50,000 is exempt. Then the next 50,000 will attract tax at the rate of 5, 7½ or 10 per cent. and so on, and when it comes to 10 lakhs it will attract a duty of 25 per cent. So, it means the whole property is taxed at these various rates. So, there is no question of exemption. I want the hon. Finance Minister to give some consideration to this and take the House into confidence and say what effect it will have.

**Shri Shobha Ram:** I agree with Mr. Bansal. There are two points which ought to be clear. Supposing the non-agricultural property in the non-scheduled State is one lakh and the agricultural property is Rs. 2,50,000. That means for the purposes of aggregation under clause 33, the property will come to Rs. 3,50,000. Then we come to the rates for assessment under clause 34. We know that for the first Rs. 50,000

there is no duty and then it goes on to 7½ per cent., 10 per cent., and from 3,00,000 to 3,50,000 it is 15 per cent. Now I want to know, whether 15 per cent. will be charged or whether the average of these rates, 5 per cent., 7½ per cent., 10 per cent. and so on upto 15 per cent., or, having regard to the frequency and weightage, we might take the average of these duties. What should be the tax? Now come to the other alternative; we want to charge duty on Rs. 1,00,000 because it is the non-agricultural property. But by way of aggregation we come to the conclusion that on Rs. 50,000/- we have to charge at the rate of 15 per cent. On the first 50,000/- we might charge at 15 per cent. and on the other Rs. 50,000/- we might charge 12½ per cent. Either the rates taken from above will be calculated or we might take the average of all these rates having regard to the consideration of the frequencies which exist between these different systems. Had there been one system, say, Step system, the difficulty would not have arisen but the difficulty arises due to the slab system because after every Rs. 50,000/- there is the variation in rates.

I have taken a practical instance and I may repeat that for the information of the hon. the Finance Minister. I am taking an instance of the non-scheduled State which has not acceded to the centre so far as the agricultural property is concerned. Suppose there is Rs. 1,00,000 non-agricultural property and Rs. 2,50,000/- worth of agricultural property. The aggregate comes to Rs. 3,50,000/-. On Rs. 3,50,000/- the highest duty comes to 15 per cent. for 50,000 and for Rs. 1,00,000 it comes to 12½ per cent. Then for Rs. 50,000 it comes to 10 per cent. For the next Rs. 50,000/- it comes to 7½ per cent. and for the last Rs. 50,000/- it comes to 5 per cent. Now are we to take the mean average of all these duties or are we to take only the highest rate say, of 15 per cent. on 50,000/- and again 12½ per cent. on next Rs. 50,000/-. Because under clause 34 no such calculation has been made in regard to the mean average of these duties in con-

[Shri Shobha Rain]

nection with the aggregation when one property is exempted and the other is taxed with higher rate of duty.

**Mr. Chairman:** I hope Dr. Krishnaswami will not cover the same grounds.

**Dr. Krishnaswami:** No. I think Mr. Basu has anticipated what I am going to say even before I have spoken. Mr. Chairman, this clause, although apparently simple, raises some fundamental issues to which I should like to draw the attention of this House.

The Aggregation Clause in estate duty has a different complexion from Aggregation Clause in Income Tax. In income tax the assessee and the beneficiary are the same whereas in Estate Duty the assessor and the beneficiary need not be the same. Nevertheless from the point of view of collection of revenue we have thought it advisable to aggregate different types of properties. That apart, there are certain questions which I should like to raise with respect to the exemption limit and with respect to the inclusion of agricultural land in the non-scheduled states.

I want to raise first the constitutional issue. I know it is rather a difficult issue but one which is to be faced by the House as a whole. I think this House will not be performing its functions or discharging its duties properly unless it considers in full the constitutional implications of the inclusion of an agricultural land over which the Centre has no jurisdiction. Let me illustrate the point with the help of an example.

Take the case of two individuals where one has a property of Rs. 1,00,000 of non-agricultural property and another has a property of Rs. 1,00,000/- non-agricultural property and he has also got about Rs. 75,000/- worth of agricultural land in a State which has not given consent to any duty being levied by the Centre. Now in the first case a certain rate of duty would be levied. In the second case a higher rate of duty would be levied. Consequently there is a discrimination as

between the two classes of property of the same type. Because so far as the latter is concerned the Centre has jurisdiction only over the Rs. 1,00,000/- of non-agricultural property and has no jurisdiction whatsoever over the agricultural land which is in a state which has not subscribed to the idea of the Centre taxing at all. It falls clearly under a case of discrimination.

