ESTATE DUTY BILL—*Contd.*

**Mr. Deputy-Speaker:** The House will now proceed with the further consideration of the following motion moved by Shri C. D. Deshmukh on the 13th May, 1953:

> "That the Bill to provide for the levy and collection of an estate duty, as reported by the Select Committee, be taken into consideration."

**Dr. Lanka Sundaram** (Visakhapatnam): The Estate Duty Bill, as it has emerged from the Select Committee is different in a large number of instances from what it was in the form in which it was introduced in the Constituent Assembly (Legislative) in 1948, and also in the form in which it was when it was introduced in this House in August last.

A large number of changes has been made by the Select Committee, which, I am convinced, has gone into the principles and purposes of this Bill as well as the clauses very thoroughly indeed. I am convinced that the changes incorporated in the Bill by the Select Committee or recommended to be incorporated in the Bill, are all for the better. Still, I must say that further changes must be made in this Bill before it can be permitted to go on the Statute Book. I do trust that the Government would give free scope for its Party Members to decide upon the merits of the various clauses of this Bill. In other words, I do hope that there will be the freest possible discussion and voting irrespective of Party considerations on this Bill, because I am convinced that this Bill has tremendous social significance for the country.

When I spoke on this Bill on the 6th November last, I made, among other things, five important points which I am grieved to say have not been met as a result of the discussions in the Select Committee. Briefly, with your permission, I would re-catalogue them for the benefit of this House.

I made a reference to what had been termed by me then as "the permissible consent of certain States to contract out of the obligations of this Bill". I would like to know from my hon. friend the Finance Minister as to the States which still do not come within the purview of this Bill, because I believe that this House is entitled to information as to which particular portions of this country have actually still contracted out of the operation of this Bill. My hon. friend makes a signal to me that it is only one single State. Even one single State should not, if I am not mistaken, be permitted to go outside the purview of this Bill.

The second point I raised was with reference to article 370 of the Constitution and the State of Jammu and Kashmir. Today, after having heard the solemn statement of the Prime Minister, I do not wish to go into that question, even though I must say that my friends from Kashmir who are my colleagues in this House should, as I stated on the last occasion in November last, do everything in their power to see that reciprocal legislation is resorted to in that State, so that the whole country will come within the ambit of this Bill.

The third point which I made the last time and which has not been met, to my mind, as a result of the labours of the Select Committee, is in regard to the yielding capacity of the tax or the duty under this Bill. I have got before me the proceedings of the House of the 6th November last. On that day I made a statement that the private sector is of the order of Rs. 1,500 crores and that it is the intention of the Finance Minister that he is not unwilling to see that private property is converted into joint stock companies. In fact, I said, and I am quoting: "In fact, he said that he would welcome such conversion of private property into joint stock companies. I hope I am quoting correctly." This is what I said then, and the Finance Minister was good enough

to interrupt me, according to the proceedings, and say that I had quoted him correctly, *viz.*, that he would welcome the conversion of private property into joint stock companies. I raise this point now again here because the yield capacity of the estate duty is a matter of vital interest because the country is holding enormous hopes as to the possible revenue to be got from this particular tax measure from next year onwards.

The fourth point I then raised was in regard to incentives to production, capital formation etc., involved in the operation of this Bill. Last time the Finance Minister was good enough to say that according to the advice he had, he does not believe that this Bill would interrupt or obstruct capital formation in particular. I am not convinced as yet that once this Bill becomes law, capital formation would not be interfered with, and I would like to have further evidence as to the manner in which the Finance Minister hopes that in this age of planning and development the imposition of a death duty would not interefer with capital formation.

Last time I made a grievance of the operation of clauses 17 and 81—the rule-making powers, the unlimited rule-making powers, entrusted to the officers to be appointed as a result of the operation of this Bill. I am sorry to say that as a result of the labours of the Select Committee, nothing has been done to temper the irritations which are bound to arise as a result of the unrestricted, unlimited powers to be given for rule-making purposes under clauses 17 and 81.

I made a reference to all these points because I had hoped that as a result of the long labours of the Select Committee, these points would be met. I am making a reference to them today in order that, as the debate proceeds and the clauses are taken one by one, attempts would be made by my hon. colleagues, irrespective of party considerations, to ensure that this particular Estate Duty Bill would not become an engine of oppression, but would be administered in a manner conducive to the healthy growth of economic conditions in this land. And I do hope that the Finance Minister, reasonable as he always is, will not object to such of the amendments which are tabled now, which are intended particularly to secure a proper and equitable measure of taxation.

Having said this, with your permission, I would like to analyse the social policy behind this Bill. Here I would like to refer—I am sorry my hon. friend Mr. Gadgil is not here—to the labours of Shri Gadgil who was the author of a book on estate duty and who had, to my knowledge, done enormous amount of work in and outside the Select Committee. Mr. Gadgil's thesis is based upon a type of social philosophy which, I regret to say, will not be accepted by many people in this country. In fact, when I look at the manner in which he has attempted to secure further rigours being imposed as a result of the provisions of this Bill, I am fully convinced that my hon. friend Mr. Gadgil looks, or tries to look, more gory than what some of my friends to my right are supposed to be painted red. In fact taking clauses 9 and 10 of this Bill, I must say that Mr. Gadgil was altogether on the wrong path when he said, or when he tried to say, that a man on death bed is never a free agent, with the result that gifts given out by any one should be *bona fide* gifts. I make a reference to clauses 9 and 10 in particular for the reason that the question of motive is irrelevant according to British law and the question of *bona fides* need not come in at all provided the two-year period is there; and in fact, a father can gift out his property absolutely to his own child, and still not foul the principles of this Bill. Mr. Gadgil's thesis is something different. He says a donee must prove the *bona fides* of the gift even though the British law is clear that once there is no enforceable legal interest in a thing gifted out by a donor, the question stops there.

[Dr. Lanka Sundaram]

I am sure that the House will bear with me when I say that Mr. Gadgil had a very powerful ally, and still has, in my hon. friend the Finance Minister from a different angle. When we were discussing the question of gifts for charitable and public purposes, the Finance Minister was understood by some of us to say that in this planning age, the purpose for which a gift is made must also be regulated by the State. In other words, the State has the right to regulate gifts made for charitable purposes. I will give you two examples. If Dr. Hari Singh Gour were living today, he would not be permitted, under the operation of this Bill, to donate his entire property to the Saugor University. If Mr. D. Lakshminarayana were living today, his vast property which was given away to the Technological Institute at Nagpur would not become possible under the operation of this Bill. If I understood the Finance Minister correctly, that is exactly the intention behind this particular Bill as provided by him.

**Shri B. Das** (Jajpur-Keonjhar): No. no. That was not what he said.

**Dr. Lanka Sundaram:** He said so.

**The Minister of Finance (Shri C. D. Deshmukh):** That was not in the age of planning.

**Dr. Lanka Sundaram:** I am glad the Finance Minister does not demur to my charge. As I understood him, the position was that even for educational and charitable purposes, the direction in which these gifts are to be made is sought to be controlled by the State. I consider this as something retrograde in character, because I believe any gift gifted out to the community, even for a communal purpose or for a particular section or caste, is a gift in favour of the entire community because it is gifted out to a portion of the entire community. I think I cannot state the case better than what I have stated, and I believe that when the House takes up clauses 9 and 10, attention would be devoted to this particular matter, *viz.*, gifts gifted out for the benefit of the community. This must be examined, and I hope the philosophy of my hon. friend—I may say the strange philosophy of the Finance Minister, will not be permitted to go unscathed in the debate on this Bill. Because we have declared ourselves to be a Welfare State, and in a Welfare State, the moment a particular individual gifts out his property for the benefit of a section of the community, the welfare of the State as a whole, to my mind, is guaranteed or is provided for. Any way, the social basis or bases for this Bill must be properly laid out, and I am sorry that in spite of the labours of the Select Committee, this has not been done, and I do not see much difference between the Bill as it was introduced in August last, and the Bill as it has emerged from the Select Committee, in this particular regard. I hope the House will devote some attention to this point.

Without being unduly long, I would like to take up two groups of clauses in this Bill, to which the Select Committee has devoted considerable attention. The first group comprises of clauses 30, 31, 32, and 33. These deal with allowance for quick succession to property, exemption of interest of a Hindu widow dying within seven years of her husband's death, exemptions, and aggregation. I shall have occasion to intervene in this debate when these clauses are taken separately, but I am making a reference to them in order to show that every section of the House, irrespective of party considerations, has been exercising its mind on the operation of the clauses as drafted, and as finalised by the Select Committee, and I do hope that the Finance Minister, in the light of the vast number of amendments which has been tabled to these particular clauses, would not be unbending in his approach, when these clauses are disposed of.

The second group of clauses, which is bound to arouse a considerable amount of discussion in this House is that of clauses 61 and 62, which deal with the Controller and the Board. Judging by the amendments that have been tabled, I find that many hon. Members of this House are deeply exercised as to the amount of unlimited power given to these people, and the lack of proper procedure for judicial review in cases of dispute between the assessee and the taxing authority. I have myself given notice of amendments, but I will not labour the House on them in detail. But I believe that these two clauses, even more than clauses 30 to 33 are important to the assessee, once this Bill becomes law.

In order to show how important these two groups of clauses are, I would, with your permission, read out portions from my minute of dissent, and I shall be very brief. I had stated in my minute of dissent:

> "In the Committee, I had pressed for the inclusion of exemption of a dwelling house, for the reason that it is not only the focal point but also the haven of Indian domestic life, under which shelter is taken in exceptional circumstances by the near relatives of the head of the family. I have said so in the Committee, and I repeat again, that Parliament in its wisdom might agree to a ceiling to the value of one dwelling house, with the additional proviso that it should not be rented even in part for purposes of securing this exemption."

I had given notice of an amendment, and actually the exemption limit of Rs. 50,000 minimum was in accordance with what I had hoped. I have given this amendment, not because I am anxious that the exemption limit may be raised from Rs. 50,000 to Rs. 1,00,000, but because I am most anxious on sentimental and other grounds that one dwelling house should be exempted, and it is for this purpose, that I have given my amendment which reads as follows:

> In page 20,
>
> after line 9, add:
>
> "(k) one dwelling house, to the extent of rupees twenty-five thousand of its market value, provided it is not rented out either wholly or in part."

I do hope that this amendment is not unreasonable, and I do sincerely trust that my hon. friend the Finance Minister would take note of the vast volume of opinion which has gathered round this particular suggestion. I believe, that if once this amendment is agreed to, not necessarily my amendment, but any amendment of a simiar nature, there will be complete satisfaction that the domestic life of the Indian communities—I am not talking here of Hindu community only—would not be disrupted.

As regards clause 61, I believe that every hon. Member will agree with me that the hon. Finance Minister must see his way to the possibility of having a Board or an Appellate Tribunal with members drawn from the judicial services, retired or working. I have said in my minute of dissent, and I again repeat it on the floor of the House, that the argument of the Finance Minister that it took a long number of years under the income-tax law to appoint the Appellate Tribunal, should not be held valid in the present context. In other words, because it took the Central Board of Revenue a number of years to provide for an Income-tax Appellate Tribunal, the same thing should not be forced down the throats of this House, under this Bill also. The very fact that the income-tax administration considered it necessary to have such a tribunal should be a warning to the Government that a similar provision must be automatically incorporated in this Bill also, and I hope that when clause 61 comes up, this point will be borne in mind.

There is nobody in this country who is willing to oppose the principle of

[Dr. Lanka Sundaram]

this Bill. I had given my wholehearted support to it last time, and I repeat that support on this occasion too. Only, I would like to know what exactly will be the yield under this Bill. The estimates vary; some say rupees ten crores, and some others say rupees fifteen crores. But last time, the hon. Finance Minister was good enough to interrupt me and say that until the age limit and the taxation level were known, nothing could be said about the possible estimates. I hope he will no longer be in doubt as regards that, because a supplementary Bill is coming, according to the intention of the hon. Finance Minister laying the taxation proposals or embodying the tax content under this Bill. But let there be no mistake about it that as a result of the estate duty, a golden egg would not be coming into the pockets of the Government of India. The only redeeming feature—and I am in complete sympathy with the hon. Finance Minister in this regard—is that the proceeds of this Bill will go entirely to the benefit of the States, and the Government of India are only tax-gatherers in the name of and for the benefit of the States.

**Shri C. D. Pande** (Naini Tal Distt. *cum* Almora Distt.—South West *cum* Bareilly Distt.—North): As commission agents also.

**Dr. Lanka Sundaram:** I do not know about that.

I would like to make a reference to the possible yield from this Bill, by comparing it with the yield from the old Salt Tax Act. I am sorry that this is a very unfortunate comparison, but I am making a reference to the old salt tax yield, because the yield under this Bill will be just about the same as the yield from the old Salt Tax Act. The salt tax became obnoxious because of certain sentimental and other grounds, and therefore I implore the hon. Finance Minister to ensure that in the administration of estate duty, the same obnoxiousness will not be repeated, and that the rules framed under this Bill, the manner in which they are to be enforced, the way in which assessees will be taxed etc. will all be properly regulated so that this Bill will not end up as an engine of oppression.

I am very much worried about one single point, namely that as a result of this Bill, there will be a terrific amount of litigation. Let not the Government encourage litigation, because this Bill deals with uneducated Indian families, where the onus is sought to be proved by the donor and the donee—sometimes more by the donee himself. I do hope that instructions will issue forth to the taxing authorities to ensure that there is no harassment in the operation of this Bill. An inventory has to be made as to the effects of the deceased. The manner in which it is made is more important than even the total arrived at as a result of the investigation by the taxing officer. The administration of the measure should be such that the people will not be subjected to undue harassment. That is why I made a reference to the old salt tax, and I hope the hon. Finance Minister would not object to my comparison. I am only saying that this must be a humane measure, a just measure, and a measure which will produce the willing co-operation and consent of the community, without which there will be fraudulent evasion of taxes.

