

11.55 hrs.

GOVERNMENT SAVINGS CERTIFICATES BILL

The Deputy Minister of Finance (Shrimati Tarkeshwari Sinha): Sir, I beg to move:

"That the Bill to make certain provisions in respect of Government Savings Certificates be taken into consideration."

The Post Office National Savings Certificates Ordinance, 1944, which remains in force by virtue of India and Burma Emergency Powers Ordinance, regulates the sale and discharge of National Savings Certificates issued through Post Offices. Under section 4 of the Ordinance, payment on death of holders of Savings Certificates is made in accordance with the provisions of the Government Savings Bank Act, 1873. Consequently, for Certificates exceeding Rs. 5,000 payment can be made only on the production of letters of administration, probate or succession certificate. For the reasons explained in the case of Government Savings Banks (Amendment) Bill, it has been decided to allow the holders of Savings Certificates also the right to nominate a person or persons to receive the amounts due to the holders in the event of their death without the production of legal documents. In seeking to amend the Ordinance for this purpose, opportunity has been taken to replace it by an Act of Parliament.

The provision for nomination follows generally the lines adopted in the case of Government Savings Banks (Amendment) Bill. In the event of the death of the holders, the nominees become entitled to be paid the sum due on the Savings Certificate to the exclusion of all other persons, but as provided in sub-clauses (2) and (3) of clause 8, this would not in any way interfere with the rights of third parties to recover from the nominees any dues against the deceased holders under the normal processes of law.

The certificates to which the Ordinance applies are at present being issued and discharged only through Post Offices. It is, however, becoming increasingly necessary that facilities should be provided for the sale of Certificates through agencies other than the Post Office. The Bill as framed will now enable the Government to prescribe suitable authorities for the sale and discharge of these Certificates. In other respects the Bill follows generally the provisions of the Ordinance. Unlike the Ordinance, where payment on the death of the holder was linked with the provision of the Government Savings Bank Act, the Bill has been made self-contained. Provision has also been made for laying the rules framed under Act on the Table of both Houses of Parliament as recommended by the Committee on Subordinate Legislation

Sir, I move.

Mr. Speaker: Motion moved:

"That the Bill to make certain provisions in respect of Government Savings Certificates, be taken into consideration."

Shri Prabhat Kar (Hooghly): Sir, I welcome this Bill, but I would like to draw the attention of the hon. Minister to Clause 5, sub-clause (b) (ii). In the case of payment of the sum for the time being due on a savings certificate held by or on behalf of a minor, sub-clause (b) (ii) says:

"(ii) if no such person has been specified to any guardian of the property of the minor appointed by a competent court, or where no such guardian has been so appointed, to either parent of the minor, or where neither parent is alive, to any other guardian of the minor."

Now, the payment of the sum due on savings certificates purchased in the name of a minor will be paid to any guardian appointed by the court. That is all right. If there is no such guardian appointed by the court and

[Shri Prabhat Kar]

neither parent is alive it is said that the payment may be made to any other guardian. Here, Sir, I would like Government to take caution, because when the certificates are purchased in the name of a minor and if there is no guardian appointed by the court and the parents are not alive there is every possible chance of this money being misused. The certificate will become payable after the expiry of a specified period. If even after that period the person remains a minor and, as I said earlier, there is no guardian appointed by the court, I would like the provisions to be made that the payment should be made only after the minor has attained majority, because, otherwise, when there is no appointment of a guardian by the court there is every likelihood of this money being misused.

The words here are "to any other guardian" As we all know, in the case of minor there is always fight for guardianship, particularly in the case of a minor where some certificates in his name are being kept by the Government. If there is no appointment by the court, it will be difficult for the Government to make payment to the proper guardian and there will also be the possibility of this money being misused.

I would, therefore, suggest to the hon. Minister to consider this question. In case there is no appointment by the court and neither parent is alive, in that case the provision should be withhold the payment until the minor has attained majority.

With this suggestion Sir, I support this Bill.

Shrimati Tarkeshwari Sinha: Sir, the payment has to be made only after the person who is paying the amount is satisfied about the person who is to receive the payment. So far as this is concerned, very few difficulties will arise. This clause provides for almost

all the cases: where the minor/herself asks for the payment, where the guardians or any guardian appointed by the court or any other guardian, who is asking as guardian of the minor, ask for the payment. I would like to invite the attention of the hon. Member to line 25 which says: "where neither parent is alive, to any other guardian of the minor" This will be done only after satisfying whether that guardian is the real guardian of the minor. I do not think any cases of harassment will arise.

