

of unauthorised occupants from public premises and for certain incidental matters be extended up to Friday, the 2nd May 1958."

### COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

#### TWENTY-FIRST REPORT

**Sardar Hukam Singh** (Bhatinda): Sir, I beg to present the Twenty-first Report of the Committee on Private Members' Bills and Resolutions.

### ESTIMATES COMMITTEE

#### THIRTEENTH REPORT

**Shrimati Sucheta Kripalani** (New Delhi): Sir, on behalf of the Chairman of the Estimates Committee, I beg to present the Thirteenth Report of the Estimates Committee on action taken by Government on the recommendations contained in the Twenty-seventh Report of the Estimates Committee (First Lok Sabha) relating to the Hindustan Antibiotics (Private) Ltd., and the Hindustan Insecticides (Private) Ltd.

### PUBLIC ACCOUNTS COMMITTEE

#### FIFTH REPORT

**Shri T. N. Singh** (Chandauli): Sir, I beg to present the Fifth Report of the Public Accounts Committee on the Accounts of the Delhi Road Transport Authority for the year 1954-55 and Audit Report thereon.

### GIFT-TAX BILL—contd.

**Mr. Speaker:** The House will now resume further discussion on the following motion moved by **Shri Morarji Desai** on the 23rd April, 1958, namely:

"That the Gift-tax Bill, 1958, 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 Renuka Ray**, **Shri Liladhar Kotoki**, **Shri Jaganatha Rao**, **Shri Narendrabhai Nathwani**, **Shri Radheshyam Ramkumar Morkarka**, **Shri Harish Chandra Mathur**, **Shri Radheylal 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 Jamnalal 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. Khadilkar**, **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 Keshri Deo**, **Shri Naushir Bharucha** and **Shri Morarji Desai** with instructions to report by the 1st May, 1958."

Out of 4 hours allotted to this motion, 41 minutes have already been availed of and 3 hours and 19 minutes now remain.

**Shri Raghurib Sahai** may continue his speech.

I would like to know how long the hon. Minister proposes to take for his reply. We will close at 3.30.

**The Minister of Finance (Shri Morarji Desai):** I do not think I will take more than half an hour.

**Mr. Speaker:** Then, I will call the hon. Minister at 3.00 P.M. Is there any other hon. Minister who wants to participate? I see none.

**Shri Raghurib Sahai** (Budaun): Sir, yesterday when the House was about to rise, I was quoting the opinion of Prof. Kaldor on the one hand and that of the Taxation Enquiry Commission on the other. I was dealing with the predicament in which we laymen were placed in view of the conflict of such opinions of experts.

[Shri Raghbir Sahai]

In this connection, there is a very important and relevant consideration that we should have to bear in mind. Whenever a new tax is being imposed, we ought to consider what would be the yield thereby. In connection with this Gift-Tax, it was pointed out by Prof. Kaldor that, according to his estimation, the order of the yield from this tax would be something like Rs. 30 crores a year; while during the Budget speech of the Finance Minister and during the speech of the present Finance Minister when the motion was being moved, it was said that the yield from this tax would be something to the tune of Rs. 3 crores. I am glad that this guess is a modest one and not like the bloated and exaggerated guess that was made at the time when the Estate Duty was proposed in this House. But, still, there is a conflict of opinion between Prof. Kaldor and the Finance Minister, Rs. 30 crores on the one side and Rs. 3 crores on the other. I think that on this fundamental matter, experts ought to agree.

There were some other major considerations that were pointed out by Prof. Kaldor. He said that the three prime considerations that should be taken into account in framing an effective tax system are, equity, economic efforts and administrative efficiency. And he continued to point out that the present system of direct taxation in India is both inefficient and inequitable. I would like to know whether these observations of Prof. Kaldor have attracted the attention of the Finance Minister and whether anything has been done to remove these two grave defects in our taxation system. Let the hon. Finance Minister my.

**Shri Morarji Desai:** We have not adopted all that.

**Shri Raghbir Sahai:** It was also pointed out by him that to achieve administrative efficiency, the requirements that should be kept in mind are simplicity, comprehensiveness and a single comprehensive return, a self-

checking system of taxation and an automatic reporting system.