When I made a reference last time to the private sector of Rs. 1,500 crores, I had stated that there might be a tremendous windfall to the Government. That not being the case, I do hope the Finance Minister would give us an assurance, that once the Matthai Commission reports on the incidence of taxation, if there is any necessity for revising the schedules of taxes which are to be imposed, under the Bill supplementary to this Bill, he will not hesitate to come before the House next year, with an amendment to the tax schedules, if the Matthai Commission reports against them. For

the sake of finance for planning, he had compelling reasons to bring this Bill before the House, and as I said earlier, if this Bill had been brought before the House six years ago, this gap would not have been there. The big assessees have flown away, the big birds have flown away, and so what is sought to be gathered under this Bill must be gathered. I concede that point, but I want an assurance from the hon. Finance Minister when he replies to the debate, that if and when—I am sorry, I am putting it in a hypothetical language, but I cannot do it in a better way—the Matthai Commission reports that the incidence of taxation is already too much, that there are not incentives enough to production, that there are difficulties in the way of capital formation etc., the Finance Minister would not hesitate to bring forward an amending Bill to reduce the rate of taxation if necessary.

I thank you for this opportunity, and I hope all sections of the House would wish godspeed to the Finance Minister in placing this particular measure on the Statute Book.

**Shri C. D. Pande:** I wish to make a few observations on this Bill. This Bill is of such far-reaching consequences that it is difficult to deal with it in all its aspects. Yet, I believe that there are certain things which must be brought in full light before this House.

To my mind, the most objectionable feature of this Bill is the invidious discrimination between citizen and citizen in this country—I mean to say the introduction of a new theory of taxation based on archaic schools known as *Mitakshara* and *Dayabhaga*. I wonder how many people in this House and more so in the country know the difference between these two schools. Very few lawyers well versed in the Hindu school of law may be knowing their exact implications, but when it comes to their application in the principle of taxation in a secular State, it is really baffling and I am sure most of the citizens will not be aware to which school they belong.

**The Deputy Minister of Finance (Shri A. C. Guha):** They know very much.

**Shri C. D. Pande:** They will be knowing more to their cost later on. I particularly refer to the hardship that will be experienced by the *Dayabhaga* school; not only the *Dayabhaga* school, but the Muslims, Christians, the Jews and the Parsis. They have all been treated as if they belong to the *Dayabhaga* school, that is, non-*Mitakshara* school.

Then, what is the difference between these two things that you have tried to make in this measure of taxation? In *Mitakshara* you have given the advantage of the co-parcenery system that prevails. That means, if one father has got four sons, then the property will be divided into five parts and the father, if he dies, will be considered to be the owner of only 1/5th of the property. That means, if a man has got property worth four lakhs of rupees at the time of taxation, his share of taxable property will be only Rs. 80,000. That is to say, he will go almost scot-free of the taxation. Whereas on the other hand, in the case of a Bengali, a Christian or a Muslim, if he dies leaving hardly Rs. 80,000 having ten sons, as most of the Bengalis have got.....

**Shri A. C. Guha:** I protest against that. We are not so prolific.

**Shri C. D. Pande:** Of course, you have not married and therefore, you cannot say.

The incidence of taxation on the poorer section of the people will be much more than on the richer section of the people.

[SHRI PATASKAR *in the Chair.*]

I do not grudge the concession given to the *Mitakshara* school. I feel that this is really a very welcome step. But why do you deny this very privilege to the *Dayabhaga*

[Shri C. D. Pande]

school or to the Christians, Muslims, Parsis and Jews in this country? I am really sorroy that Bengal is poorer today in its voice against this Bill. If my friend, Pandit Lakshmi Kanta Maitra had been alive, you would have heard what Bengal feels in this matter, what Assam feels in this matter and what Orissa feels in this matter. Not only that.....

**An Hon. Member:** Mr. Chaudhury is there.

**Shri C. D. Pande:** Mr. Chaudhury will have his turn. There are not only these provinces.....

**Shri S. C. Samanta** (Tamluk): Parts of Bihar and Uttar Pradesh also.

10 A.M.

**Shri C. D. Pande:** I am coming to that. I belong to *Dayabhaga* myself, and I am not ashamed of it. There are a large number of people who are not known to be directly governed by *Mitakshara* known as 'customary law people'. People in the Kumaon Hills are governed by the *Dayabhaga* law. I am really surprised why in a secular State you impose this taxation based on these archaic things of which people are not even aware of. When I put this in the Select Committee, the Finance Minister and his supporter, Mr. Gadgil, said. 'Oh, this cannot be helped'. This is the first principle that *Mitakshara* must be recognised and should be given such concessions as they have provided, but not *Dayabhaga* because they cannot help it! Is it not possible for them to formulate a uniform measure of taxation? What is the difficulty? They have not been able to point out what the difficulty is in the way of making a uniform measure of taxation. I must say that in this age people have been able to change a girl into a man. But our law-makers cannot find out a manner in which they can make a law of taxation which will be applicable equally to all citizens, and you say you are helpless because *Mitakshara* must be governed quite differently from *Dayabhaga*. How many people know what is *Mitakshara* and what is *Dayabhaga*? It is possible for them to change their religion, but not this condemned school. A Muslim can become a Hindu, but a man born under the *Dayabhaga* school cannot be governed by the *Mitakshara* law. One Muslim asked me: 'What happens if a Muslim converts himself to Hinduism? To which school will he belong?' I am really surprised at this. Some big lawyer will answer this question if he can: if a Chrisian or a Muslim or a Parsi converts himself to Hinduism, to which school will he be assigned?

I do not find there is any inherent or real difficulty in making a uniform law. The more you extol the virtues of *Mitakshara* the more galling it becomes to those who are governed by *Dayabhaga*. In the course of the Select Committee's deliberations, many people said: 'Oh, why do you worry. The 50,000 limit is there'. But suppose he has three or four sons. The more you try to extol and dwell on the spacious nature of this margin, the more is the pain and wrench in the mind of those who are governed by the non-*Mitakshara* law. I mean Bengalis, Oriyas, Assamese, Kumaonees, Muslims, Christians, Jews and Parsees in this country.

**An Hon. Member:** And you.

**Shri C. D. Pande:** Most certainly, though I am not in the taxation limit. I want to emphasise this point, that the operation of this Bill should be uniform on all people. Let there be no distinction between a man dying in Calcutta going tax-free, even if he has five lakhs of rupees, and a man dying in the same street even if he leaves Rs. 70,000. This is a great anomaly which I wish should be cleared in this legislation.

The second thing I wish to refer to is the question of charities. Charity has been a traditional virtue in this country. It is said that life has got

only three uses. It is in Sanskrit and I will quote:

*Danaya, Bhogaya* and *Taskaraya*

It means, 'either you give it in charity or enjoy it or thieves will take it away'. In this particular case, the State will come into the position of the 'thieves'. It becomes really repugnant to the Indian mind that there should be any restriction on charities. Why do you limit that a man can give charities only six months before his death? Suppose a man wants to make a big endowment for a hospital or a University, as my friend, Dr. Lanka Sundaram, just said. Dr. Hari Singh Gour—perhaps most of you are not aware—donated 70 lakhs of rupees out of his life's earnings of 90 lakhs of rupees. And he died, you will be surprised to know within six months of this endowment. Had he been alive today and had that amount of money been given as a gift, his daughters—he had no sons—would have had to pay 50 lakhs of rupees on that gift. Shri Annamalai in South India made a gift of 20 lakhs of rupees. There are scores of people in this country who have earned money by fair and foul means. Yet they make charities, and charities for public purposes. Do you want to dry up the source of this charity? Do you want that people in this country should be in the apprehension that even if they made a charity, their sons, or the charity itself may be taxed, if they die within six months of the charity? Not only that. Your CBR or department of taxation can always open the case and say that it is not a *bona fide* charity; it is not a public charity. I say charity is charity whether it is *bona fide* or not. The moment it is given to the public purpose, it is charity. If a man has given 70 lakhs of rupees to a University, nobody can say it is a *mala fide* transaction. Supposing he makes a condition that his son will have a hand in the control of the funds, that is not a *mala fide* transaction. What I mean to say is this. This country will never tolerate any restriction on charities and more so in charities for public purposes. The charity must be un-restricted and unfettered, unlimited in the amount. If I have got 70 lakhs of rupees, I should have the liberty to make a charity of the 70 lakhs of rupees. If I have the liberty to burn my fortunes, if I can set fire to my house, if I can throw away my riches into the sea (*Interruption*) then I believe I should have the liberty to give the whole thing in charity. Where a man has got the capacity to earn then he should have the same liberty to spend in a manner he likes. (*Interruption*). Anyhow, the time has come. I think many people will come and explain why charity should not be restricted at all.

The third thing is exemption about the houses. As you know, a house is the dream of everybody in this country. Of course, to most of the people the fulfilment of the dream is not given yet. Everybody wants that when he earns something he should have some house either in his village or in his urban habitat. So a person may have no other visible assets; he may have only a house. When he dies he does not die in peace; he is always under the apprehension that his minor sons, his innocent sons and his widow, who are not aware of any litigation or fighting against the Central Board of Revenue, will be tormented. The house may be worth 30,000 rupees.

**An Hon. Member:** A house worth 30,000 rupees will not be assessed.

**Shri C. D. Pande:** It may be worth a lakh of rupees but his dependents will have to go to the lawyers and ask what has to be done. You know it is more vexatious especially in the small income groups where they do not know how to realise even a single insurance claim. I have known of families where the man has died and left an insurance policy for Rs. 5,000 and the widow finds it difficult to realise that amount. She has to go from lawyer to lawyer, from clerk to

[Shri C. D. Pande]

clerk and from relation to relation to get help in realising this sum of Rs. 5000. If a man leaves a certain amount of fortune—it may be worth 70 or 80 thousand rupees—the successors have to prove that it is worth only so much and not more. I do not mind the trouble that will be heaped upon the richer people because they can always get the assistance of big lawyers and there is a margin in which they can fight. Supposing there is a man whose entire worth is only Rs. 80,000. It is not the amount of taxation involved that is appalling. The property is there and the amount of taxation may not be more than a thousand rupees or two. If only Rs. 2,000 were to be paid it would not matter much. But, in the course of valuation of these assets the tendency of the department will be to augment the value of the assets and ultimately something more may be added. You know what is the general practice in income-tax cases. The income-tax people just say, 'Oh, I assess you on Rs. 10,000 income; it is up to you to appeal'. They say that always the appeal is allowed. You know the amount involved is so small that people do not go in appeal. They feel that the relief might be worth three or four hundred rupees but the expenditure might be five hundred rupees. But, all the same the injustice is there. You cannot take people's money without any justification but you do not leave any room for them because the expenditure and the harassment involved in appeal are greater than the relief obtained. It was said during the previous debates that income-tax appellate courts have allowed 400 cases in appeal. I know what the appeal means. Suppose a man is taxed to the extent of Rs. 25,000 and he appeals. The Appellate Commissioner who is always afraid of the Inspecting Commissioner, says, "Yes, the hardship is there. So, I will reduce it to the extent of Rs. 1000." That is, the taxation will be on Rs. 24,000. The trouble involved is more than the money gained in appeal.

In this connection, I would also like to mention that the tribunals that we provide in this Bill should be judicial tribunals instead of the Central Board of Revenue. The Central Board of Revenue cannot be a Court of Appeal against its own department. The department is always for the revenue. Its very name suggests that they are more concerned about revenue than justice to its assessees. So, how can you entrust an appeal from the assessor to the very Board who has appointed that assessor? It is likely that in some cases these very officers may be the Board in later years. So, it is very difficult to get justice from the Board when the appeal lies to it. I suggest that instead of the Board at least at one stage there should be a judicial tribunal so that the man whom you tax should have the satisfaction of having gone to the highest tribunal to get redress. You have allowed that in income-tax. Are you afraid of that? I know that people have not got full justice from the tribunal because the tribunal takes a more legalistic view, yet there is always some justice or satisfaction that the highest tribunal has been approached. This satisfaction cannot be gained by appealing to the Board, which is the assessing authority itself.

These are the four main things that I want to stress, namely, do away with the distinction between *Mitakshara* and *Dayabhaga*, make provision for unrestricted and unfettered charities, make allowance for small houses so that the middle class people may have their own houses of which there is such a shortage in this country and everybody values a house of his own, and fourthly, let there be a provision of a judicial tribunal in the place of the Central Board of Revenue.

**Shri R. K. Chaudhury** (Gauhati): Sir.....

**Shri M. S. Gurupadaswamy** *rose*—

**Mr. Chairman:** I have called the hon. Member there.

**Shri R. K. Chaudhury:** Sir, I am certainly grateful to you for giving me preference over the young Member there. In all times age must respect age.

**Mr. Chairman:** I have not done it on that ground.

**Shri R. K. Chaudhury:** We of Bengal and Assam, who are governed by *Dayabhaga,* except perhaps the hon. Shri A. C. Guha, should be deeply grateful to the hon. Members who have spoken on our behalf. (*Interruption*) I repeat that we in Bengal and Assam, excepting perhaps Shri A. C. Guha, who has been still unassailable by the idea of domesticated married life even though it is six months he has been on the Treasury Benches (*Interruption*). We are grateful to this speech of my hon. friend, Mr. Pande. I think it will be extremely cruel to the Hindu community if this law is not amended in this respect. The dwelling houses of the deceased should be exempted provided the houses are in occupation by the heirs of the deceased at the time the Estate Duty Bill is passed. At least to that extent, I believe, Government will agree, because the valuation of the property has gone up by leaps and bounds, for instance, a house which had been built before the war would have normally cost only about Rs. 25,000 but would now be valued at more than Rs. 1,00,000 and naturally the widows and children of the deceased will have to pay a heavy estate duty. Knowing that the family has no other assessable income and that the family is living from hand to mouth, it is still likely, because of the fact that the father has left a house and it is valued at that amount, he may have to pay the tax. How are they going to pay this tax? The hon. Minister has agreed that no estate duty would be levied from persons who are not likely to pay either agricultural income-tax or ordinary income-tax.