In this connection the provisions of article 14 may be attracted and I want this to be borne in mind because there has been so much of talk about things being doubly taxed, about land being doubly taxed and about rates being different. But if on the same type of property you have differential rates naturally it smells of discrimination because if one individual A having Rs. 1,00,000/- non-agricultural property has to pay at the rate of 3½ per cent. to 4 per cent. and individual B having Rs. 1,00,000 non-agricultural property has to pay 5 per cent. to 6 per cent. then undoubtedly it is discrimination. You cannot get over it by just saying that you are not making him pay rates on the agricultural land which is exempt. In effect you have no jurisdiction over it whatsoever and I want this point to be borne in mind because this is a point which may be agitated in Supreme Court and other courts of the land. As a House we have got a right to find out whether a particular measure that we are sponsoring falls within the provisions of the Constitution. Therefore, I should like the Finance Minister to give some thought to this aspect of the matter. It is no use trying to suggest that "after all these would be cases of hardships". Cases of hardships stand on different footing altogether but cases where we do not have constitutional competence stand on a footing quite different from cases of hardship. This is a point on which there has been considerable discussion and a point of order was also raised this morning in the House. I would like, therefore, all who have given some thought to this question, to consider this matter and having considered

it, if they think that there is no substance in this point of order let them pass it if they so wish.

In regard to the matter about exemption I should have wished it to have been exempted altogether, because as I said, the assesseees are not the same as the beneficiary but if the House does want to include it, let us not at least, in spite of the fact that we know that it is not justifiable on grounds of logic, include this over which we have definitely no jurisdiction. But as I said, in the case of aggregation, it is no use trying to just get over the fact by saying "we are not levying estate duty on agricultural property over which we have no jurisdiction". The obvious course open to us is to persuade the States to give their consent to the Centre for levying this duty, or if that be not possible, we have to exclude the agricultural land altogether for purposes of aggregation because I cannot get over the fact that if we include it we would certainly be practising a form of discrimination in the shape of higher rate on the same type of property.

**Shri Barman:** I had tabled two amendments on the first of which I shall put a question to this House. Is it because this House thinks that if there be no aggregation of agricultural property there will be discrimination or is there any other reason? I do not find any other reason. After all both these duties, either on an agricultural property or non-agricultural property are going to benefit the State and if any particular State has not chosen to levy this duty on agricultural property situated within that State why should we from the Centre try to be over-benevolent for the good of the State? That is a thing which perplexes me.

After all, it may be that in the higher slabs there will be some benefit for the state by aggregation of agricultural property but in the lower slabs there will be practically nil and whatever excess by way of duty will be realised will be spent or eaten up by the administrative cost. In every case wherever there is any mixing of

property with urban property, the Collectors will have to enquire by an elaborate process "what are the properties; what is the valuation of properties?" On that there will be appeals and so on. At least the machinery will have to be utilised in order to find out the valuation of that property and find out the value of the estate. That will create mainly agriculturists, people who are mainly agriculturists, and who otherwise would not have come within the purview of this Act. Now, Sir, so far as West Bengal is concerned, now that the Zamindari Bill is not on the anvil of the Assembly, there will be much more trouble. In addition to that, if further duties on agricultural properties are to be levied, the trouble will be certainly greater. It may be one of the reasons against the levy of the duty. (*An Hon. Member:* Other States also have abolished Zamindari.) In other States the trouble is over. The situation there is quite different. Till now, 50 per cent. of our refugees have not been settled and the State, in order to settle these refugees, has to seek the help of the landlords and they have to placate the landlords, try to induce them to give up some land to the State for helping the refugees, and the State does not spend anything for this purpose. Whatever may be the reason,—I cannot say the reason,—my main argument is that when the State itself is not willing to tax its own subjects so far as the agricultural property is concerned, why should we be so eager to benefit the state which does not require our help?