It is true that we are going towards a socialistic pattern of society and we are determined to remove disparities in income prevailing in this country. I think it is to remove those defects that one tax after the other is being introduced in this country. I am not against the imposition of anyone of these taxes. But, I should like to know whether and to what extent the objective that we have got in view is being achieved. It was Prof. Kaldor himself who pointed out that with the possible exception of Sweden, no country has succeeded in bringing about a degree of redistribution of wealth and income the achievement of which has been the avowed objective of their taxation policies. We should like to know how far have gone in this direction.

There is no doubt that the objective is very good; but we should be satisfied whether we are going at a rapid pace towards the attainment of that objective and whether it is going to be realised in the near future. I feel that when such taxes are being imposed, we should bear in mind the very important recommendation of Prof. Kaldor that there is need for introducing a comprehensive return system, a self-checking system of taxation and an automatic reporting system. This could give material for income-tax, wealth-tax, expenditure tax and gift-tax when it has been passed by this House. The machinery should be one and the same for all such taxes.

At present what we find is that for the realisation of every one of these taxes, separate inspectors and separate officers are being appointed. For instance, we find from this Bill also that a demand has been made for appointing so many gift-tax officers and so many inspectors in order to make assessments and to realise those taxes. When we have accepted the principle

that the realisation or the administration of this tax should be by the Income-tax Department, there was no need for the appointment of these separate officers . . .

**Shri C. D. Pande** (Naini Tal): There are not different officers—only different designations.

**Shri Raghunir Sahai:** I object to these different designations.

There is one objectionable feature in this Bill. Shri Kaldor proposed that the legal liability for this tax should be placed on the donee and not on the donor on whom the ultimate incidence of tax must in any case fall. In clause 30 of the Bill we find that the Gift-Tax shall be payable by the donor but where in the opinion of the Gift-Tax Officer the tax cannot be recovered from the donor, it may be recovered from the donee. In my view this would be giving arbitrary powers to the Gift-Tax Officer. He can harass the assesses to a very large extent. That possibility should be avoided and the principle that has been enunciated by Kaldor should be accepted. According to him the ideal method appears to be to make the rate of taxation dependent neither on the size of the gift nor on the wealth of the donor but on the total wealth of the recipient, that is, his net worth including the gift. He has quoted an instance. If a man who owns Rs. 10 lakhs receives another one or two lakhs as gift from somebody else, he should pay more tax on that than another man who receive an identical gift but who owns nothing else.

**Shri Morarji Desai:** On a point of information, does the hon. Member accept all the views of Prof Kaldor? Government has certainly not accepted all.

**Shri Raghunir Sahai:** I have got an open mind and I would like to accept any view which appeals me.

**Mr. Speaker:** Previously, people used to swear by Koran and the

Veda. Now-a-days, they swear by Shri Kaldor.

**Shri Raghunir Sahai:** I fear that if the tax is to come into operation as it is being proposed in this Bill, the result would be that large-sum gifts for such charitable purposes as the construction of dharmasalas, maintenance of them, etc., would perhaps become impossible. I do not know why that charitable instinct or tendency on the part of the people of this country should be crushed or subdued. We should certainly see that the purpose of the gift is not fraudulent. Wherever the gift is genuine or the purpose is genuine, no difficulty should be placed in the way of its coming into operation.

**Shri D. C. Sharma** (Gurdaspur): What do you mean by 'genuine'?

**Shri Raghunir Sahai:** Common-sense meaning.

Having said all that, I do want to say this in conclusion. We are very fortunate in having the present Finance Minister who is a Congressman . . .

**Shri Naushir Bharucha** (East Khandesh): Is that the only qualification?

**Shri Raghunir Sahai:** . . . who can read the minds of the people of this country very well. I do not want to cast any aspersion on those Finance Ministers who have preceded him. They were very eminent persons but certainly not Congressmen in the strict sense of the term. I would only appeal to him that he should try to understand the feelings of the ordinary man in this country. I wish him success in the implementation of the Second Five Year Plan. Let him raise the resources as much as he likes so that the Second Plan may succeed. . .

**Shri Braj Raj Singh** (Firozabad): Raise resources only from the Congressmen?

**Shri Raghunir Sahai:** I do wish that all those loop-holes should be

[Shri Raghbir Sahai]

avoided. Steps may also be taken whereby evasion to a large extent may be avoided. I hope all these points of view would be considered by the Select Committee.

