

Clause 3 was added to the Bill.

Clauses 4 and 1, the Title and the Enacting Formula were added to the Bill.

Dr. P. S. Deshmukh: I beg to move:

"That the Bill be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

### ESTATE DUTY BILL

The Minister of Finance (Shri C. D. Deshmukh): I beg to move:

"That the Bill to provide for the levy and collection of an estate duty, be referred to a Select Committee consisting of Shri M. Ananthasayanam Ayyangar, Shri Khandubhai Kasanji Desai, Shri Narahar Vishnu Gadgil, Shri Dev Kanta Borooah, Shri R. Venkataraman, Shri Nityanand Kanungo, Shri Feroze Gandhi, Shri Tribhuan Narayan Singh, Shri Basanta Kumar Das, Shri Balwantrao Mehta, Prof. Shri Ram Narayan Agarwal, Shrimati Anasuyabai Kale, Shri P. T. Chacko, Shri N. Keshavaiengar, Shri U. Srinivasa Malliah, Shri S. Sinha, Shri C. D. Pande, Shri Tek Chand, Shri Harinar Nath Shastri, Pandit Munishw. Dutt Upadhyay, Shri Sadath Ali Khan, Shri Radheshyam Ramkumar Morarka, Shri Kamakhya Prasad Tripathi, Shri N. C. Chatterjee, Shri B. Ramachandra Reddi, Shri K. A. Damodara Menon, Shri K. S. Raghavachari, Shri Tulsidas Killa-chand, His Highness Maharaja Sri Karni Singhji Bahadur of Bikaner, Shri V. P. Nayar, Shri Kamal Kumar Basu, Dr. Lanka Sundaram, Shri B. R. Bhagat, Shri Mahavir Tyagi and the Mover, with instructions to report by the last day of the first week of the next session."

Sir, this measure has had a rather long and chequered history. As far back as 1925, the Taxation Enquiry Committee recommended the levy of such a duty, but it was decided not to take up the matter in view of the impending constitutional discussions. When at a later period the Government intended to introduce a measure of this kind it was found that the then Government of India Act was not quite clear on the point whether the Central Legislature was capable of or had the powers to enact a measure imposing an estate duty. Subsequently this difficulty was removed by

an amendment of the Government of India Act by the British Parliament and a Bill to levy estate duty was introduced in 1946. This Bill lapsed by efflux of time and in 1948 another Bill was re-introduced and the second Bill passed through the stage of the Select Committee, which considered it carefully and reported on it. The report was presented to the House in March 1949, but it could not be taken up for further consideration later owing to heavy pressure of other legislative work. This Bill too lapsed on the dissolution of the Provisional Parliament.

The present Bill follows the lines of the preceding Bill as reported on by the Select Committee and was introduced in August last. At one time I thought that it might not be necessary to refer it again to a Select Committee, but on further consideration I came to the conclusion that it would be much better if a Select Committee of the newly elected House were to have an opportunity of bringing its deliberations to bear on the Bill in view of its very great importance. It is not necessary at this stage to go into the detailed provisions of the Bill except to refer to the broad outlines, which I shall presently do. The object at present is to ask the House to accept the general principles on which the Bill is based.

A reference to the Statement of Objects and Reasons will show that the social justification for the measure is that it is one of the positive steps which could take in the direction of reducing the existing inequalities in the distribution of wealth, and thus arriving at a more acceptable social order by correcting certain amount of mal-distribution. The economic justification is that it would go some way towards assisting the States in the financing of their development schemes. In their draft outline report the Planning Commission had also stressed the need for undertaking legislation to levy death duties in India as early as possible and to my knowledge they have not changed their views in this respect.

On account of the federal financial integration of Part B States the present Bill, unlike its predecessor, extends to Part B States, excluding the State of Jammu and Kashmir which is outside the jurisdiction of the Bill.

The House is aware that estate duty on agricultural land falls within the State legislative list, but at the suggestion of the Select Committee on the last Bill and with a view to securing

uniformity in the levy and collection of estate duty on agricultural lands within Part A and B States, the Government of India requested all the States to authorise the Centre to legislate on their behalf. The States which have actually passed the necessary resolution under article 252 of the Constitution are shown in the Schedule to the Bill. Other States which pass such a resolution later will be included in the Schedule by notification as and when they pass the necessary resolution. The effect of the inclusion in the Schedule of any State will be that estate duty would become chargeable under the proposed Act in respect of agricultural lands in that State. It may be mentioned that all States except West Bengal, Travancore-Cochin and Saurashtra have agreed to entrust the Centre with power to legislate on their behalf.

Estate duty, Sir, is chargeable on all property passing on the death of a person which he was entitled to dispose of. However, immovable property situated outside India or in the State of Jammu and Kashmir, by whomsoever owned, that is whether owned by a person domiciled in India or non-domiciled, is outside the scope of the charge. Movable property belonging to a person domiciled in India is chargeable to duty whether it is situated in India or outside. In the last Bill the Select Committee introduced also a criterion of residence according to the Indian Income-tax Act as an alternative basis to bring movable property within the charge. The effect would be that if a foreigner came to India and became resident by staying here for 182 days, then his whole foreign movable property would become subject to duty in India, in the event of his death occurring at any place within a year of his arrival in India. Now, on re-consideration, we have omitted this criterion from the present Bill, as such a wide scope might, in our view, prejudice the coming to India of foreign technicians whom we need for the industrial development of the country.