There is another amendment. As regards that amendment, I had spoken to eliminate sub-clause (4) which was inserted by the Select Committee. Apart from the reasonableness or otherwise, it seems to me that some difficulty will crop up. The calculation of the duty that will have to be made under sub-clause (4) will not tally with the duty that will be calculated under sub-clause (2) of clause 34. I have made some rough calculation in the matter. Supposing, Sir,

[Shri Barman]

in the State of West Bengal, there is one family which is governed by the Mitakshara law and has got some agricultural land. If one of the coparceners of that joint family dies, he leaves not only the coparcenary land but also a separate property. Then there will be practically two kinds of property that will have to be taxed: coparcenary property, non-coparcenary property and, for purposes of aggregation, we will have to calculate also the valuation of the agricultural property. Now, Sir, on a rough calculation, I have found that if the value of the whole estate is Rs. 3 lakhs, out of which say Rs. 1 lakh is agricultural property, another Rs. 1 lakh is coparcenary property or joint family property and the third lakh is a property which is not a coparcenary property but a separate non-coparcenary property, the calculations, now, will have to be made under clause 34(2). In the case of the coparcenary property, the exemption will be Rs. 50 thousand. I am not sure, but on a rough calculation, I have found that in the case of a coparcenary property, he will get an exemption of Rs. 50,000. In the case of the non-coparcenary property, the exemption limit being Rs. 75,000, he will get another exemption of Rs. 75,000. Otherwise, it is not clear in the Bill how that exemption will work. Supposing my conjecture is right, in that case, what is the duty that will be levied on the Rs. 1 lakh of coparcenary property after taking away Rs. 50,000? Tax will be leviable on the rest—another Rs. 50,000—and on that basis under sub-clause (2) and sub-clause (1) also, the calculation will have to be made. Again, in the case of the non-coparcenary property, the exemption will be Rs. 75,000 and tax will be levied on Rs. 25,000. In that case, the duty will be calculated under clause 34 (2) (1). In both these cases, according to sub-clause (2), the rate will be higher because that will have to be calculated in proportion to the value of the whole estate. It will deviate from ordinary calculation. After

adding up these two things, on a rough calculation, I have found that the total value of the duty leviable will be Rs. 5,125. Now, applying the test under clause 33(4), the valuation will be proportionate to the whole of the estate. On that calculation, the duty leviable will be Rs. 5,625. So in these two cases, it varies. Either of these calculations will have to be modified accordingly. I submit to the hon. Finance Minister to verify whether my calculation is right or wrong.

I would like to have a clarification from the Finance Minister on the other point also. The point is whether in the coparcenary and non-coparcenary property, the Mitakshara deceased will get exemption on both grounds, and if so, on what proportion. That is not made clear in the Bill. As regards aggregation, if discrimination question has to be considered, that is another matter. That is a point of law. If the question of Constitution comes, that is another matter. But otherwise, I do not think that we should be more generous to the State than the State itself requires us to do.

**Shri V. G. Deshpande (Guna):** The difficulties are those created by the amendments proposed by the Finance Minister, and some difficulties inherent in our personal law and the law as drafted have also come up. The point raised by Sardar Hukam Singh is very important, but I feel that the discrimination which exists on account of certain States having agreed to the estate duty being levied on the agricultural property does some injustice both to the State and to the persons living in the adjacent States. If a person has got a property worth Rs. 40,000.—non-agricultural property—and an agricultural property worth Rs. 30,000, he is likely to escape taxation from both, because the amount is below Rs. 75,000, and therefore, coming as he does in the exemption limit, he will not be taxed either by the Centre or by the State where such a duty is levied. Therefore, the amendment proposed by the Finance Minister will do something to