**Shri P. C. Borooah** (Sibsagar):

Sir, I thank you for giving me an opportunity to speak on this motion. Our taxation policy has undergone much change since Independence. It has not only put a great burden on the community but the very pattern of it has been changed by the enactments of several Acts, namely, the Estate Duty Act, the Wealth Tax Act, the Expenditure Tax Act. Now we have this Gift Tax Bill. There is deficit financing to the extent of Rs. 1200 crores for the Plan and we need money for it. We are making strenuous efforts to raise this money and that is why all these taxation measures had to be adopted.

In our effort to do so it is doubted whether we are actually taking into consideration the capacity of the people to pay the taxes. The National Council of Applied Economic Research in its report has mentioned that in the realm of personal taxation, the burden of taxation in India is much heavier than that of other countries of the world. It has also acted somewhat as an obstacle in the flow of foreign capital into India. This should not be so. As such I request the hon. Finance Minister to look into this aspect of the matter and see if any change is necessary if not immediately at a latter date.

When I toured my constituency last, I found quite a lot of people suffering from the direct and indirect taxations. They are suffering almost from the same kind of miseries: want, disease and debts. We say that our national income has increased but in these circumstances it is very difficult to convince the people that our national income has actually increased. This is possibly due to non-balanced development. Maybe some places have been developed but many

places neglected. My constituency which is in the far-flung State of Assam is very backward and no change in the lot of the people is appreciable. If any body goes there, he will find that the conditions there are almost the same as they were some ten years ago. That is the position there. One, therefore, finds it very difficult to make the people convinced that our national income has actually increased.

Then I come to the question of small-scale and medium-scale industries. They generally suffer from paucity of funds. They do not get controlled commodities as and when they require, and when their produces come to the market they face very heavy competition. If such a company with a capital of Rs. 1 lakh makes a profit of Rs. 1 lakh, it has to pay taxes to the extent of 75 per cent. Then again comes the question of giving the forced dividends. You will therefore, be able to imagine well the lot of these companies.

There is very little scope for them for capital formation or for development. We need money for financing the Plan. I said before that deficit financing to the tune of Rs. 1200 crores has been envisaged. We need money for it. I want to make one suggestion in this connection. I would like this House to consider whether it would be possible to adopt some schemes like the excess profit tax deposit scheme in the line adopted in the Finance Bill of 1942. We may realise that tax as deposit refundable with interest after ten or fifteen years. In that respect we may issue bonds making the same negotiable but not encashable before the expiry of the term. This is just a suggestion and I leave it to the hon. Finance Minister to give his thought if adoption of such a scheme will benefit our cause.

There is much complexity in the procedure with regard to assessment of income-tax. It should be made simple and standardised. There now exist variety of rates and a variety

of assesseees. For example, there are individuals, married men, unmarried men, father of one child, father of two children, companies, partnerships, associations and so on. These varieties have made matter complex and have offered room for tax evasion and also for harassment. There is therefore, need to have some simplified method adopted. I would suggest that there be only two categories of assesseees—individuals and companies—and let there be one uniform rate for individuals and another uniform rate for companies. Income on which tax once paid should not be added for taxing again. System of refund should go. Such measure will remove much of the loop-holes now existing which give opportunity for harassment and evasion.

As regards evasion, Sir, much has been talked about here in this House but I doubt very much if everything that is said is correct. If there are any evasions—of course, there are some—that is due to the measures or the procedure that we have adopted in our tax structure. The present position is like this. Supposing a man makes a profit of Rs. 1 lakh; then he will have to pay tax to the extent of Rs. 55,000 and odd. If he converts his business into a partnership of five persons—and among those five shareholders may even include a new-born child as there is no bar in law to make a new-born child a partner in a partnership concern—immediately the tax would come down to Rs. 15,000. Many of the Tax payers have done so. What will you call this? Evasion or Human Ingenuity? Certainly it is the latter. I think many of the evasions that are taking place are of this nature. We should not deny Human ingenuity.

Then, Sir, coming to the question of the relationship between income-tax officials and assesseees I have to make a very sad comment. It should be most cordial. In England, the income-tax officials help the assesseees in preparing the assesseees income-tax returns correctly. But in our country there are many income-tax offi-

ciala who from the very start treat the assesseees as income-tax dodgers or evaders. In England, the penal action is taken only when all persuasions fail, but in our country it is the reverse. Fines are imposed and realised even during pendency of the appeal. They possibly forget that only a few lakhs of income-tax payers are there in the country out of the 38 crores of our people who pay tax and contribute for financing the Plan. Such uncordial spirit from the minds of the Income-tax officials must go. That is why, Sir, I have to submit that the authorities concerned see to it and the cordial relationship is maintained between the tax-payers and the income-tax officials.

