

Shrimati Bena Chakravarty: In future this will be taken as a precedent.

Shri Morarji Desai: We will sit for ten minutes if that is their view.

Mr. Deputy-Speaker: I shall adjourn the House.

Shri Morarji Desai: We can take up the Gifts Tax Bill, I am ready for it.

Shri V. P. Nayar: Take the vote after 2.30 p.m.

An Hon. Member: We may take up third reading.

Mr. Deputy-Speaker: We have to begin the third reading after this is finished. If there is any objection, certainly, I would not ask the House to divide on that. We can proceed to the next business, holding this over.

Shri Morarji Desai: It may be taken after I make this motion.

Mr. Deputy-Speaker: Then, we take up the next business if the House so desires.

Shri V. P. Nayar: Will the time for third reading also be postponed?

Mr. Deputy-Speaker: Yes. Now, the hon. Minister will make his motion and after that, we will take this up again. That is what I propose to do. That is the only remedy.

Shri V. P. Nayar: He can make his speech in two parts.

Mr. Deputy-Speaker: We will not divide the speech into two parts. He will conclude the speech and then we will take this up.

GIFT-TAX BILL

Shri Morarji Desai: I beg to move:

That the Bill to provide for the levy of gift-tax, be referred to a Select Committee consisting of—

*Shri Asoke K. Sen, Shri C. D. Pande, Shri Tribuan Narayan Singh, Shri Mahavir Tyagi, Shri S. Ahmad Mehdi, Shrimati Uma Nehru, Shri Shivram Rango Rane, Sardar Iqbal Singh, Dr. Y. S. Parmar, Shrimati Renuka Ray, Shri Liladhar Kotoki, Shri Jaganatha Rao, Shri Narendra-bhai Nathwani, Shri Radeshyam Ramkumar Morarka, Shri Harish Chandra Mathur, Shri Radhelal Vyas, Shri Vidya Charan Shukla, Shri C. R. Pattabhi Raman, Shri N. G. Ranga, Shri M. Shankaraiya, Shri Satyendra Narayan Sinha, Shri George Thomas Kottukapally, Shri A. M. Tariq, Shri Kamalnayan Jarnalal Bajaj, Shri B. R. Bhagat, Shri Mathura Prasad Mishra, Shri T. Sanganna, Shri S. R. Damani, Shri Rajeshwar Patel, Shri T. C. N. Menon, Shri Prabhat Kar, Shri R. K. Khadiikar, Shri Bimal Comar Ghose, Shri Arjun Singh Bhadauria, Shri M. R. Masani, H. H. Maharaja Sri Karni Singhji of Bikaner, Shri Premji R. Assar, Shri N. Siva Raj, H.H. Maharaja Pratap Keshari Deo, Shri Naushir Bharucha, and the Mover with instructions to report by the 1st day of May, 1958.

Sir, while introducing this Bill as part of the Budget proposals, the Prime Minister had explained the necessity for levying a tax on gifts. I do not propose to embark on a further elaboration of those reasons, as I find that by and large the need for a measure of this nature is not disputed. The criticisms that have been made so far are only against some of the details of the Bill and not against the basic principles. Some of these criticisms, I find, are based on an incorrect appreciation of the true nature of the provisions and the Select Committee will, no doubt, consider whether further clarification of these provisions is necessary.

Coming to the main features of the Bill, the tax is proposed to be charged on gifts made by Individuals. Hindu

*The names of Shri Thirumala Rao and Dr. A. Krishnaswami were added at the adoption stage on 24-4-58.

Undivided Families, Firms, Associations of Persons and Companies. Exceptions are provided for gifts made by charitable institutions recognised for purpose of Section 15B of the Indian Income-tax Act, Government Companies, Corporations established by Central or State Acts, Public Companies which are controlled by six or more persons and subsidiary companies of these Public Companies. All these will not be liable to tax for gifts made by them. The tax will be levied on the total value of gifts made during the previous year relevant to the year of assessment. Such year will be the same as the accounting period adopted for income-tax assessment.

A special feature of the Bill is that the rate of tax will depend not only on the total value of gifts made during the previous year, but also on the value of gifts made during the four-years preceding the relevant previous year. In other words, the gifts of the relevant previous year would be charged at the rate applicable to the aggregate of gifts made during the five previous years. The object of this provision is to check any tendency to have the gifts spread over a period of time and thereby reduce the incidence of tax or avoid it altogether. I may, however, point out that gifts made prior to 1st April, 1957 will not be taken into account for purposes of aggregation.

Gift has been defined to mean voluntary transfer of property without consideration. Certain transfers of property, although not falling strictly within this definition have been deemed to be gifts, for example, transfers for inadequate consideration, surrender of rights, etc. This provision is necessary as otherwise such transfers would provide an easy means of avoiding tax liability. Fears have been expressed that even genuine business transactions might be caught within the mischief of this clause and subjected to tax. I may assure the House that it was never the intention of the Government to subject to gift-

tax *bona fide* business transactions and the Select Committee will no doubt consider whether any further clarification of these provisions is necessary to remove these fears.