remove the discrimination. But my own feeling is that all the discrimination will not go away even after this. I have calculated that according to this, he will be taxed Rs. 571 by the Centre and Rs. 429 by the State. I find that for the same property a person living in the scheduled States will be taxed Rs. 1,000, while a person living in a non-scheduled State will be taxed only Rs. 571. I find that the Congress party was unanimous in supporting this Estate Duty Bill. My voice was one of the lone voices in opposing this Bill. But now I find that when the Bill is actually likely to be given effect to, all of them are rising and trying to get exemptions, proposing aggregations, and they somehow want to escape after having made a propaganda that they are the greatest revolutionary party. My feeling is that some provinces are still insisting upon not passing a resolution allowing the Centre to levy estate duty in their area. The only way to teach a lesson to those States is to increase the rates of duty on the persons living in non-scheduled States. My own feeling is that if you can make a distinction between Mitakshara and Dayabhaga, and our objections on that score can be brushed aside very easily, simply because a man is living in a non-scheduled State on account of the objections of Rajaji or Bhimsen Sachar, he should not be allowed to escape the duty. The clear cut way is this. For the abolition of the zamindari you went to the extent of changing the Constitution. I would like the Constitution to be changed authorising the Centre to levy estate duty on agricultural land also in all States. Otherwise, it will lead to doubts in the mind of the people whether you are serious about it, or this is only for propaganda and that you don't mean business.

My second suggestion is that if you cannot do it, then we have to change the rates so that all persons living in the land would be put on a par.

The third difficulty is about the slab system. This is a genuine difficulty. All these difficulties can be removed if we make this change in the Constitu-

tion or if the Congress party could coerce all the States to come in line.

**Shri C. D. Deshmukh:** This seems to be an appropriate opportunity for me to say something generally about the step system and the slab system of fixing rates.

In the step system the rates are fixed for each step so that for income above that step the rate applies to the whole of the income, including that portion of it which is below a step. I shall not give an instance: I think that point is clear enough. In the slab system the amount of income or estate is broken into slabs and for each slab there is a different rate. The net rate applicable is, therefore, the average of the rates in the various slabs. Now, there again I shall not take the time of the House by giving an actual example.

Now the demerits of the step system are these: Unless the steps are very small and the rates are slowly graduated there is a sharp increase in the burden of tax at each step for a small increase in the amount. We had the step system in income-tax some years ago. The other demerit is that marginal reliefs have to be given at each step because a little addition makes a very large difference. Otherwise the increase in the amount of tax may well be more than the increase in the income of the estate itself. From the administrative point of view, the step system has been found to create difficulties. On the one hand, there may be an over-zealous revenue officer who may try to push up the total income from an estate above the next step, for instance, by disallowing bad debts or other admissible items. On the other hand, the assessee pulls in the other direction. He tries to bring the total amount just below the step by exactly the reverse process.

Then, Sir, in theory, the step system is regarded as unsound in principle. It ignores the fact that the utility of money decreases with each increase in the income or estate. Therefore, it is theoretically more correct to apply a

[Shri C. D. Deshmukh]

higher rate on the slab above say Rs. 25,000 than on the slab between Rs. 10,000 and Rs. 25,000.

Now, it is not as if the slab system is perfect. The chief demerit of the slab system is the extra arithmetical work involved. Both for purposes of income tax and estate duty certain rebates have to be given and these have to be worked out on the basis of the average rate applicable to the income. In a step system this is simple. The rebate is calculated at the rate applicable to the step. In the slab system, however, in each such case the average rate has to be worked out and relief given at that rate. For estate duty, for instance, aggregation has to be made in the case of value of agricultural land in the non-scheduled States; that is the reason why we have included it. If we had a step system no calculations would be necessary, because the rate could immediately be worked out from that applicable to the total aggregate income. In the case of the slab system, we will have to work out the average rate by taking into account the rate for each slab up to the aggregated amount. Now that is a statement on the merits and demerits of these two systems. Anyway we have now decided to adopt the slab system.

In the United Kingdom the system they have adopted is the step system and therefore much of what hon. Members have said in regard to the comparability of aggregation is not applicable here to our conditions. That is to say, it would be dangerous to draw conclusions from the exact practice in the United Kingdom in this particular respect. That is my reason for not accepting the amendment No. 134 which has been moved by Shri Tulsidas Kilachand. We have made provisions whereby properties are deemed to pass as on death if the statutory period has not expired between date of any disposition and the death. Such properties, it is intended should be treated as part of the general estate

of the deceased and not as a separate property. I would draw attention here to clause 51, under which persons in possession of property will be persons accountable, so that both the estate of the donor and that of the donee are jointly and severally responsible for the payment of duty. The primary liability is however on the estate of the deceased donor and we cannot allow this to be evaded by this artificial separation of the estate into two separate estates.