As regards gift-tax, Sir, I give my support to the motion moved by the hon. Finance Minister, but only wish that there be no discrimination allowed in classification of charities. Let there be exemption for all charities whether for educational institutions, cultural institutions or religious institutions and so on. Although we are in a secular State, it is not that we are discarding religion. Rather we want to be more religious in its true perspective than those in non-secular States. Therefore, there should not be any discrimination made in charity. I request Hon'ble Finance Minister and the members of the Select Committee to see that gifts made for religious institutions are also exempted.

With these words, Sir, I once again support the motion and thank you for offering me the quick opportunity to speak on the bill.

**Shrimati Sucheta Kripalani (New Delhi):** Mr. Speaker, Sir, I welcome the gift-tax as it integrates our tax structure and completes the work started in the last Budget Session. After the introduction of the estate duty, the absence of gift-tax was a glaring loop-hole in our tax structure. Therefore, with the introduction of this tax the various taxes on wealth are likely to become self-checking and act as a barrier

[Shrimati Sucheta Kripalani]

against tax evasion. Hence I welcome this tax most wholeheartedly.

Sir, whenever, a new tax is imposed it is unpopular. Therefore, it is not surprising that during the the recent years when various taxes on wealth were levied they were met with serious criticism from one section, a well organised and vocal section of our people. This section feels that the graded income-tax is sufficient to establish equity in our tax structure. They look upon wealth taxes as superfluous, and as causing unnecessary irritation and harassment to the tax-payer. They consider such taxes as a disincentive on effort, initiative and enterprise. They think it heavily burdens a small minority and hence it is iniquitous.

We must see whether the wealth taxes we have recently imposed have an iniquitous effect on the wealthy section who form a small minority. In order to establish an equitable tax system which has no bias in favour or against any particular group of tax-payers, it is necessary to establish equity between the income from work and income from property. The concept of income needs to be made comprehensive to include all beneficial receipts which increase the tax-payer's spending powers. Tax on income also needs to be supplemented by tax on capital wealth, because taxable capacity can only be approximated by a mixture of both.

Then, in a developing economy as in India, where large financial resources have to be found from the country, a heavy burden of indirect taxes falls on the masses. This inevitable imposition of burden on the masses has to be complemented by the introduction of a more efficient system of progressive taxation on the wealthy minority. Such taxes are justified from another angle. In a developing economy where privately-owned wealth grows rapidly and unevenly such an efficient system of

progressive taxation is absolutely necessary; otherwise, an intolerable situation may be created as a result of one-sided heavy burden on the masses.

Sir, though the Finance Minister said that they do not accept all the recommendations of Professor Kaldor, I would like to quote a few words from his report. He says:

"In India the great bulk of the national wealth is, and will continue to be, privately owned—industries or landed property that may be taken over by the State will not fundamentally alter this state of affairs if due compensation is paid to the owners, so that the growth in public property will be offset by the growth in public indebtedness—it appears inevitable, therefore, that both the amount of privately-owned wealth, and (in the absence of effective tax measures) the skewness of the distribution of ownership of that wealth should increase *pari passu* with economic growth. Owing to the fact that the savings of the community are more unevenly distributed than income, there is an inevitable tendency, unless effectively counteracted by the tax system or other instruments of public policy, for the wealth of the largest property owners to grow at a faster rate than wealth in general. The more income and wealth grow, therefore, the more the inequality of wealth between individuals increases."

So, Sir, if this is the situation it can be seen that the wealth-taxes that we have been imposing on one section of the people has no iniquitous effect on them. Rather, these taxes have been imposed in an effort to introduce equity and fair-play in our tax system and in order to broaden the base of taxation. In the same effort to tax wealth and accumulated capital properly and to plug all loop-holes this gift-tax has now come. It comes as an inevitable

corollary to the estate duty. Both these taxes are similar in nature. Both of them relate to unrequited property transfer. In one case, the transfer is effected after death of the donor and in the other case, it takes place during the life-time of the donor. One is "bequest" and the other is "gift". In both cases, the donee receives something without paying anything in return, and as a consequence, his economic power is increased as also his ability to bear taxes. Therefore, equity demands that both be taxed. Estate duty without gift-tax is a partial measure which cannot stand justification on the score of equity.