Now, I come to the exemptions provided in the Bill. Gifts of immovable property outside the country, gifts to Government and local authorities, gifts in the form of special savings certificates, gifts to female dependants up to Rs. 10,000 on the occasion of marriage, gifts of insurance policy to dependants up to Rs. 10,000 are all exempt from tax. In this connection, only two points have been raised and I shall deal with them in some detail. As the Bill stands at present, only gifts to charitable institutions or Funds which are recognised under section 15B of the Income-tax Act are exempt. It has been suggested that this provision would operate against gifts being made to purely religious institutions which are naturally restricted only to a particular religious community. This matter, I find, was considered by this House in 1953 when Section 15B of the Income-tax Act was amended and we are following the same principle here. This provision is not likely to prove much of a hardship, because a person who has made up his mind to make a gift to a religious institution is not going to be deterred from doing so by the small amount of tax he has to pay. It may also be remembered that not only individual gifts up to Rs. 100 but even gifts during a year up to a total of Rs. 5,000 or Rs. 10,000 as the case may be, will be exempt from gift tax. In any case, the matter will be further examined by the Select Committee.

I come now to the provision which exempts gifts upto Rs. 1 lakh to one's wife about which there has been some comment not only from bachelors but I believe from some married man as well. My colleague, Shri B. R. Bhagat, had occasion to explain in the Rajya Sabha how there has been some misconception about this provision. I

[Shri Morarji Desai]

would again clarify the position here. This limit of Rs. 1 lakh applies to all gifts made during the life-time of an individual. On a normal span of married life, this exemption does not work to a high figure annually. The point to remember is, however, that the husband does not get any special tax advantage by making gifts to his wife. We have to bear in mind that though gifts to the wife up to Rs. 1 lakh are exempt, any gifts by the wife made out of the properties gifted to her by the husband are to be treated as gifts made by the husband and taxed as such. This provision will prevent a person from reducing the incidence of tax by making gifts indirectly through his wife. Further, under the provisions of the Income-tax Act, the income derived from property gifted to the wife by the husband is added to the husband's income and taxed as such. In computing the annual wealth of the husband for purposes of wealth-tax also, the property gifted to the wife by the husband is included. Even in calculating the taxable expenditure under the Expenditure Tax Act, any expenditure incurred by the wife for the benefit of the husband out of the property gifted to her by her husband is included. In view of all these provisions, I do not think that there should be any fear that this exemption would give rise to any large-scale evasion of tax.

This brings me to the criticism that there is double taxation in respect of gifts to minor children as the gift itself is taxed and the income therefrom is also charged to income-tax in the hands of the father. I am not prepared to agree that this would amount to double taxation, as gift tax imposes a tax on the capital, that is, on the property gifted, while the income tax imposes a charge on the income from the property gifted. There is no real difference between gift to a wife and gift to minor children; and if the wife's income from

property transferred to her by the husband is treated as his property for purposes of income-tax, there is no reason why the property transferred to minor children should not be so treated. Indeed, we must look forward to a time when the family becomes the unit for purposes of 'ax as it is partly or wholly in some countries.

Gifts not exempted under any of the provisions are chargeable to tax if the aggregate value does not exceed Rs. 10,000 in a previous year. If the value exceeds Rs. 10,000, it is only the excess that will be charged to tax. This basic exemption is, however, reduced to Rs. 5,000 if the taxable gift to any individual donee exceeds Rs. 3,000 in a year. The reason for reducing the exemption in such a case is to ensure that the provision intended to exclude small gifts from the purview of the tax is not misused in making large gifts.

In spite of all these liberal exemptions provided in the Bill, there has been no dearth of demands for further exemptions of all possible kinds. I am afraid if we agree to all these demands the tax will be reduced to a farce. There are, however, certain requests which require our consideration. One of them is that it should be clarified in the Bill itself that reasonable gifts made to one's children for their education should be exempted from tax. Another is that gifts by employers to employees or their dependants by way of bonus, gratuity or pension should be exempted. It was never the intension of Government that such gifts should be subjected to gift tax and in fact, it is doubtful whether gifts of this nature could at all be brought to tax under the provisions of the Bill as it stands. However, to remove any misgivings on this score, I intend proposing to the Select Committee that specific provision may be made in the Bill itself exempting these categories of gifts.

I may mention here that the value of the property gifted will be taken as its market value on the date of gift. The assessee has the right to refer the valuation to a committee of expert valuers if he disputes the valuation of gift tax officers.

The tax is imposed on the donor, but to safeguard the interests of revenue, the donor and the donee have been made jointly and severally responsible. The question has been asked why the tax has not been imposed on the donee. There are more reasons than one. It is administratively more convenient to levy the tax on the donor who in most cases will be having more resources than the donee. It is easier to determine what is given up than to determine who will eventually receive the gift and in what proportion. Again, collection of gift tax from the donee is likely to cause more hardship. It may also be remembered that a gift tax, unless it is imposed on the donor, cannot function as an effective check against avoidance of income-tax, wealth-tax, and other taxes in the higher income groups.