In regard to the other amendment—No. 125—I fear this is a counsel of perfection. We have tried to deal with rectification of mistakes in clause 60, mistakes of valuation of all property, and we have provided for refund of the estate duty paid. Property is to be valued as at the point of death, subject to the deduction in Chapter VI in particular certain clauses, 42 to 46. But the point is that a fair estimate has to be made at a particular point of time, at the point of death, of the value of debts realizable. If we are to wait for the determination of the actual value realised it could well be imagined that assessments will not become final for years and moreover as a corollary we should be entitled to charge extra duty. That is not part of the amendment of the hon. Member. But we should be entitled to charge extra duty, if the value realised is more than the value estimated. But that is not in the amendment. I think both alternatives are undesirable from the point of view of administration.

[MR. DEPUTY-SPEAKER *in the Chair*]

Then, Sir, in regard to the point raised by Shri Basu about the inclusion of certain items where there are no ceilings, it was deliberate that we did not include any ceilings although in some cases as in (h) and (i) we have it in mind to propose some kind of restrictions. Here I was going to point out that the main difficulty is administrative. We do not wish to enter upon the difficult task of trying the value of what either cannot be valued

or the valuation of which will lead to a great deal of harassment, and it is for this reason that we are prepared to overlook it and not to include it in the aggregation. We do not believe that as a matter of experience, it will make any difference in the total resultant rate of revenue.

That leaves two points. One is the general difficulty of how to apply clause 2. My difficulty is that I can only illustrate this by examples and the examples include nothing but figures. If the hon. Member had put his difficulty to me in one of the series of meetings that I had with hon. Members who had moved amendments, I would have been able to satisfy him that it is possible to apply this clause without any confusion. I have got two instances worked out here. I am afraid, however, that they will be unintelligible, but it consists of arithmetical exercises. In the circumstances I would ask the House to accept my word that we have applied our minds to the problem of sub-clause (2) and we are confident that there will be no major difficulty.

Now, that leaves this last point of aggregation of the agricultural land in non-scheduled States. I said something about the constitutional issue. The only thing that I can now do is to give examples, but they will not be so complicated as the examples which I refrained from giving. Take the simple case of non-agricultural property of Rs. 1,00,000 and an agricultural property of Rs. 50,000. How do you calculate the duty. The above is in respect of non-Hindu undivided family.

|             |         |
|-------------|---------|
| 75,000      | nil     |
| next 50,000 | 5%      |
| next 25,000 | ... 7½% |

The total is Rs. 6,500 for Rs. 1,50,000. But now we cannot levy any duty on the agricultural land. Therefore, the property on which we have to levy the duty is worth Rs. 1 lakh and therefore the answer is  $\frac{6,500}{1,50,000} \times 1,00,000$  or Rs. 4,000. Therefore, on the non-agricultural land, the duty will be Rs. 4,000. Whether you take a Scheduled State

or non-Scheduled State so far as duty on non-agricultural properties is concerned, other things being equal, there will be no difference and there cannot be any difference, because the aggregation yields the same kind of rate. Therefore, in the first place, no matter where the non-agricultural property may be situated, there could not be any discrimination. Now, what happens in regard to agricultural property? In the case of States which are included in the schedule, we have certain rates and that includes a certain rebate. We will apply that rebate and then work out the value of the duty on the agricultural portion. What can a non-Scheduled State do? It may adopt our law, in which case there can be no difficulty. It may pass its own law: in that case, they will lose the benefit of the duty on agricultural property, but that is the concern of the States because under the Constitution every State can vary the rates which it can levy. Therefore in this particular State, if they were to omit this rebate after aggregating they will get a rate which is higher. But if they adopt it we will say that they have adopted our law. The situation would be no different than if they had adopted our own law. Or they may not aggregate. Or they may have a higher rate. As I said on a previous occasion, one of the States at least has said that they wanted to stay out because they are thinking of a higher rate, not a lower rate. Any discrimination that arises out of the exercise of discretion by a State which results in unequal taxation among the citizens of two States, is not discrimination. It is a result of the exercise of the constitutional powers. Therefore it is primarily a question between the citizen or the resident of State A, which is not in the schedule and which wants to manage its own affairs so far as levy on agricultural land is concerned, and the State itself. In any case if they find that the result of our application of our law is that agricultural land in the neighbouring State pays so much—five lakhs or ten lakhs—it is open to them to ensure, by whatever method they choose to adopt, that the general