I submit what will happen is this. For a house which is built at a cost of Rs. 25,000 and which is now to be valued at Rs. 1,00,000, the successors may have to pay estate duty by sale of that property if they have no other moveable property from which the duty may be collected. Either they will have to sell the property or the Government will have the property sold in order to realise the estate duty, which means that the very house in which the family lived will be sold for this purpose. The successor will be rendered homeless and driven to the streets. That will be the position. Has the hon. Minister pictured that position in his mind, that is to say that such instances are not innumerable in Bengal and Assam where houses are built of either palm leaves or corrugated iron sheets. Even these houses are being valued after the inflation during the wantime at considerable price and in these houses some one drawing a salary of Rs. 90/- or some petty shop-keeper lives. It is a miserable condition if these houses are brought under Estate Duty Bill. Well, if you or I are given unlimited power, we would have been successful Finance Ministers. Levying a duty on such helpless persons is an instance of extreme cruelty. This Government wants to grab money like that.

**बाबू राम नारायण सिंह** (हजारी बाग पश्चिम): डकैती है ।

**श्री आर० के० चौधरी:** डकैती तो अच्छी है । चले जाओ, मारो पीटो, कुछ मिले तो लेके चले आओ । लेकिन यह तो बहुत अफसोस की बात है कि गरीबों की तरफ बिल्कुल सहानुभूति नहीं दिखलाई जाती है । यह तो बड़े अफसोस की बात होगी कि एक गरीब आदमी से, जो कि छाती ले कर बैठता है, वैल्यूएशन बढ़ाकर टैक्स लिया जाय और उसको रास्ते पर छोड़ दिया जाय । यह बड़े अफसोस की बात है ।

**Shri A. C. Guha:** Now start in Bengali.

**Shri Gadgil** (Poona Central): For God's sake do not speak in Assamese.

**Shri R. K. Chaudhury:** Just to get the sympathy of the richer section of the House, those representing Madras, Bombay, U.P. etc., I will speak in any language that I can.

As regards the other points, the previous speaker has also shown how it acts like an invidious distinction between one section of people and the other section. After all, *Mitakshara* was one kind of tenet sponsored by one *Rishi* and *Dayabhaga* by another *Rishi*. You are accepting the tenets of one *Rishi* while you refuse to accept the other. That is what has happened in a secular State.

Then, the income is always taken as the index of expenditure. If I spend much then I am supposed to be a rich man and then you are assessing income in that way. As a matter of fact the House will be surprised to learn that I was charged income-tax on a very large amount of money because I had spent a large amount. You are spending so much for that and as such you must be having a large sum. You have accounts in so many banks. They do not care to find out how much you have in those banks. So, they always go by the expenditure of a man and they assess accordingly. The two classes by which they assess are those having women relations and the other is income-tax. Therefore, I will be quite satisfied if only the distinction between the two schools of Hindu law is done away with. Both of them should be put under the same category. So that if there are, four sons left behind, it is the share of the property of each son, each of the heirs, that should be assessed. If they are assessable they should be assessed, if they are not they should not be.

**Shri Khardekar** (Kolhapur *cum* Satara): I am grateful to the Finance Minister for having given us this very rare opportunity of congratulating the Government. There is a verse in Sanskrit:

शत्रोरपि गुणा वाच्या दोषा वाच्या गुरोरपि

I do not mean to say that Members on the other side are our enemies. They are our friends, a little misguided, invariably choosing the wrong path.

I may remind the House about a remark which the hon. Finance Minister made while introducing the Finance Bill. He assured the House that he was a very good driver. Well, I think he is not just a good driver. He is an expert taxi-driver who reaches you safely to the destination by the longest possible route.

I am here to give my wholehearted support to this Bill. In doing that, I will be concerned with discussing some of the speeches, important speeches, and I will be mainly concerned with expressing my dissent to the minutes of dissent written by a number of hon. Members. Naturally, I cannot help saying a few words about the longest speech made by Mr. Gadgil. It was in part masterly, the rest of it was school-masterly. The strong support given by Mr. Gadgil made even the Communists a little jealous, more suspicious, and I was very much amused to listen to the advice Mr. Gadgil had given to his client as a lawyer several years ago. That advice was that the client should kick the bucket before this Estate Duty Bill came into operation. The result was Mr. Gadgil had to give up his legal practice, and as a last resort had to take to politics. You know, Sir, politics is the last resort of a Kakasahib. By saying that everything is said.

Prof. Hiren Mukerjee and Mr. More made a very good suggestion that the net cast should be so cast that big fish

do not escape. Now that should be really borne in mind, because the bigger the fish the more the oil it has and it can easily grease the palm of the executive.

Then, I must congratulate the young Maharaja of Bikaner for making a very important speech and for writing a fairly long and learned minute of dissent. I will take up some of his points. He talked about levelling up and advised against levelling down. I am reminded of an experience which George Bernard Shaw had. He talked of socialism very eloquently and at the end of the meeting one of the listeners went up to him and asked Shaw to give his coat to him. Shaw said: If I gave you my coat, then there would be still one man without a coat. Now that is all right. But where one man has got about fifty coats and about 49 people have to go without coats, I think it is just and proper that there should be a fair distribution. If we do not have both levelling down and levelling up, I think we will have to submit to the red-steam-roller which would crush and make everything flat. So, what I mean to say is that the young Maharaja missed the psychological aspect of this particular Bill which was very ably put forth by my hon. friend Mr. C. C. Shah. It is not that this Bill is going to give so much money to the people; but it is that sense of frustration that is there today that Government is doing nothing. This Bill will certainly put an end to that sort of feeling. People who have not even a bicycle, when they see a fleet of cars possessed by one person have naturally got an enmity towards that person. Therefore, this Bill should not be attacked on that ground.

I was very much amused to listen to the Maharaja, who though young tendered advice like a grandfather. He asked the Government to go slow. He said: "Do not try to run before you know how to walk". I do not know how long we are to wait. You know that in certain cases it is easier to run than to walk. Take, for instance, the case of cycling. You can go fast, but it is more difficult to go slow, and in a measure like this unless we hurry up—we are already late—it will be extremely difficult. His idea of going slow is this. When we are trying to follow Britain, he would like us to go the way Britain went during the last three or four centuries. His ambition seems to be that we should go at least fifty years behind—that is as back as England was fifty years ago. His idea of raising the standard of living is by fixing the limit at five lakhs. That seems to be a little fantastic! Then he said that we should try to level up and that everybody should have a motor car. Well, I really like the idea. But I thought a person like that should write romantic poetry rather then talk on a Bill like this.

Then I must come to my hon. friend Mr. Tulsidas Kilachand—a very important person. He accepts the principle and rejects everything else. It is like saying to a girl: "I love you very much; but I would hate to see you". He loves only to hate.

So many persons have talked about the family house; the sentiments connected with the traditions of the house and so on. But I do not know whether this is really so important. What is important is the individual. You know, the Sanskrit verse:

एकेनापि सुवृक्षेन पुष्पितेन सुगंधिना ।
वासितं तद्वनं सर्वं सुपुत्रेन कुलं यथा ।।

The house is known by the youngmen who really build up the traditions. There has been a good deal of eloquence on the matter of charity. Even the Communist friends have said —give five years. But I would say Government should endeavour to put an end to charity. I will tell you the reason why. There are some who say that the man should be allowed the right up to the end to give away something in charity; what actually he would be leaving to the nation at the time of his death. Even if he is not

[Shri Khardekar]

inclined to be charitable, all of a sudden he would practise more or less a deception on the nation. He is to be unpatriotic at the end. He has no faith in the Government. His Government may have defects; but even this Government has not got the monopoly of committing folly. It is bound to improve. It is after all a popular Government. Why should an individual believe that the Government would not be distributing his assets or his property properly? In many cases what is called charity is nothing but a well designed investment. If you look to so many rich persons who are in the House—I will not call them 'money-bags' as Shakespeare calls them, the reason why they become popular representatives is mainly because they are so clever in distributing charities which are a long-term investment. These masquerading charities are really very well-designed investments; but those who receive charities have to feel rather ashamed of them. That is why I feel that charity should be done away with. Government should distribute to the nation whatever is necessary for the good of the people.

Then the objection to this Bill mainly arises from anxious parents who want to bring up their children and ensure them a good life. That is why they do not want to have this Bill. They think that unless a good deal of money is left for them the children would be lost. Now, here I am tempted to quote two or three sentences from Isadora Dunken, whom I mentioned the other day:

> "When I hear fathers of families saying that they are going to leave a lot of money for their children, I wonder what spirit of adventure will they derive. Every dollar inherited makes them so much the weaker. The finest inheritance you can give to a child is to allow it to stand on its own feet. I do not envy the rich. On the contrary I pity them."

Then I come to the last part, that is, even the rich should congratulate the Government because those who have the means will not be tempted to live a miserly life but the rich will be able to live richly and naturally whatever goes to the Government will properly, I hope, be distributed. After all, if one is to philosophise one can say: "We came into the world with nothing and now we are going to leave with practically nothing. All that we require is a pit of 6'×3'." In that intervening period let us live in such a way that we can say with confidence that we have done something for the good of the people which is going to be an example to the nation.

Justice requires that you should help those who are right at the bottom; if you scrape those who are at the top. As the Finance Minister said, let this be a good gift to the nation. Let us hope that the amount will not be thrown into the bottomless pit called administration.

**Shri M. S. Gurupadaswamy** (Mysore): While appreciating the measure that has been brought forward by the Government and also while appreciating the objectives behind it, I want to say that we should not close our eyes to the inadequacy of the Bill to meet a situation which is threatening us, that is, the problem of equal distribution of wealth among all classes of people in India. That problem has been continuously raising its head and it has not been tackled effectively so far.

If you look into the history of England you will see how the inheritance taxes have not solved the problem of distribution of wealth. Even in other countries the estate and other duties have not solved this problem satisfactorily. The reason for this is that once in one generation—very rarely—these duties are leviable on persons. Only when a person dies, the duties are leviable. That means persons can be taxed only once in a generation. So this tax which comes very rarely

cannot possibly counteract the formidable forces which have generated inequality of wealth in the nation.

In England, we can see by facts, the equalising process has been very slow even after the introduction of inheritance taxes. In 1913, in England five per cent. of the people owned 85 per cent. of the wealth. In 1926-27 five per cent. of the people owned 80 per cent. of the wealth of the nation, that is, it was reduced by only five per cent. In 1946-47 again the same five per cent. the people owned 70 per cent. of the wealth of the nation. So we can very well understand how this type of tax has not drastically brought about the equitable distribution of property.

So if you expect that this Bill will be revolutionary and very drastic you will be sadly mistaken. If you look into the history of United States also the same story is repeated. The effect of duty on the distribution of income is very slow indeed.

The main problem I want to refer to is the problem of inheritance, which is at the bottom of the mischief. In our country the institution of inheritance is one of the most important causes of the inequality of incomes. The only solid economic justification of the institution of inheritance in its present form is that it is one of the most powerful engines yet discovered for the accumulation of capital. But we must know that in the long run the institution of inheritance has been responsible for social stratification and inequalities. Prof. Graham Wallas says:

> "The less urgent desires of the minority who have inherited wealth are now satisfied before the more urgent desires of the majority who have not inherited."

So, the root cause for inequality lies in the institution of inheritance. Already we have done away with this hereditary principle in the political field. But in the economic field we are still retaining it. By saying this I am not making a case that the institution of inheritance should be abolished *in toto*. It is neither possible nor desirable. Only in the case of Russia it has been possible; but even there after the abolition of the law of inheritance we are seeing so many evil consequences. And the remedy seems to have become more dangerous than the disease itself. So I do not advocate the abolition of the institution. And I realise that millions of our people have regarded this institution as sacred and it is not very easy to get away from it. But I rather venture to suggest that we must think of this question on fresh lines. In other words there must be a change in our thinking regarding our ancient institutions, especially the institution of inheritance which has been the cause for great inequality.

There are various principles which have been advocated by eminent economists, regarding the factors to be observed in taxing the estates of the deceased. Prof. Dalton has suggested three or four lines on which this is usually done. They are worth taking into consideration before we levy the estate duty. He has analysed three principles of graduation. The first is graduation according to the total amount of property left by the dead person, larger amounts paying a higher proportionate tax than smaller amounts. This principle is applied for instance in the British estate duty. The second is graduation according to the total amount received by individual investors, there again larger amounts paying a higher proportionate tax than smaller amounts. The third is graduation according to the relationship of the inheritor to the dead person, a near relative paying a lower proportionate tax than a distant one, and the latter a lower proportionate tax than a stranger, on an inheritance of given amount. There is another principle which has been advocated by Prof. Rignano, a very famous economist. He has said that the best principle in all these inheritance taxes is that the tax should be

[Shri M. S. Gurupadaswamy]

levied keeping in view the time factor. That is the tax should become progressive according to the progress of time. Quoting an example, he says that the estate of the deceased should finally pass over to the State after the death of the grandson. Prof. Rignano says that this is an ideal principle and that it will do away with many evils of inequality though it will not solve them completely.