Next I come to the exemptions and reliefs that have been provided for in the Bill. To eliminate hardship, in the event of estate duty becoming payable on the same property or business owing to death recurring in quick succession, relief varying from 10 to 50 per cent. in duty is provided according as the second death occurs within one to five years of the first one. The Bill contains a provision empowering the Central Government to grant any exemption or reduction in duty in favour of any class of property or the whole or any part of property of any class of persons. This

will enable the Central Government to grant relief, if necessary, in such deserving cases as gifts for national purposes, property of common seamen or airmen or soldiers killed in the service of the Union. A provision of this kind is necessary in a new measure of taxation so as to avoid any unintended hardship to any class of cases or any causes.

As regards the rates of duty and exemption limits, as in the case of income-tax, the rates of duty and exemption limits which forms part of the rates will be prescribed by the annual Finance Act. The House will have ample opportunity to discuss this matter when the rates are prescribed.

**Shri Gadgil: (Poona Central):** Chance to choose the year of death also!

**Shri C. D. Deshmukh:** It is the general practice in other countries also to prescribe the rates annually through the Finance Act. The rates will be prospective, that is, will apply to the estates of persons dying after the prescription of rates. They will not be retrospective, like the rates of income-tax which apply to the income of the previous year.

**Shri S. S. More (Sholapur):** What would happen after the passing of this measure and by the time we prescribe the rates?

**Shri C. D. Deshmukh:** Nothing will happen, because no rates have been prescribed.

**The Minister of Revenue and Expenditure (Shri Tyagi):** Nobody will die.

**Shri C. D. Deshmukh:** Hon. Members will observe that unlike the last Bill the present Bill does not itself contain a provision regarding the minimum exemption limit. Why the last Bill contained such a provision, I am unable to say now.....

**Shri A. C. Guha (Santipur):** Were you able to say then?

**Shri C. D. Deshmukh:** Somebody must have been able to say then.

...unless it be that it was felt that prescribing a minimum limit in the body of the charging Act itself gives sanctity to it. The practice in this country as well as in most other progressive countries in respect of such taxation is to prescribe exemption limits as well as the rates of duty in the actual Finance Acts and it is my intention to do so in respect of minimum limit of estate duty also.

[Shri C. D. Deshmukh].

It is often said, Sir, that this duty will further disintegrate the hoary institution of joint Hindu family in India which has admittedly not only survived so far, but also served a useful purpose. This was presumably also the objection to the Hindu Code Bill which contained a provision for the determination of the share of each co-parcener of a joint Hindu family governed by the *Mitakshara* on the date of coming into effect of the Code. One of the reasons for which consideration of the last Bill was postponed was that the passing of the Hindu Code Bill and the determination of shares of co-parceners would facilitate the application of the estate duty in the case of such a family. But whatever be the final decision on this question of the Hindu Code Bill, the Select Committee on the lapsed Estate Duty Bill tried to steer clear of this difficulty by changing the relevant provision in that Bill so as to cause the least hardship by providing that the appropriate interest of the deceased member in the joint property would be charged without causing any disruption of the family or without severance of the other member's co-parcenary interest in the family. In the case of *Mitakshara* and families governed by similar laws, estate duty would be payable on the benefits arising to the surviving members by the cessation of interest of the deceased, only if he had completed his eighteenth year, or in the case of a minor unless his father or other ascendant in the male line was not a co-parcener of the family. No duty would be payable on the death of a minor whose father or male ancestor was a member of the co-parcenary.

Now, relief by way of exemption is provided in the case of co-parcenary interests of a Hindu widow dying within seven years of her husband's death if estate duty has already been paid on the husband's death: no further estate duty is payable on her death on the devolution of that co-parcenary interest on the other members of the co-parcenary.

The introduction of estate duty, Sir, has been opposed in various quarters on the ground that it would be a disincentive to capital formation and to investment in companies. As a first impact of a new measure of taxation there might be something in this argument. Even this would, however, largely depend on the rates in the first place and the exemption limit in the second place. In a matter like this we can be guided only by the experience of other countries

where death duties are levied. It seems fairly clear that in so far as it is possible to judge, the fiscal and psychological effects of these duties are not damaging to the formation of capital, nor have they curbed initiative and private enterprise to any marked extent. Viewed particularly, joint stock companies, which are a dominant feature of the economy of highly commercial and industrial countries, are not directly affected by death duties. So far as private business is concerned there might be certain cases where there are not enough liquid assets outside the business to meet the payment of death duties. In such a case, or where the unexpected death of an individual might result in the breaking up of a closely owned business concern and jeopardise the credit of those directly affected, the payment of death duties may conceivably precipitate the sales of part of the assets or lead to indebtedness. Even so, if the levy indirectly leads to conversion of some of the privately owned concerns into public limited companies the change would not be unwelcome.