[Shri C. D. Deshmukh]

level of taxation on their agricultural land in respect of Estate Duty is no different. By which way they will achieve it is their concern. As I say, there are several alternatives which are open. If they aggregate, as I said, the total duty payable will be all the same. In that case I do not see why they should not come under the Schedule. It may be that they do not accept our exemptions, or they may want to do something else. But that does not affect the rate. If they do not aggregate, the total duty will be less, because the rate applicable to agricultural land will be different, on the volition of the State concerned. Or, as I said, they might have a higher rate. Therefore I cannot see where the question of double taxation arises. There would be a question of unequal taxation. But that unequal taxation will be the result entirely of the exercise of a constitutional discretion which is vested in States by the Constitution.

I think I have dealt with all the points that were raised in the debate and therefore I oppose all the other amendments. Of course I support my own.

**Shri Achuthan (Cranganur):** One question.

**Some Hon. Members:** No question.

**Shri Achuthan:** On a point of clarification...

**Mr. Deputy-Speaker:** Clarification there can be till the end!

I will put the non-controversial amendments first. I shall put amendments Nos. 631 and 632.

**Shri Raghavachari:** 631 is unnecessary.

**Mr. Deputy-Speaker:** Why?

**Shri Raghavachari:** Because amendment No. 720 seeks to substitute new provisions for lines 19 to 25. Amendment 631 is to line 23. Therefore, there is no purpose in having any amendment for line 23.

**Mr. Deputy-Speaker:** I think I must put amendment No. 720 first.

**Shri Raghavachari:** Exactly; this amendment is not necessary.

**Mr. Deputy-Speaker:** I think amendment No. 631 will be barred by amendment No. 720. Amendment 632 will not be barred.

**Shri C. D. Deshmukh:** Amendment No. 632 is necessary.

**Mr. Deputy-Speaker:** I shall put amendment No. 632.

The question is:

In page 20, line 47, for "the Schedule" substitute "the First Schedule".

*The motion was adopted.*

**Shri C. D. Deshmukh:** Amendment No. 631 is not necessary.

**Mr. Deputy-Speaker:** It is not necessary if we get through No. 720. In amendment No. 720, I will omit item (iii) now and put it separately: that is as an addition to amendment No. 720 after it is passed.

The question is:

In page 20, for lines 19 to 25, substitute:

"33. *Aggregation.*—(1) For determining the rate of estate duty to be paid on any property passing on the death of the deceased, all property so passing, excluding—

property exempted from duty under clauses (c), (d), (e), (h) and (i) of sub-section (1) of section 32, but including—

(i) property on which no estate duty is leviable under section 34,

(ii) property exempted from duty under clauses (a), (b), (f), (ff) (g), and (j) of section 32,"

I will omit "and"

"shall be aggregated so as to form one estate and the duty shall be levied at the rate or rates

applicable in respect of the principal value thereof."

*The motion was adopted.*

**Mr. Deputy-Speaker:** Amendment No. 720 without item (iii), is carried. Now, I will put item (iii) separately.

The question is:

In the amendment No. 720, which has just been passed by the House, after item (ii), add:

"and (iii) agricultural land situate in any State not specified in the First Schedule,"

I think the 'Ayes' have it.

**Some Hon. Members:** The 'Noes' have it.

**Mr. Deputy-Speaker:** Do you want a division?

**Dr. Krishnaswami:** Yes.

**Mr. Deputy-Speaker:** All right; division.

**Some Hon. Members:** You may ask the hon. Members to stand.

**Mr. Deputy-Speaker:** Those hon. Members who are here and there may also come in.

**Dr. Gangadhara Siva (Chittoor—Reserved—Sch. Castes):** Why should the time of the House be unnecessarily wasted? You may ask them to stand in their places. They are going to be defeated. Why should they demand a division every time?

**Mr. Deputy-Speaker:** When I have called division, it will give an opportunity to all Members round about to come. If the voice is small and not so loud, I will ask them to stand in their places instead of asking hon. Members to go right and left. Those who are against will kindly stand up in their seats. The number of those who are against is eight. Those who are in favour of this may kindly stand up in their seats. I find that the number of those who are in favour is so large,

that I have to declare the motion carried.