There are various criticisms levelled against death duty. One of the familiar criticisms is that it will upset saving and work. People seem to be of the view that after death duty is introduced it will discourage saving, it will discourage work and it will encourage dissipation of wealth. That is a very wrong view to take. I have studied various problems connected with death duties and have also tried to understand the working of these duties in various nations of the world, and the experience seems to be that the death duty has not arrested the growth of capital and has not in any way endangered saving or discouraged work. When a man knows that there is an estate duty and that a greater portion of his inherited property would go to the Government than his self-earned property, then the man will naturally think: "I cannot wholly depend on my inheritance because much of it will go by way of taxation and so the best guarantee of saving is that I must earn my own property, then only will there be greater security for my children". That seems to be the experience everywhere. So, instead of discouraging work and accumulation of wealth, it will on the other hand encourage accumulation of wealth. But suppose we accept the argument that estate duties tend to encourage people to spend money on luxuries and pleasures. What then is the conclusion? I feel the society will ultimately gain by this extra spending. There is too much of miserly hoarding of wealth in our society. If people are made to think that the hoarded wealth will not go to their children and that a certain portion of it will always revert to the State, they may invest a certain portion of their wealth on luxury articles, may be on certain other pleasures. So when the money is thus put back into circulation the society will naturally gain. There will be more circulation, more trade and more business activity. So the society will be the beneficiary in the end. Therefore we need not fear that accumulation of capital will be destroyed and that as a result of it the society will lose. As I said, the experience seems to be that estate duty has not in any way discouraged either saving or work.

There is another point also that it will not discourage production. Some people are thinking that as a result of the Estate Duty Bill, there will be a slower tempo in productive activity. That is a very ill-advised or ill-judged observation. May I submit that in no country in the world where Estate duty has been introduced in one form or the other has production slowed down or stopped. On the other hand, the tempo of production has gone on increasing. So this criticism that the Estate Duty Bill will bring down production is baseless.

There were various other criticisms about the Bill by various Members of the House. A few Members wanted more exemptions. Some Members wanted exemption in the case of the dwelling house; some Members said that there should not be any difference between the *Dayabhaga* and the *Mitakshare* schools, and that there should be equal treatment for one and all. Some Members suggested that the exemption limit specified was not satisfactory and that the limit should be higher. With regard to the last criticism, I say that the exemption limit that has been given here is fairly good and it is reasonable. If you take the case of England, the exemption limit there seems to be £2,000. If

works to less than Rs. 50,000. That is far below the exemption limit fixed here. We need not feel sorry or perturbed for fixing the exemption limit at Rs. 50,000 or 75,000. Rather, we must congratulate the Select Committee for not cutting down this limit to a lower level. I submit therefore that there should not be any raising of this limit; and this limit should be retained.

Regarding the rate of taxation, I know that there will be another Bill and we will discuss that question later. But, we must recognise that the most important part of the scheme is the rate of taxation. Dr. Lanka Sundaram was saying that the yielding capacity of this measure may not be much and that it may be ten or fifteen crores of rupees. I do not know from where he got that figure. Any way, the solving of the inequality of incomes in the country to a certain extent depends on the success of this Bill and this in turn on the rate at which we levy the tax. The rate of taxation should be such as to assure the inheritance of moderate wealth to everybody. There should not be an immoderate accumulation of wealth in any hands. There should not be poverty also. There should be moderate wealth for every individual. That should be the motto. If that motto is pursued and if the principles of the Bill are rigorously applied, I think we can cure the evil of inequality to a certain extent though not completely.

There is another question to which I want to draw the attention of the House. Provision is made in the Bill for appeals. The appeal is to lie to the Board. We feel that from the point of view of getting an impartial decision, it would be much better to have a tribunal for this purpose, a tribunal consisting of experienced judges. That would assure greater impartiality and greater justice to all the parties concerned. There will not be much grouse or grumbling on the part of the parties. I feel that there is no harm in the hon. Minister accepting this suggestion. There is a minute of dessent also in respect of this question. I feel that this is a very important matter and that it should be accepted by the hon. Minister.

11 A.M.

Finally, I say that in India, the estate duty alone cannot solve the problem. We must bring in other duties also. There should be other kinds of duties on inheritance itself and we must also try to expand the law of escheat which has almost become a dead letter now. The operation of the law of escheat should become more and more effective hereafter. Moreover, we should also, as far as possible, discourage inheritance by collaterals. The Hindu law is allowing inheritance of property by large number of collaterals—distant relatives. Inheritance by collaterals is one of the causes of this inequality. If this is not stopped, it is very difficult to bring about an equal distribution of wealth and fair distribution of income in society. This will only encourage the perpetuation of certain things which we do not like. I say that the inheritance of property by collaterals should be restricted to a very few only and for this purpose, Government will have to take other steps apart from the estate duty. I also say once again that the law of escheat should be extended so that the properties of dead men may pass on to the State immediately without any trouble.

**Shri T. S. A. Chettiar** (Tiruppur): The Bill has been generally welcomed and that is as it should be. I am one of those people who believe that if India has not given that respect to dignity of labour and work, which is essential for the progress of any country, this is due to the amassing of large wealth in the hands of a few people. It has been laid down in certain quarters that a reasonable social structure should not have a difference of more than 40 times between the lowest and the highest incomes. In India, we find common men with an income of Rs. 30

[Shri T. S. A. Chettiar]

and also the Nizam who gets an income of three crores of rupees or more. It is not 30 or 40 times, but more than three lakh times or 30 lakh times. This is due to the amassing of inherited wealth. These people are drones in society and naturally they do not work. They do not come into contact with the common man and they do not develop the human virtues. They think that to live merrily and exploit others is just a natural thing for a man to do.

I am not one of those who believe that this Bill by itself will bring about a socialisation of wealth, because experience has not shown that way. In other countries where this duty has existed for more than 50 years, that has not brought socialisation. As pointed out by a previous speaker, in England in 1911, 85 per cent of the wealth of the country was in the hands of five per cent of the people. After 30 years or 40 years, five per cent of the people continue to possess about 70 per cent of the wealth of the country. So, I have no illusion about this matter that this is going to be an instrument for the socialisation of wealth. Nor is this Bill a solution for differences in wealth. I do believe that this Bill will result in one thing, and a very salutary thing. People will not hereafter solely depend upon their inheritance; people will not depend on large estates to be left to them by their fathers and grandfathers so that they can go on living merrily without working. In my part of the country I have got cases of people having 12,000 acres of land and they do not know even where their possessions lie. There are people who have 6000 acres of wet land where every inch of land is worth something from the point of view of production. I wish well by these people. In their own interests, in the interests of their children, so that they may grow properly, so much wealth is not good for them. I believe that this Bill will, to some extent, maybe a very limited extent, avoid amassing of wealth in individual hands. I think it will have a greater psychological value because people will think that we live not by inheritance, but by our own work with our own hands and brains. To that extent I welcome this Bill.

Coming to a few points, I would like to say just a few words about clause 5 which has not been very much noticed. Clause 5 refers to applicability. I understand that all Provinces except two have passed resolutions in this regard, and I hope amendments will be proposed enlarging the Schedule on page 36. The two Provinces which have not passed resolutions are West Bengal and Travancore-Cochin.

**Shri Velayudhan** (Quilon *cum* Mavelikkara—Reserved—Sch. Castes): No, no.

**Shri T. S. A. Chettiar:** My hon. friend to my left who knows something more about West Bengal thinks that the resolution has not yet been passed by West Bengal, but they are thinking of passing. I hope they will pass soon.

**Shri Velayudhan:** Let us pass this first.

**Shri T. S. A. Chettiar:** I also hope that Travancore-Cochin will follow suit, for I am anxious that we should not allow differentiation of taxation in the various Provinces. If in some Provinces, this agricultural property is not brought within the ambit of this Bill, and if it is brought in certain Provinces, then the incidence of taxation will be considerably greater in the case of Provinces that have passed the resolution. So, I think the Government of India will use their good offices to see that these resolutions are passed by those Provinces which have not yet passed them.

Now, I come to another matter which has been mooted by many friends. My friends coming from the *Dayabhaga* area have been somewhat sorely affected. Here as well as elsewhere they have pointed out that the differentiation that is sought to be made in clause 31 does work hardship

on the people who are following the *Dayabagha* law. May I point out to them that everybody dies; nobody escapes. Certain amendments notice of which has been given by my hon. friend Mr. Barman brought out to me how keenly they feel it. I should appeal to them to take into consideration the existing law. We cannot make law without recognising the existing circumstances. And we are unfortunately governed by two laws n this matter mainly—the *Dayabagha* and the *Mitakshara*. Other lawyers who will follow me will explain the implications of the *Mitakshara* law. It is true that everybody who is born gets an interest in the property in the *Mitakshara* law. We cannot change the whole Hindu law for the purpose of this Bill. So, that factor must be taken into consideration while framing this Bill. And that is what has been sought to be done in clause 31, and I think it is fair as far as it goes. I should think that any attempt to disturb that clause as it stands today will not make it better, but will make it worse. So, I hope that clause will go through as it is except for minor amendments. The essential principle embodied in the clause will, I hope, be accepted by this House

Now, I would like to take a few clauses. A few days ago, when the hon. Minister of Finance summoned people who have given amendments, we had occasion to analyse the number of amendments given to each clause. That was revealing, because that showed which clauses of the Bill the Members of the House considered important and required amendment. Clause 32—Exemptions—naturally has the largest number of amendments: 59. Clause 9 has 37, and clause 30 relating to quick succession, 28 amendments.

**Shri C. D. Deshmukh:** That was three days ago.

**Shri T. S. A. Chettiar:** It must have been exceeded by the latest list that we have received.

It is very interesting to see the amendments given to the clause relating to exemptions. One amendment reads:

> "for 'but not including any precious or semi-precious stones or ornaments worked or sewn into the wearing apparel' substitute:
>
> " to the extent of rupees five thousand in value'."

I was surprised at this amendment, and did not know to how many people it would apply. There are others which are somewhat reasonable—for example, that at least a house of a limited value should be left for the family. If somebody has got Rs. 5,000 worth of jewels sewn in his apparel, three-fourths of his property should be confiscated.

Coming to exemptions, many people want to give for charities, if not throughout their lifetime, at least when they die, and to that extent it is a laudable idea. The Government should, in my opinion, encourage people to give for charities. As a social worker, I am one of those people who believe that private institutions who do charitable and philanthropic work do their job very well, and the essence of any country is that it must have a number of such institutions giving vent to people who have got the time, who have got the leisure, and who have got the money to do work for the good of the people. I find here that under charities, a very limited amount of money can be given to public charitable purposes. Clause (a) reads:

> " ... within a period of six months from his death, to the extent of rupees two thousand and five hundred in value".

A man may be worth crores or lakhs of rupees, he may have property getting an income of lakhs of rupees, but the extent to which he can give charity on the occasion of his de: is only Rs. 2,500. Is it not very niggard

[Shri T. S. A. Chettiar]

ly? I would request the Government to accept an amendment on the lines accepted in the Income-tax Act recently. In the Christian scriptures, one-tenth is recommended for charity. The Government of India in the Income-tax Act has brought it down to five per cent of the income of the individual. I should think that Government should accept an amendment that people at the time of death can make disposal of their property to charitable institutions of the kind accepted by us as defined in the Income-tax (Amendment) Bill, to the extent of 1/20th of the property.

One other matter has been brought out by many friends in the matter of exemption, and that is about the house. When somebody dies, and he has only house, it may create a lot of hardship to the family. The income-tax people are good people individually; many of them are human, but they become sometimes very inhuman when dealing with cases, because they deal with cases on paper. In many cases, I am sure this is going to create a lot of hardship when a family has only one house. I am not one of those who believe that a house must be given to the family whatever its cost, even if it is a palace costing rupees five lakhs. An upper limit may be fixed for the cost of the house—Rs. 25,000 or Rs. 30,000 or something like that would be reasonable. A dwelling house should be given to the widow and children. That, I should think, is a reasonable exemption which should be given under clause 32.

Now, I come to clause 9, about gifts. The wording of clause 9, as it stands, is to the effect that any property taken under a disposition made by the deceased purporting to operate as an immediate gift *inter vivos*, whether by way of transfer, delivery etc., which shall not have been *bona fide* made two years or more before the death of the deceased, shall be deemed to pass on the death. The effect of the clause is that any gift made within two years will also be set aside, even if it is *bona fide*. Suppose a person A had made a gift some ten or fifteen years back, today the estate duty authorities, for reasons of their own, may consider that it was not *bona fide*—they are interested in finding out that it is not *bona fide*—then the result will be that even though the properties might have passed through so many hands, the question can be re-opened. So, the period of two years laid down in this clause is not final. And if the gift is made within two years before the death of the deceased, then it will be taxed, even though it is *bona fide*. I think this is rather bad, and I would therefore suggest that there should be an amendment in this regard. The period should not be left indefinite, as this will work hardship in a number of cases, and over-zealous estate duty officers will get opportunities of harassing people, even when right things have been done. I would therefore earnestly suggest to this House to consider this clause carefully and make suitable amendments, to safeguard people who have done things with the best of intentions.

I next come to the third clause which has attracted the greatest amount of notice by way of amendments, namely, the clause relating to quick succession relief. I am sorry to find that even though a death might occur in the same year, still estate duty is payable. It is true that there is exemption by 50 per cent. all the same, I feel that this will cause a lot of hardship. I find that in other countries, this matter of quick succession relief has been treated very generously. For instance, in Chile in South America—I believe others have said this before me, but let me say it again—no estate duty is charged...

**Shri Velayudhan:** You are quoting South Africa?

**Shri T. S. A. Chettiar:** Not South Africa, but South America.

No estate duty is charged, if the interval between two deaths is less than ten years, which is the period in

which, according to the law, the heirs of the deceased can recoup from the blow of the death In United States of America and in Japan, estate duty is not leviable, where the second death occurs within a period of five years from the date of the first death.