Besides, if there is a tax on bequest and none on gifts, then a movement away from the bequest to the other type in order to avoid taxation is bound to happen. To check such a shifting under our legislation on death taxation, a statutory time limit of six months for charitable gifts and two years for other gifts has been provided, but these provisions have not succeeded in effectively checking this movement. We cannot for instance, check a tendency on the part of a donor to make gifts sufficiently early outside the time-limit. Such a movement may lead to a gradual rise in the number and magnitude of such gifts. This tendency would be greater if the rate of death duty is higher. Therefore, a tax on gift should be well integrated with the estate duty.

It is also an accepted fact that tax evasion in India prevails on a very large scale. If I were to accept some of the figures given here, the position is this. Prof. Kaldor thinks that our figures of tax evasion come to Rs. 200 crores or Rs. 300 crores and not Rs. 20 crores or Rs. 30 crores. Anyhow, it is well known that our Government have failed in checking tax evasion very effectively. Therefore, when such a condition prevails in this country, it is very necessary to take legislative measures by which we can stop evasion effectively.

Here, I would like to quote from the book entitled *Capital Taxation* which gives the relation between the

gift tax and the estate duty in other countries.

"In a number of other countries where death taxation has been in force for some time, governments have taken some positive measures to counteract the increasing tendency on the part of the people to gift away their estates before death. Within the British Commonwealth, a separate tax is levied on gifts in Australia, Canada and New Zealand. While a separate gift-tax does possibly net in most of the gifts which would otherwise have escaped any duty, opportunities might still remain for tax avoidance unless a gift-tax is properly integrated with death duties. It would be correct to say that the scope for tax avoidance is an inverse function of the degree of integration secured between a gift-tax and death duties".

Therefore, these two taxes are two parts of the same tax. Hence, we cannot have estate duty without the gift tax. If we do so, we shall keep a very big door open for the tax-evaders.

In other States, for instance, U.S.A., Canada, Sweden, Australia—the gift-tax is a supplement to the estate duty. It is meant not only to raise additional revenues but to make the administration of death duties more effective and to reduce the possibility of tax evasion. In our country, we find that we expect to raise Rs. 3 crores out of the gift-tax. We also expect to raise Rs. 3 out of the estate duty. Therefore, these two taxes stand more or less on an equal level. That shows that in our country a gift-tax is necessary not merely a supplementary to the estate duty. That means, a large area which is left out untapped by the estate duty is now to be covered by the gift-tax. Therefore, it is a very necessary tax.

I would now like to say a few words about the rate of the tax. Under the Gift-tax Bill, the tax will be levied on a sharply progressive scale, from 4 per cent to 40 per cent. The rate is very moderate. A man who pays

[Shrimati Sucheta Kripalani]

Rs. 50 thousand will not mind paying Rs. 2,000 more.

Shri C. D. Pande: A man who pays Rs. 50 lakhs will have to pay Rs. 20 lakhs more.

Shrimati Sucheta Kripalani: Well, I am not taking the last figure. Anyway, it is a moderate rate. As a matter of fact, those who are the severest critics of this gift-tax have not said that this rate is excessive. If it is not excessive, then I do not see what reason there is to oppose this tax. The Bill has received, in spite of criticism by a small section, a large measure of support, but as pointed out by the hon. Finance Minister himself yesterday, there are certain provisions in the Bill which need amendment and reconsideration. I am very glad to find that the Finance Minister himself has said that he is going to liberalise some of the exemptions from the levy of this tax, such as gifts to children for educational purposes, gifts of bonus, and gratuities by employers and employees. Then he has also said that he would not allow normal business dealings to be affected by this tax. If these changes are made, the Bill must improve to a great extent.

I would like to draw the attention of the hon. Finance Minister to two more items where exemptions are to be liberalized. First of all, the exemption for charitable gifts or donations of Rs. 100 is too low. We who are working in the social field, who go from place to place collecting money for public welfare activities, know what the value of Rs. 100 is today. The purchase value of Rs. 100 today is very small. Then there are innumerable small organisations who depend on public charity. It is not possible for a Government to cover all areas of social welfare activities. I know that through public charities and through private enterprise, innumerable institutions in the field of education, in the field of health, in the field of emergency relief, etc., are run. If we are going to maintain Rs. 100 as the limit, this will work very hard on

such social welfare institutions and activities. It will put a check on the natural instinct of Indians to help in such activities.