*The motion was adopted.*

**Mr. Deputy-Speaker:** Amendment No. 631 standing in the name of Mr. C. D. Deshmukh is barred. I shall put all the other amendments to the vote of the House.

The question is:

In the amendment proposed by Shri C. D. Deshmukh, omit part (a).

**Mr. Deputy-Speaker:** The question is:

In the amendment proposed by Shri C. D. Deshmukh, omit "(iii) agricultural land situate in any State not specified in the First Schedule."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, lines 21 to 23, for "excluding property on which no estate duty is leviable under section 34, but including property exempted from duty under section 32 and" substitute "including property exempted from estate duty under section 32 and section 34 and also including".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20,

(i) line 22, after "section 34" insert "and section 32"; and

(ii) lines 22 and 23, omit "but including property exempted from duty under section 32 and agricultural land situate in any State not specified in the Schedule".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20,

(i) line 22, after "section 34" insert "agricultural lands to the extent of 50 acres and the dwelling house in any State";

(ii) omit line 23.

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, lines 22 and 23, omit "but including property exempted from duty under section 32 and agricultural land situate in any State not specified in the Schedule".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, line 22 omit "but including property exempted from duty under section 32".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, after line 31, add:

"Provided further that any property which passes or is deemed to pass on the death of the deceased or is deemed to be included in the property passing on the death for the sole reason that the prescribed period of time has not elapsed prior to the death shall not be aggregated with any other property, but shall be an estate by itself and the estate duty shall be leviable at the rate applicable in respect of the principal value thereof.

When any property is an estate by itself the person in possession and enjoyment of such property shall alone be liable to account and to pay estate duty thereon."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, after line 34, add:

"Provided that if any income is included in the estate which is not subsequently realised or recovered or if the estate has been overhauled as a result of allowable deductions not having been made, refund shall be made of any additional duty paid by reason thereof."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, omit lines 38 to 47.

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, lines 46 and 47, omit "and also any agricultural land situate in any State not specified in the Schedule".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, lines 45 and 46, omit "any property which is exempt from estate duty under section 32 and also".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, omit lines 38 to 43.

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

"That clause 33, as amended, stand part of the Bill."

*The motion was adopted.*

**Clause 33, as amended, was added to the Bill.**

**Clause 31. (Exemption of interest of a Hindu widow etc.)**

**Mr. Deputy-Speaker:** Clauses 31 and 34 remain. Clause 34 will be taken up tomorrow. There are ten more minutes left, and if the hon. Minister wants, we can take up clause 31.

**Shri C. D. Deshmukh:** I have given thought to the points raised in the debate, and I find that I am really indifferent to whether this clause is retained or deleted. One thing I would like to point out is that this is not intended to give relief to the widow, but to the reversioners, so that there should be no feeling of a false sympathy that it is intended for the widows.

**Mr. Deputy-Speaker:** This is in keeping with quick succession relief clause.

**Shri C. D. Deshmukh:** Indeed I think the widows probably stand in some danger, because they might be faced with a choice between a *Mangalashtra* and a *Galashtra*.

**Mr. Deputy-Speaker:** If she would not live along with.....

**Shri C. D. Deshmukh:** Then she will be saved. On the whole I am in favour of retaining the clause as it is.

I have got one amendment to make it clear that there is no distinction between *Mitakshara* and other coparcenaries.

*Amendment made:*

In page 19, lines 14 and 15, for "persons who were members of a coparcenary immediately before or after his death or any of them", substitute "the reversioners or any of them".

—[Shri C. D. Deshmukh]

**Mr. Deputy-Speaker:** The question is:

"That clause 31, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 31, as amended, was added to the Bill.*

**Mr. Deputy-Speaker:** All the other amendments to clause 31 are deemed to be negatived.

"That clause 31, as amended, to be negatived.

**New Clause 31 A,**

**Mr. Deputy-Speaker:** Shri Iyyunni.

**An Hon. Member:** He withdraws it, Sir.

**Mr Deputy-Speaker:** He does not press it. There is no question of putting it to the House.

*The House then adjourned till a Quarter Past Eight of the Clock on Wednesday, the 9th September, 1953.*