In America, the average age, I believe, is about 70 or 75, but even there, a five year period is given for exemption purposes. But in our country, the average life is about 27 to 28—It has not certainly come to the figure obtaining in England or America—if we are to have these taxes even within one year of the first death, then it is very atrocious. I think it will work hardship on a large number of people. It will affect more the poorer classes rather than the richer classes. It is the middle classes that will be hard hit by this provision. I would therefore suggest that this clause should be radically amended. I would like that the House will make suitable amendments in this regard, when the clause comes up for disussiocn. But as far as I am concerned, I am absolutely of the opinion that the clause should not be passed, as it stands.

There are certain other clauses which I would like to touch upon, but I shall take the opportunity to do so, during the second reading stage.

I generally and whole-heartedly welcome this Bill, and I hope it will pave the way, to the extent possible, for a better social structure for this great country.

**Shri Altekar** (North Satara): The differences on which the *Mitakshara* and the *Dayabhaga* schools are founded, are sought to be depicted as an asses' bridge for the passage of this Estate Duty Bill. The followers of the *Mitakshara* school have gone to the extreme length of saying that inasmuch as there is no such thing as succession in a joint Hindu family under *Mitakshara* law, no estate duty is to be levied at all on the death of a coparcener. Possibly the only exception will be that of the sole surviving coparcener. On the death of a coparcener the estate goes by survivorship to the rest of the coparceners, and therefore there is no such thing as devolution of the estate by succession. The estate remains the same, the coparcenery remains the same, only the persons are changed. If we are to take that particular aspect into consideration, we find that there will be many difficulties in our way.

I would like to point out to these persons who say that let there be no change in the law of *Manu* or *Yagnavalkya*, that they have not possibly grasped what is the real law of *Manu* or *Yagnavalkya*. There is no such thing as a *Mitakshara* or *Dayabhaga* school in either *Manu* or *Yagnavalkya*. It is only the interpretation of the text, by subsequent commentators like Vijnaneswara or Jeemuthavahana, that has created these two new schools. Possibly in the history of our society, there might be different practices and customs, so far as inheritance is concerned, and interpretations are made according to these customs. Whatever the school of thought may be, there is only one law, and there cannot be any such thing as a *Dayabhaga* or a *Mitakshara* school of thought in the texts of *Manu* or *Yagnavalkya*. This difference has followed later on on account of the differences of interpretation. If different commentators later on can interpret the law differently, if High Courts or Privy Councils can interpret the texts of these great *Smritikaras* differently and modify them also, I believe, that we in this House representing the whole country can also do the same thing here. I shall just point out one instance. There is a text by the *Smritikaras* that:

नैकपुत्रेण कर्तव्यं पुत्रदानं कदाचन ॥

That means a person who has got only one son should under no circumstances give him in adoption. But this has been interpreted by the Privy Council to be recommendatory and not mandatory. So the law has been modified. If they could modify it like that, then we also, according to the circum-

[Shri Altekar]

stances that obtain now, and the exigencies of the present times, can modify these laws. I shall point out an authority of *Manu* himself on this point.

परित्यजेदर्थकामौ यौ स्यातां धर्मवर्जितौ ।
धर्म्यं चाप्यसुखोदर्कं लोकविद्विष्ट मेवच ।।

(Manu *IV*—176)

When there are different times, and they require a change, that change can be made by later legislators. If there are any such changes required, on account of the economic situation or popular disgust or unhappiness, then we can make such changes. But ordinarily we cannot make changes if they are contrary to *dharma*. But if a certain thing has been laid down by *dharma*, and if on account of later situations, a change is found necessary for the development of the society, then that change can be made. If there is any rule, which has been laid down by the *Smritikaras*, that also will have to be changed, if the times so require. Even in the great *Mahabharata*, it is said:

भवत्यधर्मो धर्मोहि धर्मोऽधर्मो भवत्युत ।
कारणद्देशकालस्य देशःकालस्तु तादृशः ।।

What is supposed to be proper according to strict rules, at one time, will become exactly contrary to *dharma* at another time. Why? 'On account of the change in times, you shall have to change even the rules that have been laid down before'. Therefore, I submit that we are resorting to a legislation which is needed by the present times and that should be made. If the followers of Manu really want to go by the legislation that has been laid down by him, then are they prepared when he says that if a wealthy person is not properly spending his money, then one can take away the money of that person and give it to others who are spending it properly?

योऽसाधुभ्योऽर्थमादाय साधुभ्यः संप्रयच्छति ।
स कृत्वा प्लवमात्मानं संतारयति तावुभौ ।।

He thus plays the role of a boatman and saves them both.

**Shri Gadgil:** That is what the Bill is for.

**Shri Altekar:** Yes, that is what the Bill is for. That is laid down by Manu. People do not voluntarily do that. Therefore, by legislation we are making them to do so. If a person has ample money which he is not utilising properly, then that should be taken away and should be spent for purposes of great benefit for the society. That is exactly what we are doing. We are really following Manu in that respect.

**Shri Gadgil:** Greater Manus.

**Shri Altekar:** Therefore, I would ask whether the followers of Manu will really like this particular rule that is laid down by him. We are, as a matter of fact, bringing it into force and therefore, I submit, that when they say 'Do not change the law of Manu', it is they who are coming in the way and not we who are legislating on this point.

Then I would like to come to the question as regards the difficulties and hardships for those who are governed by the *Dayabhaga* and *Mitakshara* schools. An hon. Member here suggested that this taxation should be so framed that no distinction between the *Dayabhaga* and *Mitakshara* should be allowed. As a matter of fact, if those who are governed by both these schools are prepared to go by that, I have no objection to that. I will explain in what way. Suppose those who are governed by the *Dayabhaga* school desire to get the advantage of a *Mitakshara* family, which, say, consists of father and three sons. The father dies, according to the *Mitakshara* school, four shares are to be taken into consideration and the taxation would be so levied that the father's share would be charged, that is, only 1/4th when he dies. But they should then be prepared to accept another liability that if a son predeceases the father, then the estate will have

to be charged, though as a matter of fact, he does not get any interest.....

**Shri C. D. Pande:** After 18 years.

**Shri Gadgil:** Every death after 18 years in the family is subject to tax. That is the additional liability.

**Shri Altekar:** If, as a matter of fact, some such rule can be framed, there is no difficulty.

Another point is that taking the clauses, as they stand at present, there is also some advantage and disadvantage to both of them. Take, for instance, the case of a father, a son and a daughter, both in a *Dayabhaga* and in a *Mitakshara* family. Let us suppose the estate is worth about two lakhs ten thousand rupees. If the son dies first his interest goes to the father. Then, after a few years the father dies, the estate goes in the hands of the daughter. Then in that case, so far as regards the *Mitakshara* school is concerned, the situation would be that on the death of the son there will be a duty charged on 1,05,000 rupees. Subsequently on the death of the father, it will again be charged for 2,10,000 because he takes his son's share to the addition of his own share and when the estate goes to the daughter, it will have been charged to the extent of 3,15,000 rupees in all. In a *Dayabhaga* family, what would be the case if the son predeceases his father? There will be no charge when the son dies, and there will be only one charge on 2,10,000 on the death of the father, for, when the son predeceases, that estate will not be charged in any way. That is the advantage which will be had in the case of the *Dayabhaga* school. Take another instance of a father and three sons. The estate is the same, that is, Rs. 2,10,000. If in a *Dayabhaga* family the father dies, there will be a tax on 2,10,000. But if the son predeceases, there is no tax upon that estate. But if after the death of the father, the estate is inherited by the three sons, it will be to the extent of Rs. 70,000 each and thereafter if a son dies, there will be no further tax at all as for *Dayabhaga* the exemption is of Rs. 75,000. But if the same number of persons are governed by the *Mitakshara* law, the situation would be that on the death of the father, there will be tax on Rs. 52,500. Then after his death, his share will be going to the other sons. And because in this case the exemption is smaller, that is, Rs. 50,000 the shares of the sons will be subject to further taxation all along after their respective deaths.

So there is no such advantage or disadvantage exclusive on this side or the other, but that has been, so far as possible, tried to be compromised and attempted to be made equal under the present circumstances in this Bill. All these difficulties can be solved only if we make a common law of inheritance for the whole country.

**Shri C. D. Pande:** That is right.

**Shri Altekar:** That is the only thing that is needed, but the difficulty in that way is the opposition we face in many quarters with respect to that, and the legislation that will have to be passed will not be quickly got through.

**Shri Gadgil:** Those who are opposing this estate duty are those people who oppose the Hindu Code.

**Shri Altekar:** Maybe. But ultimately we shall have to frame a code for that purpose. But the framing of such a code is so comprehensive a scheme that it will require some time. If we take the code of Hindu law, that will not, in itself, be sufficient, because there are other laws—the Mohammedan law, the Indian Succession Act and so on. Of course, that will be a distant thing —to have a code that will cover the Mohammedan law, the Succession Act and also the code that will be ultimately formed for the purpose of Hindu society—all merged in one law. But until a general code is framed for all the citizens of India, this anomaly cannot be altogether resolved. For that some more time is required. For the present, however, we have to imple-

[Shri Altekar]

ment the Five Year Plan as early as possible and we cannot afford to wait for a longer period. Therefore, it is necessary that we shall have to pass this Estate Duty Bill immediately and settle all other differences thereafter in a very satisfactory manner. That is, I think, the proper course for the House to follow. Therefore, I would submit that in this Estate Duty Bill, though there may be some difficulties, as has been pointed out, with respect to the *Dayabhaga* and *Mitakshara* succession, they will have to be borne by the citizens of this country in the interest of the implementation of the Five Year Plan. Therefore, this Bill in spite of such differences, should be expedited—of course, it is being expedited—as early as possible. I would suggest that some little adjustments also can be made with reference to the differences between *Dayabhaga* and *Mitakshara* by way of the rate of taxation. If in the case of those who are governed by the *Dayabhaga* school, where the inheritance passes as a whole, the estate is taxed at a little lower rate than that in the case of *Mitakshara*, the difficulty or rather the hardship will be mitigated. That is what I would like to suggest.

Then again, an hon. Member pointed out that the inheritance should be restricted only to certain nearer relatives and not in any way extended to collaterals. Such a thing is not possible under law. But the desire that is behind, the intention that is behind, such a suggestion can be met by taxing the estate that passes to those distant relatives at a higher rate than that applicable to the estate of the nearer relatives. This can be done.

I submit that in the case of those persons who form the compact series of heirs, that is up to the brother's son, the rate of taxation may be a little lower and that in the case of others who are more distant, the rate of taxation should be higher. Then again, we can also have such things arranged that when an estate passes to distant relatives, the clauses with respect to quick succession should not apply to them. When the estate passes only to the near relatives, the various concessions that are being given by way of quick succession should be made applicable and not when it passes to those beyond the compact series of heirs. If we can provide in this manner, we can have greater sources of revenue for the benefit of the development schemes from those distant relatives to whom the estate is going and who were never possibly expected to be heirs by the person who dies. If a larger amount is taken from them then there will be no hardship or injustice done to those distant heirs. This is so far as inheritance is concerned.

Some other remarks were being made with reference to certain other clauses in the Bill. I have to point out that so far as public charities are concerned, when we are having a society based on a Plan, when we are developing the whole country on the basis of a Plan, then the charities will have to be regulated in the way in which we want society to progress. And, from that point of view, there should be some restriction on charities. If a list is drawn with respect to certain charities that are within the four corners of the scheme of development, there should be the least restriction on such charities and those which fall outside that scope should be restricted to, say, something like Rs. 2,500 or in other cases Rs. 1,500. In that case I would like to suggest that a round sum of Rs. 2,500 or Rs. 1,500 is not the proper way of approaching the problem. It should rather be in the proportion of the estate that is passing. In the case of a person who possesses an estate of several lakhs of rupees a restriction up to a limit of Rs. 2,500 will be a very small one. We may say that it should be to the extent of about five per cent. of the estate when given to public charities and in the case of gifts to other persons it may be to the extent of three per cent. and not like Rs. 2,500 or Rs. 1,500. That is what I have to suggest with respect to the charities.

Then I have to make one suggestion with regard to the recovery of these dues. In this respect my suggestion is that the tax should be collected in such a way that it should be payable in kind at the option of the person to whom the estate is going. That will serve two purposes. One will be that there will be no difficulty as regards the early payment of the tax and the other will be that thereby in an indirect way we will be controlling the officer who is valuing the estate to do it in a proper manner. When an estate is being partitioned and the partition is being made by one of the sharers, and when he is told, 'You divide it into so many shares but you will not have the option of selecting the share for yourself.' then he will partition the estate in such a way that the shares are as equal as possible because he knows that if he makes unequal shares he will not get the option of choosing. So, if we give such option to the person to whom the estate is passing then it will serve the purpose of proper valuation and will save the difficulty of the assessee to pay the estate duty.

I should also point out that there are certain other difficulties in connection with valuation. Take for instance, the estates in Bombay. If the valuation of the agricultural lands in Bombay is made on the basis of the quality of the land it will be one valuation and it will be another if it is on the basis of the interest of the person who is owning such estates. On account of the tenancy laws, the interest of the landlord is limited to a certain share. The property may have more value in the market but his own interest being small the difficulty would be that if it is valued at the market price it may not fetch that particular price. From that point of view, the suggestion that I have already made that he should have the option of payment in kind will solve the whole problem.