Then, the charitable institutions included in section 15B of the Income-tax Act leaves out many deserving institutions. I would, therefore, like to have relaxation given on both these items. I am not a religious or a communal person myself. But I know there are very many institutions—by name they are religious or communal—which are doing excellent work probably in a limited sphere and probably among a particular section of people. But as long as the Government agency is not strong enough to reach every corner of need in India, why should we try to stop the activities of any organisation when they work for the welfare of a particular community or religion? Therefore, I feel we are not justified in closing off the avenues of resources, for such organisations that are doing good work. I therefore appeal to the Finance Minister to reconsider such cases and raise the exemption limit from Rs. 100 to something higher and the discrimination against such institutions and funds not covered by sec. 13B of the income tax which exists in the gift tax should be removed.

I hope that the Select Committee will go through the Bill carefully and with the remedying of the defects I am sure this Bill will receive the wholehearted support from the entire House.

Shri Nagi Reddy (Anantapur): I am glad to give my general consent to the Bill as it has been placed before the House. In a sense I should say that this completes, so far as our taxation measures are concerned, the integration of the taxation system. Yet we must wait and see how it functions. All the same, I take this opportunity to congratulate the Government on having come forward with this particular Bill in the face of opposition of the vested interests in the country as a whole. It is not surprising—I am not surprised at all, at the voice of



protest in general that has been raised by the vested interests in the country. In future, more particularly, it will be raised again and again. I think we have already received about four or five pamphlets from the Forum of Free Enterprise with all the detailed arguments as to why the whole of this tax system should be scrapped, particularly the gift tax. Having done that general criticism, they will not come forward and put in their pressure to the highest possible extent, as the discussions go on in the Select Committee, to reduce the effects of this taxation measure.

Well, it is not surprising that none of these big wigs or big business ever come forward to tell the country and the Members of Parliament why there has been so much of tax evasion and how it can be checked. They are not worried about it, probably because it is their business. Now, in the name of a developing economy and greater incentives for development, they are coming forward to create as many loopholes as possible in every direct taxation measure that is passed by this House. That is exactly what happened last year.

Now they say that this gift tax does not even allow the ordinary course of business. It comes in the way of ordinary business. Poor people! They cannot carry on their business. That is what they tell the Members of Parliament. We have to fight it. Why? They say that if there is a sale or exchange or transfer of property and if the gift tax officer feels that it has not been a bona fide transfer in the usual course of business, he has the power to tax it. According to them, since the gift tax officer is the God, to give so much powers to him is to lay the lives of these innocent people in the hands of this officer, which will have the effect of completely paralysing the business. Therefore, there should be complete exemption—they ask for complete exemption—for transfers, sales and exchanges in these business transactions. They do not even stop there. They are so much interested in developing the intellec-

tuals of our country and for their growth. They feel that the gift tax is going to be a hindrance to the development of intellect in this country, e.g. lawyers or auditors or managers. They say that the business managers who have ability but have no money or wealth, if they do some good job for a company or a business concern and if the business concern thinks that he should be taken as a shareholder and transfers certain shares to him that should be exempted from tax. But it is paying them in a different way. That is one of the loopholes which they want to be widened, increased, so that they can manage to evade gift tax.

Of course, their idea of charitable gifts is different. Marriage gifts are not enough. After all, what is Rs. 10,000 as a gift? I think the only case where they are satisfied, is of a lakh to a wife though not completely, because they know that if they ask for more the country will not come forward even to be neutral. The country cannot be neutral, if they were to say "please extend it up to Rs. 5 lakhs" though they would very much like it. So, I find from the whole literature that it is the only clause which they have not attacked.

Seeing all these things, my only appeal to the members of the Select Committee and the Government is in the case of the expenditure-tax and wealth-tax, where they gave certain concessions—give any concessions in the case of this gift tax. If we give more concessions, it is not the question of loss of revenue through gift tax that I am afraid of. The gift-tax is to plug some of the loopholes which are already in existence in the estate duty. That is why we want to have this gift-tax. Therefore I request the Government to be careful of these people who will, of course, talk not in terms of personal gain but in terms of patriotism, if I were to believe what they have written. They will talk in terms of incentives for the growth and development of our economy. I only wish that we do not fall an easy prey to their sweet words.