Shri Prabhat Kar: There is no question of harassment. There is a possibility of this money being misused by the so-called guardian and the purpose for which the savings certificate was purchased in the name of the minor may not be served, because here you have said

" if the application for the savings certificate was made by any person other than the minor,—

(ii) if no such person has been specified, to any guardian of the property of the minor appointed by a competent court, or where no such guardian has been so appointed, to either parent of the minor, or where neither parent is alive, to any other guardian of the minor "

In the last line you say "any other guardian of the minor" Knowing fully well the fight that goes on today between guardians about the ownership of the money belonging to a minor, and in view of the fact that the minor will remain a minor, no guardian will be appointed by the court and neither parent will be alive, the Government should provide here that in such cases the money will be paid to the minor when he or she attains majority, instead of paying to

any guardian whenever there is no appointment made by the competent court. There is no question of harassment; the question is whether the money will be lost and the minor will not get any benefit.

Shrimati Tarkeshwari Sinha: I do not agree that the minor will not get the benefit if the money is paid to the guardian or any other person. Very few cases will come where any such payment will be required to be made to any other guardian if the parents are not alive or where a guardian has not been fixed by the court. Such cases will be very few. But even then, why should he take it for granted that payments will not be made properly or on proper grounds?

So far as the question that there might be certain cases where the money may not be spent for the purpose for which it was invested is concerned—this question has been raised by the hon. Member—I might say that the certificate does not provide that money should be invested in education or it should be spent for the marriage of a particular person or that it should be spent on some specific purpose. It does not provide for any such thing. It is a general certificate which the minor is entitled to receive. So, the Government cannot guarantee that the money should be spent for any such purpose. Government cannot guarantee any money which was supposed to be for payment to a child by a guardian or whatever person he may be. We cannot guarantee that the money may be spent on a specific thing. The money may or may not be spent for the purpose for which it was intended to be spent. But how can we guarantee that?

So, I do not think there is any difficulty so far as these matters are concerned. Nobody had raised any other point. Therefore, I take it that the House has given its general support to the provisions of the Bill. I commend the Bill for the consideration of the House.

Mr. Speaker: The question is:

“That the Bill to make certain provisions in respect of Government Savings Certificates, be taken into consideration.”

The motion was adopted.

Mr. Speaker: There are no amendments to any of the clauses. The question is:

“That clause 2 stand part of the Bill.”

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3

Shri Mulchand Dube (Farrukhabad): I want to say a few words about clause 3.

Mr. Speaker: Very well. There is enough time. Hon. Members can speak at length if they like! We will have to start the next item at 3 o'clock. So, if the hon. Members are willing, we can take up the half-an-hour discussion as soon as discussion on this Bill is over. It is left to the House to decide.

Shri Mulchand Dube: I will not take more than a minute or two.

Mr. Speaker: If the House is willing, we can take up the half-an-hour discussion after this Bill is over. Anyhow, hon. Members are at liberty to speak at length.

Shri Mulchand Dube: Clause 3 of the Bill provides that the transfer of a savings certificate cannot be made except with the previous consent in writing of the prescribed authority. The words “prescribed authority” are not defined in the Bill and we do not know who the prescribed authority will be in this matter. It may be that the prescribed authority resides somewhere in Delhi, Calcutta or Bombay, and the person living in the mofussil may have to transfer his savings certificate. Before he is able to get the consent in writing of the prescribed

[Shri Mulchand Dube]

authority he may pass away. So, this clause has to be taken away and the person should be left free to transfer his savings certificate by a mere endorsement. I think the hon. Minister will take this into consideration because there is considerable difficulty in obtaining the previous consent of the prescribed authority when "prescribed authority" is not defined. It used to be only the postmaster or any other person at the office of issue, and even now, what is being done is, apart from the post office there will be other agencies who issue certificates. Who knows, who the agencies will be and who the prescribed authority will be. These authorities are still to be determined. Therefore, my submission is that this aspect should be made clear and the transfers should not be restricted in the manner that they are now restricted.

Shrimati Tarkeshwari Sinha: The hon. Member himself has raised the point which I was going to answer. We have provided that transfers will be valid only if they have been made with the previous consent in writing of the prescribed authority. A person might have bought his certificate from Calcutta. If he wants to encash it or wants to get his money back, we must have at least some authority which knows that the certificate was actually transferred and that we have got the authority to give the money back. We do not want anything to happen which may create difficulty for the person who has to cash the certificate. That is why, as a legal check, we have provided a clause here prescribing the "prescribed authority."