There are some other defects in valuing these properties. Take for instance the case of a rich man who builds a very good house in a village. He spends Rs. 50,000 or Rs. 80,000 in constructing that house. If actually valued according to the engineers, the value of the construction being so much per sq. ft., so much for the type of material used and so on, the valuation may be Rs. 75,000 but if it is sold it will not fetch so much because in that particular locality the house will not fetch such a high value. While valuing the properties, some such instructions will have to be given so that the value of the estate will be the value which it would fetch in that particular locality if it is sold. That should be the proper valuation. These are some of the minor points on which I do not want to dwell too much but the important point I would like to lay stress upon is the payment in kind at the option of the assessee.

Then, an hon. friend criticised that the Controller will be acting as *Yama*. He said that if a person dies, immediately the Controller will go and value the property. His going into the family which is in mourning and in bereaved circumstances and looking for the valuation of the property and drawing up an inventory etc. will be considered as an act of *Yama* himself. Of course, in that respect, rules should be made and proper care should be taken. But I would like to suggest and to bring to the notice of such critics that such *Yamas* will not be on the side of the Controllers or the Government officials only. What are the other people doing? I know of some cases that when deaths occur the nearest relatives who are the heirs and successors immediately file suits in courts within two or three days of the death of the person. The Court Commissioner comes and makes an inventory of all the things. When this is being done by the inheritors themselves, you do not take that into consideration.

**Shri Gadgil:** It gives them an opportunity to earn.

**Shri Altekar:** But when the Controller of the Government is performing his duty he is being called *Yama*. This should not be the angle of approach of

[Shri Altekar]

the general public. Utmost care should be taken while the rules are being framed that the work of these Controllers should not in any way be one of harassment and they act in the proper manner in making the valuation for the purpose of recovering the estate duty in the interests of the country at large. These are things which should be looked at from the point of view of the interest of the country at large and not from the point of view of pointing out some difficulty here and there.

Lastly, I would say that there are certain things which have not been completely taken into account. There are certain deaths which are regarded as civil deaths. If a man renounces the world, then the estate immediately passes to the heirs and for the purposes of estate duty that particular instance has not been taken into consideration If he dies, say, after 25 years or so, after renunciation then he does not possesss any estate at all. The estate has already passed into the hands of the persons who were heirs at the time and there will be no estate which will be taxed. So, such cases also will have to be taken into consideration.

With these few remarks I would close my speech at this time and say more if I have got anything to say at the time of the discussion of the various clauses.

**Pandit S. C. Mishra** (Monghyr North-East): The general principle of this Bill having been accepted by the House and having been supported by almost all parties, the only point that should now be taken into consideration is how this Bill will now operate. To my mind, the most controversial point that will arise will be the valuation of property. I think the Finance Minister wil realise that this kind of tax had already been in operation in our country in almost all the ages. For example, what was that law that when somebody died before their successors could get their names enrolled before their kings, they had to pay something? So, in a way this thing had been prevailing in our country also.

But now the point will be, what will be the amount that is to be given by such heirs? Our Finance Minister always likes to play hide and seek with the public in general. But I say that although so much has been given by the people, still they do not know what shall be the amount that the heirs will have to pay and how the Government is going to treat them. I do not know why Finance Minister and those people cannot come together and settle the things. What I want to stress is that the popularity or unpopularity of the Government will depend very much upon the way in which the rates are introduced. I think the Finance Minister is always in need of money and I do not call it greed or lust. Perhaps he will say this is the barest necessity. What I want to impress upon the Finance Minister is that as the pressure from the Finance Ministry grows resistance will also be stronger from all the sides and it is growing every day stronger. He will be tempted to come down immediately with a heavy percentage of taxation but I would just suggest as a friend—though we are in Opposition we are not enemies—that he should introduce the rates of taxes in a cautions way. I have gone through the rates of taxation in different countries and I have seen that most of the countries that introduced such taxes began with a low percentage of the rates and although now the rates have gone very high they took certain time in their own countries to introduce them slowly. For the sake of this Government, I will request the Finance Minister not to be very impatient with the hen that is laying the golden egg. He may be very impatient but though I represent the proletariat class I will request the Finance Minister and the Government to be considerate on that point. If they would immediately let us know what would be the rates I will be able to say how the rates shall go higher and higher in point of time and in point of the value of the property.

On that point I wish to say immediately that the main difficulty will be on the valuation of the property for the representatives of the Government will always try to evalute the property at a higher level. Therefore, in every case the real difficulty arises between the man who will have to pay the tax and the man who will go to collect the tax on the point of valuation for if a property is valued at Rs. 1,00,000 the rate will be lower and if it is valued at Rs. 1,50,000 or Rs. 2,00,000 it will be higher. Therefore, to my mind the point that will arise will be not only what amount is exempted but also what things are not exempted. Always on the one side people will say "our property is valued improperly" and there may be many things about which there may be difference in valuation.

I have also seen that the machinery you have set up for the purpose is not adequate. Then there is another peculiar thing, that is, when in a case of reference to the court the party succeeds, you say the matter of cost shall lie in the discretion of the Controller. I do not think it is fair play. Why that thing has been brought up, I do not understand. You wish to say that even if the tax gatherers are hard, they shall be protected by the statute. The man who goes further up, if he gets a decree that the property was wrongly valued, even then he will have to pay the whole cost of the litigation. That has been pointed out in the Bill. I want the Finance Minister to see that. Is that fair at all?

I want to give one suggestion. All this hardship can still be avoided but I do not know whether the Finance Minister will agree to this. Give him the right of choice. Give him the choice to surrender to you part of the property he likes on the rate you have fixed and then you need not give him any more concession. You do not give him the right of appeal. At least agree on this point. Well, if your intentions are *bona fide* you should have no difficulty. Suppose a man has to pay a tax of say, Rs. 50,000. He has not got any cash. He has got a building and some lands. The man may like to give you the building in lieu of the tax and keep the lands. But this is not allowed according to the provisions you have made. You have provided that these taxes will be realised in the same way as land tax is realised. What will it mean? If he fails to pay one instalment, out of so many he may be allowed, your machinery will go into operation. It may not be the house which is superflous to him, or which is not paying him his living wages that will be sold but the land which is the dearest thing to him and the very source of his existence and livelihood. There is no guarantee that the thing that he needs most shall be left to him and the thing that he does not need shall be taken from him. I would therefore make a request to our Finance Minister, who must be following the path of Chanakya. I would request him to give this right or option to the people to pay their taxes by way of a part of their property. Let them have the option of putting to your tax gatherers that part of the property which they want to be sold first.

After many years of struggle the *kisans* of my part of the country, and almost everywhere in India, got this right regarding the land tax. Not the whole of the holdings will be sold for collection of taxes, but only that part of the holding which will be adequate, according to the court, to cover the arrears. I would request the Finance Minister to make a similar provision, that in case a man fails to pay the duty, he should have the same guarantee, the same privilege as is now given to an ordinary peasant that only that part of his properly shall be sold which according to the rates calculated by Government shall be enough to cover the incidence of the tax. That I think will be a valuable protection for the people. This will be sufficient guarantee for people against going into liquidation.

One thing really surprised me. If you go through the Bill, you will not find what property is exempted from

[Pandit S. C. Mishra]

taxation. In regard to the amount, it is said that Rs. 50,000 shall be exempted. It is only in the rates that you find that Rs. 50,000 worth of property shall not be taxed. I think that point should be clarified. There is some doubt, because if a family is governed *Mitakshara* or *Dayabhaga*, the nature of the assessment will vary. The reference to the property which is to go for taxation should have been mentioned at the proper place, not mingled with other things.

12 NOON

I have no complaints about the limits. I think Rs. 50,000 is quite enough. I would say more than enough, for our country where the standard of living is not very high and where ordinary people do not even enjoy so much. So, it is only the rich, according to our Indian standards, who will be taxed by this Act. The only difficulty that comes to our mind is this: in places like Delhi or Bombay there may be a dwelling house which may be worth Rs. 50,000. A widow or some minor inheriting it may be put to certain hardships or difficulties. Except for that, I do not think the limits are at all low for our country. They are sufficient.

About the rates, I would once more insist and the Finance Minister should be considerate. England began with as low as three per cent. in 1894. Now it is as high as fifteen per cent.—that is, it has gone up five times. I am not one of those who believe that whenever we begin anything we should begin at the lowest rung of the ladder. If we have to introduce machinery, we must import the foremost machinery, the up-to-date machinery. Perhaps, the Finance Minister may say that we must support him if he introduces the latest or up-to-date rates charged in those countries. I would only say that just for the sake of getting our people accustomed to this tax, we should start at a lower point.

**Shri Achuthan** (Crangannur): What is that point?

**Pandit S. C. Mishra:** I think it should be five per cent. It should not be beyond that. I think it is not very high. Many people who are particular about collecting money for nation-building purposes, will not feel that it is very heavy.

**Shri Velayudhan:** Having accepted the principle of the Bill in general, we are now entering into the stage wherefrom the Bill is to go on the Statute Book very soon. On the speeches made on this Bill on previous occasions as well as today, I have to make a few observations and I think they will be considered by the Finance Minister with all the clarity behind these.

I come from that part of the country where the joint family system is practically not in existence. We had had advanced social and economic legislations in our State with the result that today the joint family system or joint property is a thing of the past. Therefore, correctly our State has not passed a resolution regarding this Bill. But at the same time it is my observation that this Bill, when it is passed, must become a legislation not only for a few States but for all the States in India.

A particular point which has come to my notice in this Bill is regarding the agricultural land. We are on the point of introducing agricultural legislation in the country and even according to the Five Year Plan and also according to the resolutions passed by the Congress Party in its session at Agra, the party in power is intending to speed up the phase of agrarian legislation in the country. Therefore, I do not know how certain States can be exempted from this Bill with regard to the agricultural lands. From the Schedule we come to notice that only six states—Bombay, Orissa, U.P., Hyderabad, Rajasthan and Madhya Pradesh— have passed resolutions regarding the agricultural land, that is, the duty to be levied on the agricultural land. Therefore, if this Bill is passed today or in this Session, it will affect only five or six States and the others will be left out. I request

the Finance Minister that pressure should be put on all the other States that are being exempted to come within the taxable Category so that it may become a uniform legislation unlike a permissible one.

In my State there is a peculiar or special situation that land is possessed by a few and we have got individuals possessing 20,000 or even 40,000 acres of field. It is very strange to see that this position continues with regard to these landed properties especially when they are giving good incomes and when they are fully cultivated. We have not much waste lands in our State. All the lands are under full cultivation, and, therefore, in order to effect equality, which is the objective of the Bill, it is quite essential that the Estate Duty Bill should embrace the agricultural land which is in the hands of a few in our State.

Even though the objective of the Bill is very laudable it will create more confusion than what is existing today if it is worked out in its entirety. I need not warn the Finance Minister that many lands and properties, buildings and other things will become the property of the State as a result of the levy of taxes because many people would not be prepared to take them back or to pay the estate duty. Therefore, when the Government is against the possession of wealth in the hands of a few, the result would be that the concentration will go from the few to the hands of the Government. Of course, it will be a problem for the Centre how to dispose of those vast properties that will be coming in its hands. It will have no other alternative but to put those properties to auctions and even then I say only those who have got the money or who have got the wealth will benefit by this auction. Therefore, this is not a happy solution for bridging the inequality in the economic and social life of the country. This is the Western method which the Government have taken up. As it is seen from the Bill, itself, we have copied mostly the clauses of the Bill from the U.K. Estate Duty Act and inheritance Act.

It is stated by many that the Bill is a panacea for removing inequality. That is only an imagination. But the Government is already committed to this Bill, to this legislation to get money for its administrative expenses. It has got vast plans, especially the Five Year Plan which requires money. The Finance Minister has declared, not once but several times, that the money that is collected through the Estate Duty Bill, would be utilised for implementing the plans. I have got my own doubts in the way in which these plans are being executed, whether the plans will benefit the community as a whole. India is now turning into a great economic crisis and I do not know if the Finance Minister or the party in power is realising the forces of it. Many people have spoken that there is no way between the present situation and an acute crisis which will continue and which, many feel, will end into a revolution. Several spokesmen of the party in power also have stated that there will not be any other way excepting a revolution if the present situation continues as it is. But then it should be the effort of the Government to find out a way between the two so that the great crisis and hardship to the community as a whole are eliminated. I must say, as things are in India today, a large proportion of the people in the country today are underfed or half-starved. The Finance Minister knows it very well. As one of the premier architects of the Five Year Plan it must be his duty to see how the problem of the vast number of people now undergoing starvation and poverty can be immediately solved. There is no use of taking Rs. 20 crores or Rs. 22 crores collected from the estate tax and putting in the Hirakud Dam or in the many barrages that are now going to be constructed. If the money is put in the village cottage industries and in the scheme of village reconstruction, the problem of poverty and starvation can be solved

**Shri S. V. Ramaswamy** (Salem): Are we going to discuss the manner in which the proceeds of the duty should be utilised?

**Shri Velayudhan:** I am not going into the detail but I was only telling the Government how this money that they are going to collect is to be utilised about which, I think, the Finance Minister has said in several places eariler. I must tell the Government that when they are now taking wealth from the people, when there is a particular pattern of economic activity prevalent in the country and when that is now directed to a different channel, the Government should not put the people in a vacuum. That vacuum is in existence today. That is why I was mentioning all these things. They must put the community into a different and alternative economic activity so that people may not suffer, as millions are suffering today. This legislation is going to direct the economic activity of the community in a particular pattern, as Government is intending to do. That is why I stress again and again that when this legislation is made, Government must see that they create a new pattern of economic activity, that there is a new idea given, that a new energy, a new drive given, to the people so that a particular pattern of economic activity may come into force. People are now left in a vacuum because of the various plans and schemes and the economic measures that the Government have taken for the last so many years. It is because of this vacuum that millions of people are suffering today. People do not know where to go and in a pessimism say: we have no other way but revolution in the country. And should we allow it to come? I therefore appeal to the Finance Minister, when he is taking up a radical and advanced financial measure of this kind, to see that the money that is collected by this is given to the community, from where the money is coming, and not spent in the large and vast industrial schemes the results of which will be coming only after ten or fifteen years.