[Shri Nagi Reddy]

So, I want everyone to remember the reasons as to why it has become essential for us to come forward with new measures of taxation of this type. The first point that we should remember is that in a developing economy, especially in underdeveloped countries, the disparity in wealth will increase. And this theory has been accepted by quite a number of economists. Even a person like Kaldor has said that. Last year an economist—I think it was Shri P. C. Jain—had written that economic disparity in our country is a growing hindrance to our developing economy. We must be careful about that. That is what quite a number of others have also stated. It is to reduce this disparity that we are coming forward with new taxation measures.

Secondly, the national income of the country should increase. No country can develop unless a part of the national income is drawn back for further investment. Whether it should be done in the private sector or the public sector is a question which is under discussion. People who say that it should be done only in the private sector and the public sector should not come near to it, would naturally like to throttle the new taxation measures.

Well, the country as a whole and the Parliament had unanimously decided that the core of the Plan, as we call it, is the public sector and this public sector can in no way be reduced if the Government has to fulfil that target of the Plan, which is called the "core of the Plan". And it is to raise internal resources for this particular purpose that we have taken to these new taxation measures. If we remember that it is the national reconstruction that should be kept in mind when we discuss these new measures of taxation, we will not allow the wealthier class to come forward and increase the loopholes, especially when we want to plug them. Therefore, it is to see that the wealth is not locked up in a few

people, to see that the internal resources are expanded or are increased for the sake of the developmental economy, and that too in the public sector, to fulfil the very core of the Plan, the most important core, that is to say, the public sector, that we have taken up these taxation measures. So, naturally we should support them and see that they yield as much revenue as was expected.

But we must also remember—it is an unfortunate experience and a very sad experience too—that it has always been the case that in direct taxation we have never achieved the targets of revenue which we expected to achieve. Was it not the case with the estate duty? Has it not been the case of income-tax itself? I appealed to the Government previously also that we should very seriously, conscientiously review the work of the department year after year, so far as collections and assessment is concerned.

I do not know how far what I am going to say is true; Governmental machinery have better avenues of knowing the facts better than us. It is stated that the number of people who are being assessed, who are paying more than a lakh of rupees, is increasing in our country, as per the statistics that were provided by the Government itself. But, actually, the assessment itself is reducing year after year.

13 hrs.

Then there is something wrong in that jungle of statistics; Government I think has not provided us with wrong statistics. I hope Government would not accept the charge that we were provided with wrong statistics. But here is a particular feature of our economy. We must study it very carefully. If it is a fact that in a

developmental economy the wealthier classes also grow in numbers, and their wealth grows in proportion much faster than the per capita income of the lower classes, if it is true, if it is scientifically true and I believe it is true, there can be no reason why the assessment itself need go down. If our administration, especially the Income-tax Administration to which naturally all these taxes ought to be given for administration, does not look into this carefully and adjust itself properly, then I do not expect much even after this gift-tax is passed and we impose it on the country. I wish Government takes note of this particular factor and tries to increase the efficiency of the collecting machinery.

Then there was the question: who should pay—the donor or the donee? I think what the Government has done is perfectly correct—that is my personal opinion—because if it is a question of the donee paying, naturally the total amount of collection of the tax would be reduced. If it is a question of the donor paying, the total gift that he is giving will be taken into consideration for assessment of taxation. An ordinary man is not going to give lakhs of rupees as gifts. Therefore, I think it is equitable and just that Government should tax the donor and if the donor does not pay the tax naturally the person who has received the gift should. To that extent, the Government's procedure is very proper and it should be supported.

**Mr. Speaker:** The hon. Member's time is up.

**Shri Nagi Reddy:** I shall conclude in two or three minutes.

We are talking of trusts and charities. Naturally some of the trusts and charities should not be taxed. There are educational trusts and hospitals and donations made for good causes. But there are also trusts

of which we should be careful. We must always be guarded while dealing with people who want to dupe us. There is what is known as the Nizam's trusts, to which crores have been given. I do not know the complete details of it. Probably our friends coming from that area will be able to give us more details. If the trust is for the sake of certain members of a family, can they be taxed or not is a point which should be gone into.