Another point to remember is that in the sphere of investment, the emphasis has now changed from the so-called capitalist class of higher-range incomes to the wider range of middle class incomes, and on the latter the incidence of the estate duty will, according to our expectations, if at all, be low in ordinary circumstances.

It has been urged in certain sections of the Press that now that the appointment of a Taxation Enquiry Committee is in sight the consideration of the Bill should be held over till that Committee has reported. I have carefully considered this suggestion and have come to the conclusion that it is neither necessary nor desirable to do so. Death duties are today levied in one form or another in about forty countries, including almost all the progressive ones and even some of the less developed, e.g., South Africa and the British Crown Colonies, namely the Federated States of Malaya, Hong Kong, British Guinea, Falkland Islands, Fiji, Sierra Leon, etc. Among our near neighbours estate duty has been levied in Ceylon since 1919 and in Pakistan for the last three years. It is a well recognized form of taxation which cannot be held over any longer.

Secondly, the Planning Commission have taken into account the receipts from this source in their Draft Plan

in assessing the total resources available to the country. If we are to wait for the Taxation Enquiry Committee to report on this matter it will, I fear, be practically impossible for the State Governments to take advantage of this source in the first Five Year Plan.

Thirdly, as the House is aware, this is one of the measures of taxation which the Centre is to impose on behalf of the States, and a number of them have complained that while the measure of Central assistance due to them under the Five Year Plan is based on the assumption that they will have a certain amount of revenue from death duties the Central Government have so far taken no steps to impose them. For these reasons I do not think we can hold over the present measure. If, however, the Taxation Enquiry Committee do suggest some changes in the law or the rates of estate duty, well, they will undoubtedly, at the proper time, be considered by us and given effect to wherever possible.

As regards the assignment of the revenues to the States the Bill contains no provision. So far as duty on agricultural land is concerned, the appropriate duty on agricultural land situated in a State will of course be assigned to that State as the Centre is merely collecting the duty on behalf of that State. But in regard to the net proceeds of estate duty on non-agricultural property, it will be assigned to the States under article 269 of the Constitution on such principles of distribution as Parliament itself may hereafter formulate.

Hon. Members will probably wish me to say what I expect to be the results of this legislation. As I have said before, the Bill has two objects, social and economic. It is axiomatic that the use of fiscal methods to reduce economic inequality is not effective at a stroke or even over a short period. It is a slow process for the obvious reason that death duties deal with results and not causes of unequal distribution of wealth. There is however no denying the fact that by the breaking up of large fortunes and thus checking the growth of inherited property, death duties are a step in the process of levelling down the disparities of wealth. It is perhaps one of the few progressive measures practicable consistently with the mixed economy approach of our country, and I hope that no one will expect miracles from this piece of legislation. But looking further ahead, one may well expect that by

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making the rates of duty progressive, death duties will play an effective role towards obtaining a more equitable distribution of wealth.

As to the financial effect, it is not possible to estimate the likely yield from this source, unless the rates of duty are finalised. Even then, the difficulty in estimating the revenue is to some extent inherent in the nature of the levy. We have no reliable data of the number of people with property greater in value than the minimum exemption limit, which itself has to be fixed. Moreover it is impossible to make a guess of the number of rich persons in different slabs of property who will die in a year. Again over a new period one estate may change hands three times while another estate may not change hands at all. I shall not therefore make any estimate at this stage and merely contend myself with saying that it is my expectation that it will not be a negligible addition to the resources of the State.

**Mr. Deputy-Speaker:** I place the motion formally before the House.

Motion moved:

"That the Bill to provide for the levy and collection of an estate duty, be referred to a Select Committee consisting of Shri M. Ananthasayanam Ayyangar, Shri Khandubhai Kasanji Desai, Shri Narahar Vishnu Gadgil Shri Dev Kanta Boroah, Shri R. Venkataraman, Shri Nityanand Kanungo, Shri Feroze Gandhi, Shri Tribhuan Narayan Singh, Shri Basanta Kumar Das, Shri Balwantrao Mehta, Prof. Shri Man Narayan Agarwal, Shrimati Anasuvabai Kale, Shri P. T. Chacko, Shri N. Keshavaiengar, Shri U. Srinivasa Malliah, Shri S. Sinha, Shri C. D. Pande, Shri Tek Chand, Shri Harihar Nath Shastri, Pandit Munishwar Dutt Upadhyay, Shri Sedath Ali Khan, Shri Radheshyam Ramkumar Morarka, Shri Kamakhya Prasad Tripathi, Shri N. C. Chatterjee, Shri B. Ramachandra Reddi, Shri K. A. Damodara Menon, Shri K. S. Raghavachari, Shri Tulsidas Kilachand, His Highness Maharaja Sri Karni Singhji Bahadur of Bikaner, Shri V. P. Navar, Shri Kamal Kumar Basu, Dr. Lanka Sundaram, Shri B. R. Bhagat, Shri Mahavir Tyagi and the Mover, with instructions to report by the last day of the first week of the next session."

The discussions will take place tomorrow.