**Shri S. V. Ramaswamy:** It is too late in the day to question the necessity of this Bill. Some Members have raised certain objections and on the ground of those objections they have said that this Bill is not necessary and does not suit our conditions.

That there is urgent need for giving equal opportunities for all, and, in the context of our objective of a Welfare State it is necessary to reduce economic equalities, are arguments which cannot be questioned at all. There is urgent need to provide more funds to the State in order to give equal opportunities to all, so that each citizen of this great State may reach up to his fullest height, in freedom and liberty. With that object in view, none of us should oppose this Bill.

But, that is not to say that this Bill is perfect. I concede that nothing on earth is perfect so long as it is human, and therefore it is up to us to see how those defects and mistakes can be rectified. It is with that object in view that I wish to take the time of the House for a few minutes.

Some hon. Members have waxed eloquent over the point that it hits inequitably people who are on the *Dayabhaga* system. It is a fact. It cannot be gainsaid that in actual operation the Bill, as it is, will work inequitably. But that cannot be helped. Because, the two systems, *Mitakshara* and *Dayabhaga* are entirely different, having their origin in different circumstances; and the rules applying to those two systems are entirely different and, I beg to submit, almost irreconcilable. As you know, Sir, in *Dayabhaga* the guiding principle is the question of religious efficacy, whereas in *Mitakshara* the guiding principle is sometimes consanguinity and sometimes religious efficacy. As you also know, in the *Mitakshara* joint family a right to inherit property accrues to the son the moment he is conceived in the womb, whereas such is not the case under *Dayabhaga*. In *Mitakshara* there are two methods of devolution of property, by succession and by survivorship. Survivorship is unknown to the

*Dayabhaga* school. There the father is an absolute owner of property and he can dispose of the property as he likes during his life time. That is not so under *Mitakshara;* the powers of the father or manager are circumscribed and limited by several rules and considerations, and the manager or father is also not free to dispose of the property as he likes as under the *Dayabhaga* school. So far as separate property is concerned, of course, the two systems are alike. But how these systems can be interpolated or equated when they are so fundamentally different, passes our understanding. It is impossible.

Therefore, to say that it works inequitably in Bengal and that in the rest of India, which is under the *Mitakshara* system, it works in a different manner and that therefore this Bill ought not to be pushed through is a wholly illogical attitude, and my humble submission is it cannot be sustained at all. On the other hand, what we should do is to see that in its actual operation the inequality is whittled down. I suggest that it can be whittled down not merely by increasing the minimum limit but also, as my hon. friend Mr. Altekar suggested, by having a separate rate of duty applicable to the *Dayabhaga* school. It is a pity that the rate of duty Bill has also not been placed before the House. It would have been helpful to Members if that had also been taken side by side with this, for this reason. There is a large amount of apprehension in the minds of several Members as to what is to happen in cases where the value of property is just above the minimum limit. If the rate of duty Bill had also been introduced, Members would have found out that the rate immediately above the exemption limit would probably be negligible and they need not be afraid that the exemption is not seventy-five thousand or one lakh and so on. It would have allayed those suspicions and fears. I would, therefore, very respectfully submit through you to the hon. Finance Minister, to introduce that Bill also before this Bill is passed, so that they may have an idea as to what rate they may be called upon to pay. That would greatly help to curtail the discussions by allaying the fears and suspicions as I submitted.

The inequities that hon. Members have so much emphasised with regard to the two systems of Hindu law, are, in my view, not so great as some other inequities which, on the other hand, will come into operation when this Bill is put into force. I shall submit four cases. One case has already been noted with regard to agricultural land. I am inviting your attention to page 3 of the report of the Select Committee where they themselves have said, dealing with clause 20:

> "The position under this Bill is that all agricultural land in the territories to which this law will extend should be taken into account for determining the rate of duty, although no duty will be actually levied on agricultural land in States not specified in the Schedule."

This is very clearly an admission that there will be discrimination as between States in which a resolution has been passed agreeing to the operation of the estate duty leviable on agricultural land and those States in which such a resolution has not been passed. I would respectfully submit through you to the hon. Finance Minister that he should see that all the States pass such a resolution so that the fear that this Bill will work differently in different States may not be urged as a reason against this Bill. I hope the hon. Finance Minister will kindly take this into consideration and see that urgent steps are taken to pass similar resolutions in other States as well.

I shall now come to a second case. Suppose there is a man who has got three sons and another man who has got only three daughters—both under the *Mitakshara* law—there will be clearly a case of inequitable working in the operation of this Act. I will tell you how. Both of them, A and B

[Shri S. V. Ramaswamy]

have got properties worth two lakhs of rupees. A has got three sons. The father's share will be Rs. 50,000. That property would be exempted. In the case of B who has got three daughters, the 75,000 rule will apply and this duty will be imposed on Rs. 125,000. In this case, simply because one gentleman happens to have daughters only and the other sons only, in the operation of this law, one has got to pay the tax on Rs. 125,000 and the other has not got to pay any tax at all.

There will be other cases also: take this difference between self-acquired property and joint family property. A has got self-acquired property worth two lakhs of rupees and B has got all the property which is joint family property also worth about two lakhs. Some difficulty will arise in the operation of this Bill. Whereas the property which is self-acquired property will come under the clutches of this Bill, so far as joint family property is concerned—I mentioned the case of a father and three sons— it will go scot-free. What will happen is this. There will be a tendency, I submit, for all people to declare even self-acquired property as joint family property. According to the existing law, it is not at all difficult for the father or manager to treat even his self-acquired property in such a manner as to show that it was joint family property, in which case it will come under the exemption.

There is another difficulty arising out of this from an administrative point of view. A has got actually self-acquired property and if he says that it is joint family property, who is to determine whether it is joint family property or self-acquired property? It is really a judicial question and it has got to be decided in a court of law, according to the evidence, whether it is joint family property or self-acquired property. Are all these officials of the Income-tax Department, the Commissioner or Valuer, whoever he may be, equipped to say that that is not self-acquired property or that that is not joint family property, but self-acquired property and therefore it must be assessed accordingly? If that is so, I apprehend one other difficulty. There will be a number of suits against the Government to declare that under colour of the Bill, the officer has exceeded his power and has assessed him treating a certain property as self-acquired property. I am anticipating all these difficulties—I am thinking aloud—and I hope the hon. Finance Minister will think of these difficulties in consultation with the Law Department, to see and work out ways of mitigating these differences.

There is also one other anomaly that would arise. A gifts away his property to his son who is a major; B gifts away his property to his son who is a minor. The major—not necessarily the son, any donee—takes possession of the property and that property will be exempted. But, if he is a minor—I have gone through the clause and I do not find any protection for him. Because he is a minor, he does not take charge of the property or take possession, within the language of the clause. What would happen if a property has actually been given with full intention that it should be given to the minor, but because of the fact that he happens to be a minor, he cannot take possession of it? That property will become liable to tax. Therefore, there is an invidious distinction on the ground of being a major or a minor, on the ground of its being self-acquired property or joint family property, on the ground whether a person has got sons or daughters and on the ground whether he belongs to a particular State where a resolution has been passed saying that the Estate Duty Bill will be applicable to agricultural land or not. On all these grounds, I submit, this Bill, as it is, will offend against the provisions of article 15 of the Constitution, as there is discrimination on account of age, sex, place of birth and so on. I submit that the hon. Finance Minister may be pleased to go into this aspect

of the matter and see whether it does not conflict, as I said, with article 15 and also devise ways and means to get over this possible conflict.

I then come to clause 4 which is related to clauses 61 and 62. It is a moot question whether the appeal should be to the Board or to an appeal tribunal. In this matter just as in the case of appeals under the Income-tax Act, I for one, by profession maybe, by my feeling or mental outlook maybe, do have faith in the judiciary of our country, which is second to none in this world. It is one of the finest judiciary that we have for integrity, for honesty, for ability, capacity and I take this opportunity of paying my humble tribute to the judiciary of India. There is none to beat our judiciary. With that abundant faith in the personnel and in the system of our judicial administration, I have no hesitation in submitting that the appeal should not be to a Board, but to an Appellate Estate Duty Tribunal which may be created. I am well aware the auditors who gave evidence before the Select Committee have submitted a view that in their income-tax work, they have found greater ease in adjustments before the Board than before a judicial tribunal. I have got always, as I submitted, an appreciation for judicial tribunals where personal equations or moods of the presiding officers do not count, but the principles which have been laid down do count, and they take their course irrespective of the person who presides. It does not depend upon any favour from anybody, but on the merits of the case. I need not elaborate on this. When the amendments are moved, I hope the House will persuade itself to accept the amendment for the setting up of an Appellate Estate Duty Tribunal, and see that clauses 4, 61 and 62 are suitably amended.

So many Members have spoken on clause 9. There is no harm in adding my voice also to request the deletion of that proviso—the proviso which says that the gift should not be made within six months to a public or charitable purpose to escape the duty. My humble submission is this, that there should be no limit as to either the quantity or to the time in so far as gifts are concerned to public or charitable purposes. This is a land known for charities. We shall not impose any restrictions upon worthy gentlemen who are disposed to give charities to public purposes, for the advancement of learning, for purposes of public health, and so on and so forth. It may be that within six months, or on the point of death, a man may think of gifting away his property entirely for purposes of education or public health, and why should this proviso stand in the way of such gifts being given? Also I find in the language of clause 9 something which has been put in, which is not in the English Act. I submit many of these clauses have been bodily taken from the English Act. I also find that some of the salutary provisions which are found in the English Act have been omitted in the present Bill under consideration, and something more has been added to the detriment of the people who are liable to the duty. clause 9 reads:

> "Property taken under a disposition made by the deceased purporting to operate as an immediate gift *inter vivos* whether by way of transfer, delivery, declaration of trust...which shall not have been *bona fide* made two years or more before..."

Now, this "or more" is not in the English statute. My humble submission is that these two words are a very dangerous addition and an interpolation in this clause. By these two words "or more", the whole of the past is liable to be opened. Any gift made before two years—it may be ten years, it may be fifteen years, or it may be twenty years—will be brought into question. Under the English Act it is not two years, but five years, but these two words "or more" are not there. I would earnestly request that these two words "or more" are deleted, as also the proviso.

[Shri S. V. Ramaswamy]

Touching upon the fourth point, viz., quick succession, that is clause 30, many hon. Members have spoken on it. To be brief, I would submit that there should be no duty payable in a case where a second death occurs within five years of the first death, the subsequent duty to be proportionately adjusted. I need not dilate much upon this.

Then with regard to clause 31 about widows, this clause is not in the English Act, but in framing this clause, we could have been more liberal:

> "Exemption of interest of a Hindu widow dying within seven years of her husband's death."

Why this seven years has been imposed upon the poor widow, I do not know. If the duty has been levied upon the property before she got it from her husband, then this limitation of seven years appears to me to be just harsh. It need not be levied again, whether the widow dies in seven years or more. Let the poor lady live as long as she likes or as long as she is tolerated to live; let not the statute impose a period of limitation for her existence. I would respectfully submit that this seven years limitation should be completely deleted so that the duty will not be leviable on her death if it had already been collected on the death of the husband.

With regard to exemptions, I would like to add my voice to that of other hon. Members. It looks rather cruel that even though there is only one residential house, even that might have to be sold in order to pay the duty. Supposing it is valued at rupees one lakh, and they have got only one residential house, where are the members to go? Are they to go leaving their ancestral home and find a rented house, or live in a tent as the Government of Andhra is going to live in Kurnool some time in October, and sell the house and pay the tax? Other hon. Members have spoken, and I need not stress it, but I hope the House will accept my amendment that where there are more than one house, one residential house may be exempted, but if there is only one residential house, it may be completely exempted whatever be its value. I am well aware there are Maharajas and Maharanis and others who have got residential houses which may be worth lakhs of rupees, but that is no reason for making the Bill so rigorous as to drive the occupants of a house outside their own residential house in order to pay the tax. Revenue tax, in my humble opinion, should not be so rigorous. I trust it will be libearlised.

On the question of aggregation also, I find it rather difficult to agree to the new amendment introduced by the Select Committee.

> "...excluding property on which no estate duty is leviable under section 34, but including property exempted from duty under section 32..."

I fail to follow the reasoning. What is the purpose in exempting, and then including for purposes of rate of duty. Once you exempt it, it must be exempted, and it seems to me that it is not fair to bring it back for purposes of imposing a duty. I hope that clause also will be deleted.

On the question of rates of duty—Clause 34—I have always submitted that it would have been better if the rates of duty had been published. But, I would submit one other point. The exemption of Rs. 50,000 in the case of an interest in joint family property, and of Rs. 75,000 in other cases seems to me to be wholly inadequate. What is Rs. 50,000 in these days? As the hon. Finance Minister himself is aware, a rupee is worth only four annas now as compared to 1937. The periodical cost of living indices which the Government publish also clearly show that the index is somewhere about 360 or sometimes even 400. So the value of houses has been bloating, and to say that property valued at Rs. 50,000 and above will be liable to tax is very ex-

cessive. An interest in a property which is worth about Rs. 50,000 today is actually worth only about Rs. 12,500 or at the most Rs. 15,000, and nothing more. And people who have got large incomes liable to estate duty are not very many. Merely for the purpose of having more funds, we should not reduce the minimum exemption limit to such a low level. I would submit that the original figure of rupees one lakh given earlier by an earlier Select Committee should be accepted, though my hon. friends on the opposite side will not agree, and would rather like to take it down to Rs. 25,000. With regard to the property under clause 32 (1) (b), I would like the exemption limit to be put at Rs. 1,50,000.