In this Bill, the very purpose is to provide for the sale of the certificate through other agencies than the post office. It has been mentioned here what the other agencies will be. If they are provided by the Act and if they can sell the certificates, they become the prescribed authority. So, I do not think that this clause needs any change.

13.35 hrs

[Mr. DEPUTY-SPEAKER in the Chair]

The Minister of Finance (Shri Morarji Desai): There is a specific reason why this authority is prescribed. There is a limit beyond which certificates cannot be purchased. If transfers are allowed without any check, this limit may be exceeded and transfers may be made, and the Government will have no means of knowing whether the limit has been exceeded or not because they are free of income-tax and then advantage can be taken out of it. Therefore, this has got to be done, but it will be seen that the authority prescribed will not be a difficult authority to obtain so that the party will not be put into a very great difficulty.

Mr. Deputy-Speaker: That was the difficulty which was mentioned.

Shri Morarji Desai: We shall try to see that that is removed.

Mr. Deputy Speaker: The question is

"That clause 3 stand part of the Bill"

The motion was adopted.

Clause 3 was added to the Bill

Clauses 4 to 13, clause 1, the Enacting Formula and the Title were added to the Bill

Shrimati Tarkeshwari Sinha: I beg to move

"That the Bill be passed"

Shri Naushir Bharucha (East Khandesh). I would like to make one or two observations. The purpose of this Bill is to facilitate the payment made by depositors either to the nominee or to anybody who appears to be entitled to receive it. There is another aspect to this question, apart from the question of the depositor dying, and that fact has been brought to my notice on several occasions. Often, what happens is, after

a number of years, when the depositor himself comes to get payment for the certificate, the dispute arises as to whether the signature of the depositor is really his. It is a very serious difficulty which frequently arises and as a result of which people are discouraged from investing in this certificate. I would like to ask the Government, what procedure is being adopted now that we are out to facilitate the payment of claims under these certificates.

What happens is that a signature is taken, and then for years to come no fresh signatures are required, and when the party himself comes to claim the amount, he is told, "this is not your signature", because the signature of the person after the lapse of so many years is bound to differ from the one he made years ago. This is so particularly in the case of semi-literate people and this difficulty is very great in their case. Often they are required to produce evidence, identification, etc., and the authorities concerned insist upon such a degree of proof that it becomes humanly impossible for the man to recover payment. I would, therefore, like to ask the Government whether they are going to make any changes in respect of the payment of claims to such a person who claims payment after a long lapse of time, and when the authority says that the signature is not his. I want to point out that this is a genuine difficulty which is repeatedly occurring. While we welcome all these efforts of the Government—

Mr. Deputy-Speaker: What would he suggest?

Shri Naushir Bharucha: That is exactly what I am saying. A specimen signature must be insisted upon every three years by the post office

Shri Mararji Desai: That will be considered.

Shri Naushir Bharucha: Because you are aware that in certain companies where parties hold shares, they repeatedly send cards saying "Please

send your fresh specimen signature". If some such thing is done, I think perhaps this advantage of these certificates will be taken in a large measure.

Mr. Deputy-Speaker: That suggestion will be considered.

Shri Prabhat Kar: Regarding clause 5, I do not know whether I have been able to make myself understood by the hon Deputy Minister. What I wanted was just a change in the last wording of the clause, viz, "to any other guardian of the minor". The hon Deputy Minister did not accept it. In case a demand is made by any other guardian of the minor, I would like to know whether the necessary steps would be taken to ensure that the money for which the certificates are purchased by the guardian of the minor passes into proper hands, so that the minor derives the benefit of the savings certificates and not anybody else. As I was telling, when there is no guardian appointed by the court, there will be the possibility of all sorts of other guardians coming and claiming the minor's money. I would therefore request Government to take specific care to see that that money will be spent for the benefit of the minor, in whose name the savings certificates were purchased.

Shrimati Tarakeshwari Sinha: The law has provided enough remedies if somebody wants to act in a manner in which he is not really meant to act. If somebody tries to dodge the law by taking possession of money which was meant for the minor, the law has provided other channels. Why should we provide everything here? I cannot understand it.

Mr. Deputy-Speaker: The question

"That the Bill be passed".

The motion was adopted.