The rates of tax are arranged on the slab system, as in our other fiscal statutes, and range from 4 per cent. in the first slab of Rs. 50,000 to 40 per cent. on the value of gifts above Rs. 50,00,000. The rates on gifts above Rs. 50,000, it may be noticed, are the same as those for estate duty proposed in the amendment Bill, for, really speaking, it should not make any difference as to whether somebody gets a property by way of gift or by way of inheritance which is, after all, no more than the last gift of a person.

I would, in this connection, invite the attention of the House to a novel feature of the Bill intended to encourage prompt payment of tax. If payment is made at the percentages stipulated in the Bill on the gifts of the value of Rs. 10,000 or more within 15 days of making the gifts, the assessee will be entitled to a rebate

of 10 per cent. on the payments made. I do hope this provision will be freely availed of by donors. If this provision is availed of, not only will the tax be collected quickly but the gifts will be reported as and when made.

The tax is intended to be administered through the Income-tax Department, and the provisions for assessment, appeal and recovery are the same as in the Income-tax, Wealth-tax and Expenditure-tax Acts.

As to the financial effect, it is not possible to estimate the likely yield from this source with any degree of accuracy. On a rough guess—which only is a guess, the yield has been placed at Rs. 3 crores. But I would like to emphasise that this tax is important not only by itself but is also important in plugging the loopholes in other tax statutes. Its financial effect cannot, therefore, be adequately measured only in terms of the amount of revenue it brings in directly.

With these remarks, I commend my motion for the acceptance of the House, and I do hope that the Bill, as it emerges from the Select Committee, will be found acceptable to all sections of the House.

Mr. Deputy-Speaker: Motion moved:

That the Bill to provide for the levy of gift-tax, be referred to a Select Committee consisting of—
Shri Asoke K. Sen, Shri C. D. Pande, Shri Tribhuvan Narayan Singh, Shri Mahavir Tyagi, Shri S. Ahmad Mehdi, Shrimati Uma Nehru, Shri Shivram Rango Rane, Sardar Iqbal Singh, Dr. Y. S. Parmar, Shrimati Ranuka Ray, Shri Liladhar Kotaki, Shri Jagannatha Rao, Shri Narendrabhi Nathwani, Shri Radheshyam Ramkumar Morarka, Shri Harish Chandra Mathur, Shri Radhelal Vyas, Shri Vidya Charan Shukla, Shri C. R. Pattabhi Raman, Shri N. G. Ranga, Shri M. Shankaraiya, Shri Satyendra Narayan Sinha, Shri George Thomas Kottukapally,

[Mr. Deputy Speaker]

Shri A. M. Tariq, Shri Kamalnayan Jannalal Baja, Shri B. R. Bhagat, Shri Mathura Prasad Mishra, Shri T. Sanganna, Shri S. R. Damani, Shri Rajeshwar Patel, Shri T. C. N. Menon, Shri Prabhat Kar, Shri R. K. Khadilkar, Shri Bimal Comar Ghose, Shri Arjun Singh Bhaduria, Shri M. R. Masani, H. H. Maharaja Sri Karni Singhji of Bikaner, Shri Premji R. Assar, Shri N. Siva Raj, H. H. Maharaja Pratap Keshari Deo, Shri Naushir Bharucha, and Shri Morarji Desai with instructions to report by the 1st day of May, 1958.

There is an amendment to this by Shri Naldurgker which reads:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 20th of April, 1958".

I believe he is not moving it now, because it is no use moving it also.

Shri Naldurgker (Osmanabad): I am not moving it.

Mr. Deputy-Speaker: I have presumed it already.

I suppose we may now resume the clause-by-clause consideration of the Finance Bill.

FINANCE BILL—Contd.

Mr. Deputy-Speaker: The question is:

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for lines 4 to 41, substitute—

"(viB) in respect of a new ship acquired or new machinery or plant installed after the 31st day of March, 1954, which is wholly used for the purposes of the business carried on by the assessee, a sum by way of development rebate in respect of the year of acquisition of the ship or of the installation of the machinery or plant, equivalent to,—

(i) in the case of a ship acquired after the 31st day of Decem-

ber, 1957, forty per cent. of the actual cost of the ship to the assessee; and

(ii) in the case of a ship acquired before the 1st day of January, 1958, and in the case of any machinery or plant, twenty-five per cent. of the actual cost of the ship or machinery or plant to the assessee.

Explanation 1.—In the case of a ship acquired or machinery or plant installed after the 31st day of December, 1957, where the total income of the assessee for the year of acquisition or installation (the total income for this purpose being computed without making any allowance under this clause) is nil or is less than the full amount of the development rebate calculated at the rate applicable thereto under this clause,—

(i) the sum to be allowed by way of development rebate for that year under this clause shall be only such amount as is sufficient to reduce the said total income to nil; and

(ii) the amount of the development rebate, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following year, and the development rebate to be allowed for the following year shall be such amount as is sufficient to reduce the total income of the assessee for that year, computed in the manner aforesaid, to nil, and the balance of the development rebate, if any, still outstanding shall be carried forward to the following year and so on, so however that no portion of the development rebate shall be carried forward for more than eight years.

Explanation 2.—Where in any year development rebate is to be allowed in accordance with the provisions of *Explanation 1* in respect of ships acquired or machinery or plant install-