We are introducing this measure for the first time in 1953, whereas other countries had introduced this Bill in their territories, long ago. For instance, in England, the Estate Duty Act has been in existence for more than half a century, and people have got themselves adjusted to it. The fears entertained by some hon. Members here that it will affect capital formation and savings is also true. But I would like to say this much that it will be only for a temporary period. Once the Act starts to keep going, the people will be able to adjust themselves to the incidence of taxation under this legislation, when neither capital formation nor saving will be affected, as is the case in other countries now. But that is the reason for my argument that at the inception, it should not be very rigorous. It should be introduced in a mild manner, and as years pass on, the exemption limit may be reduced, and the rates of duty may also be increased. We should allow some time for people to adjust themselves to this new tax.

I have no doubt that the people of this country will willingly accept this Bill, and pay duties thereunder, because it all goes for a national purpose, *viz.* the raising of the economic standards of life to a high level, so that all of us can have the benefits of a Welfare State.

**Dr. Rama Rao** (Kakinada): I support the Bill, but before going into the various clauses, I would like to say a word on the Statement of Objects and Reasons. They are very laudable. One of the objects is that unequal distributions may be rectified to a large extent.

**Shri C. R. Iyyunni** (Trichur): May I request the Chair to fix some time-limit, so that other people who are interested in this matter may also get a chance to speak?

**Mr. Chairman:** I think we have got two days more for discussing this Bill, and so every one who wants to speak can have a chance. If it is found necessary, we can fix a time-limit later.

**Dr. Rama Rao:** The Five Year Plan also says that the object of the Government is to ensure equitable distribution of property. But are they earnest about it?

**Babu Ramnarayan Singh:** No.

**Dr. Rama Rao:** If they were earnest about it, then they must have proceeded quickly instead of allowing some rich people to escape. It is estimated that the yield will be about Rs. ten or eleven crores. And this is to be distributed to all the States, and the Five Year Plan has to be implemented partly at least out of this income. So it looks a little fantastic to expect that this unequal distribution of property in the land will be rectified to a great extent by this Bill.

Secondly, I say Government are not earnest about this principle of equitable distribution of property. The Five Year Plan itself says about land that there must be a ceiling to the possession of land. If the Government are in earnest about this equitable distribution of property, they can ask the State Governments to undertake legislation to redistribute land fixing maximum holdings. Instead of doing any such thing, what are our Ministers doing? Of course, it is all right for Acharya Vinoba Bhave to go about 'Bhoodan Yajna' for land. That is the

[Dr. Rama Rao]

only weapon he has got; he goes for alms. But for the Prime Minister of India with all the States under him with a lot of power, legislative power, I mean—to go about lecturing to the people and begging for land, for *bhoodan* and all that, is a little fantastic and looks more like a dramatic performance.

I will mention one thing more to illustrate my point. I do not know how far it is true, but recently there was a news item about the Chief Minister of Orissa...

**Mr. Chairman:** I hope the hon. Member will confine himself to the provisions of the Bill.

**Dr. Rama Rao:** I am speaking about the object of the Bill, which I believe, Government are not earnest about. I just point this out, because after all, that Minister is not here but it is the Congress that shows the mentality and psychology of the ruling party. It is reported that the Chief Minister of Orissa wants to resign his Chief Ministership so that he could devote all his time for this *bhoodan yajna*.

**Mr. Chairman:** I would still ask the hon. Member to take into consideration the fact that though one of the objects mentioned in the Statement of Objects and Reasons may be to equalise the distribution of property, at the same time, we are discussing the Bill primarily. The hon. Member need not go into the *bhoodan yajna* movement and all that.

**Dr. Rama Rao:** Well, I think, I made my point that the Government are not earnest; if they are, they must do something more than this. Of course, as far as the Bill goes, we have no objection.

**Shri Achuthan:** Things are coming.

**An Hon. Member:** From where?

**Dr. Rama Rao:** In due course things are coming; terrible unemployment, starvation and all those things are coming. We hear from the same Government words put in the mouth of the President that there is all round progress and all that. Let us see how far this Bill will go. As far as my party is concerned, we have no illusions about it, and I do not think the hon. the Finance Minister can have any illusions about it either.

Then I come to clause 9—about gifts. I really could not follow the objection raised by the hon. Member from Salem about this. I understand this clause defines two conditions. For properties to be exempt from this taxation, these gifts must be *bona fide* and they must have been gifted away for more than two years—'two years or more'. As has been already mentioned, the limit has been fixed as in the law of the United Kingdom. I think we ought to accept that for two reasons. You know these rich people are very clever and they know more ways of escaping or evading taxation than we have powers to tax. So, for various considerations it is better to have this five years' limit. After all we are not preventing them from giving gifts; we are asking a little share of that gift for the State. There is an impression here expressed by several Members that whenever a thing is brought within the limits of this Bill it is as if we are confiscating the whole thing. After all when you give a gift to some one, we are asking for a fraction of it. So, I think this five year's limit must be brought in. It is very important because *mala fide* transactions which can be manipulated in the legal forms to pass as *bona fide* in the eyes of the law may be got hold of.

Now, about the chief point, the point about exemption limit on property. I refer to clause 34. Here I agree with our hon. friend Mr. Pande, who has spoken about the *Mitakshara* and the *Dayabhaga*. I think there is some injustice done to certain sections of the population who are governed by laws other than those mentioned here, the *Mitakshara*, *Marumakkattayam* and others. Take a hypothetical instance. My contention relates only to inherited property. As far as self-earned pro-

perty is concerned, there is no distinction in these laws. Because, even in *Mitakshara* self-earned property can be willed away and spent as a person likes. So, our consideration must be about inherited property. If a *Mitakshara* joint family with a father and three sons has two lakhs worth of property and the father obliges by dying, the property is not taxed; whereas in a *Dayabhaga* family or a Christian family, if the father dies with a property of two lakhs the entire property is taxed. So, we must make as far as possible, specific rules to see that the law is administered fairly for all sections. Now, under (b) property of other kinds is mentioned. In fact, it was clearly mentioned by the hon. Finance Minister that self-earned property is included in that and he has given an explanation why the exemption limit of 75,000 should be allowed for self-earned property. I have gone through his speech but it is entirely unsatisfactory.

Of course, regarding property we have different views. The Finance Minister does not understand our language because we talk different languages. When a man accumulates wealth it is at the cost of society. So, to put it very briefly, to that extent it is robbery. So, I do not consider self-earned property as something holy to give a higher exemption limit of about Rs. 75,000, whereas the property inherited from the father is something different. So, as far as this is concerned, I would rather have this 50,000 limit both for inherited property as well as self-earned property. I have not got any definite amendment or suggestion to make but the *Dayabhaga* and Syrian Christian families which will be badly affected must be protected.

Now, I come to charities.

**An Hon. Member:** Do not become uncharitable.

**Dr. Rama Rao:** There are two considerations. I agree with those friends who have said all charitable gifts must be covered. At the same time, there are other considerations. Every one will remember that in every district there are so many charities which are lying waste or mismanaged or without anything useful to society.

1 P.M.

Secondly, you know this cynical saying that 'Charity begins at home'. The law must take care of such a thing by providing suitable measures. I agree about the six months. Of course, it is a genuine gift that stands on a different level. I have also mentioned about gifts. We must direct this charity towards more rational, more organized channels and any Government with all its defects is any way a superior agency to conduct or carry on the charities than private agencies. Most of us know this from our own experience, so much so if these public charitable gifts are taken over, it is but reasonable that we should claim a fraction of that property for the State.

With this I commend the Bill.

**Shri Mulchand Dube** (Farrukhabad Distt.—North): I offer my support to this Bill, the chief reason being that this is going to provide some financial revenue to the States for the development of the country. It has been opposed on the ground that it is discriminatory. My submission is that hon. Members who have opposed on that ground have not considered the matter fully.

Clause 5 of the Bill lays down that the duty is leviable only on property. Now the question is whether a member of the *Mitakshara* family has full disposing power over the property which he leaves. My submission is that in *Mitakshara* family the entire property belongs to the joint family and no individual member can dispose of it until the partition but he will have a share in that property and that share varies with births and deaths in the family and every member continues to be the owner of the property. So the position is that in a *Mitakshara* family the member who dies has no disposing power and therefore is not leviable to an estate duty, whereas in a *Dayabhaga* family the father has full disposing power over the property and on

[Shri Mulchand Dube]

his death the property would be leviable to an estate duty. It is true that *Mitakshara* and *Dayabhaga* are mere commentaries on the law of Manu and it is true that we can change the law if we so wish. I entirely agree with the previous speaker that Parliament is supreme and can make any change in the Estate Duty Bill. There is no other procedure to be followed before the law is changed. The Constitution recognises the rights of property and so long as those rights of property exist, I do not think by the Estate Duty Bill we can expropriate the rights of the members of the joint Hindu family governed by the *Mitakshara* law. For that expropriation the Constitution will have to be changed and so long as the Constitution is not being changed it is not possible to change the law in the manner it has been sought to be done by the previous speaker. My submission is that there is no discrimination and my hon. friends who talk of discrimination have not given full consideration to this matter.

Another point that has been raised is about the exemption of a house and other things. These are matters on which there can be difference of opinion and people may think differently. If a house of the value of Rs. 25,000 is exempted, I do not think any harm is caused, but in a property worth Rs. 70,000 a house worth Rs. 25,000 is bound to be exempted, as desired by certain hon. Members.

There is another point in the Bill, namely, about gifts. I do not know why this clause has been introduced. It simply shows that there is a lurking suspicion in the mind of the hon. Finance Minister that people would try to evade the payment of the duty. That is true to a certain extent and it is perhaps based on the experience which he has gained from the working of the Income-tax Act. But the two stand on an entirely different footing. In the Income-tax Act if a person tries to save some money he does not stand to lose anything. But in the case of estate duty if a person chooses to transfer property to another he runs the risk of losing the property altogeter, and I do not think any person would be foolish enough to risk his property for the simple reason that after his death his sons or heirs may be able to save a small amount of estate duty on it.

The third point I wanted to make was about agricultural land. I am not quite clear as to whether this duty would be leviable in estates where the zamindaris or the rights of the intermediaries have been abolished. Now if the rights of the intermediaries have been abolished, the further question arises as to whether the tenants or *bhoomidars, sirdars* or *asamis,* whether their property, or tenancy lands, will also be subject to estate duty. I expect the hon. Finance Minister to clarify this question in his reply if it is the intention of this Bill, or the scope of this Bill to levy an estate duty even on agricultural land owned and possessed by *bhoomidars* or *asamis,* or some such people. I think the proper thing would be to exempt these persons. because the value of the land has certainly risen and a person owning even 50 acres may be subjected to this estate duty. This ponit is a thing which has to be considered.

The next point is about the right of appeal. This is a new measure and the Controller and the Valuers may find it difficult to evaluate property at its proper value and the proper thing would be to give a right of appeal to a judicial tribunal or to the District Judge, for instance. That would be more in consonance with justice because the evaluation is to be by certain Valuers who are to be appointed and are to be given a certain commission on the amount at which they evaluate the property. They may be interested in raising the value. For that reason too, I think the best course would be to allow at least one appeal to the District Judge. That would be simpler. If an appeal is allowed to the High Court, there may be difficulty, because that is more expensive and litigation is more expensive. And the game may not be worth the candle.

The last point that I wish to urge is about clause 48 which provides:

> *"Relief from estate duty where court-fees have been paid for obtaining representation to estate of deceased.*—Where any fees have been paid under any law relating to court-fees in force in any State other than the State of Jammu and Kashmir for obtaining probate, letters of administration or a succession certificate in respect of any property on which estate duty is leviable under this Act, the amount of the estate duty payable shall be reduced by an amount which is equal to the court-fees so paid:
>
> Provided that the total amount of such reduction shall in no case exceed one-sixth of the estate duty payable."

In regard to this provision my submission is that there should be a further provision for any cases in which this estate duty is levied. The persons should obtain representation by applying for a probate, letters of administration or a succession certificate. That application should not be subject to the payment of any court-fee whatever. I mean the court-fee should not be levied in case in which a person is assessable to estate duty if he is to apply for a succession certificate, probate or letters of administration. These duties are not levied, if I am not mistaken, in the United Kingdom also. So I think the hon. Finance Minister will make some provision for the exemption from payment of duty in respect of such applications if they are made before a competent authority.

This is all that I wished to submit. I have tabled some amendments and when they come I will have to say more about the various clauses.

**Shri C. R. Iyyunni:** I am in agreement with the Bill in essential matters but there are a few matters upon which I cannot agree with the Finance Minister. It is true that the Bill takes more after the law that is prevalent in England. Estate duty is a duty that you find practically all over the civilised countries. But the difference between India, which is almost a sub-continent, and the various countries in Europe and in America is that there is one system of inheritance there whereas here in this land of ours, which is inhabited by so many people, there are various systems of inheritance. Amongst the Hindus themselves we find two systems; one is the *Mitakshara* system of inheritance and the other is *Dayabhaga*. In the case of *Dayabhaga* system we find that the father is considered to be the absolute owner of the property whereas in the case of *Mitakshara* law every male member that is born in a joint *Mitakshara* family gets some right in the property of the family. That makes all the difference here with regard to this Bill.

I have worked out six cases in either of the two systems of inheritance.

**Mr. Chairman:** The hon. Member evidently has much to say. He may continue tomorrow.

*The House then adjourned till a Quarter Past Eight of the Clock on Tuesday, the 11th August 1953.*