Then there is the question of privy purses. Supposing out of these privy purses certain gifts are made? Privy purses, I think, are not taxed for income-tax; nor is income through privy purse taxed. If a gift is made out of it, is it going to be taxed or not? This is a constitutional point affecting the agreements which Government has made with the feudal princes. I think they should be taxed and Government should give us an idea about it.

Then there are what are known as blank transfers of shares. I am not an industrialist myself and do not understand the trick of the whole thing. But I hear that these blank transfers of shares are made to avoid income-tax. I do not know whether anything like this can be made to avoid the gift tax too for a certain number of days. Some of the methods adopted for the evasion of taxes should be studied by Government very carefully. With the introduction of the Gift-tax we certainly step into a new era in the history of taxation and effective steps should be taken for the collection of income-tax, wealth tax, and estate duty, so that our revenues in general may increase.

Whenever a measure of direct taxation is passed there is hullabaloo created by those who are being taxed and there is a tendency for innocent people like me to feel that Government has come forward with a taxation measure which is going to increase

[Shri Nagi Reddy]

our internal resources; therefore, it has done a great thing. There is an experienced man who is known as Henry Simons. He has said— my only wish is that it may not be said of us like that in later years:

“One senses here a grand scheme of deception whereby enormous surtaxes are voted in exchange for promises that they will not be made effective. Thus the politicians may point to the general public with pride to the rates, while quietly reminding their wealthy constituents of the loopholes.”

We can go on telling the general public: look at the number of taxes we have imposed on them, the income tax, the corporation tax, the wealth tax, the estate duty, the expenditure tax and now the gift tax, and so on and so forth. That is true; there is no doubt about it. But you can tell your wealthier constituents of the loopholes in them and pat them on the back, assuring them: do not be afraid of them; it is only just to keep the people calm for some time. “The whole procedure”, Mr. Simons says, “smacks of a subtle kind of moral and intellectual dishonesty.”

That is the experience of a man who has seen the working of the taxation system in quite a number of western countries—an experienced economist, he is not a Marxist, let me tell the Government of that. With these words I wish the Gift-Tax goes through the House with the least number of loopholes and I wish Government success in collecting as much revenue as possible to implement the Second Five Year Plan with success.

Mr. Speaker: Shri B. Anjanappa, he has not spoken at all since he was elected.

Shri B. Anjanappa (Nellore—Reserved—Sch. Castes): Mr. Speaker, Sir. One of the most important

financial proposals of the Central Government for this financial year is the Gift-Tax. Broadly speaking, Sir, with the introduction of this tax, the integrated tax structure which the Government has been aiming at will be complete.

This tax will be levied on all gifts made by individuals, Hindu undivided families, companies, firms and association of persons. This gift-tax would provide a convenient means of putting an end to avoid or reduce liability to Estate duty, Income-tax, Wealth-tax and Expenditure tax.

I know the champions of the rich and the wealthy would oppose this gift-tax. But they would do well to remember that in our country there are too many indirect taxes, the burden of which is in a way falling too heavily on the shoulders of the poor. It is only the direct taxation which has been recommended for reducing the vast inequalities in the incomes of the rich and the poor and from that standpoint this gift-tax is really a commendable proposal.

It is generally believed that there is a lot of tax evasion in this country. Tax evasion has been estimated at a few hundred crores of rupees. So every patriotic person should welcome the introduction of the gift-tax because it would go a long way in checking tax evasion. I would like to emphasise that more and more funds would be needed by the Government for the establishment of a socialist society. So, those who have the capacity to pay to the Government must not hesitate to part with a portion of their wealth because they must remember that if they do not do so the foundations of our democracy will remain very weak and the discontent among the ill-fed and ill-clad people would increase so much that they would lose all faith in democracy. That will be a very sad day for every-

I would like to draw the attention of the hon. Finance Minister to the explanation to clause 3, wherein it is said that "gifts made by the wife of any person out of any gifts made to her by her husband shall be deemed to be gifts made by the husband." In this connection I submit that if the husband makes the gift to the wife in one year and in the same year the gift is made by the wife to another person, the husband has to pay double tax in the same year. So, in a case where the gift is made to the wife by the husband and the wife makes the gift of the same property in the same year to other person the gift-tax should not be charged under such circumstances.

With this I finish my speech.

Shri Heda (Nizamabad): Mr. Speaker, Sir, with this Bill we complete the circle of our taxation structure or the policy which, in my opinion, is a perfect one and there would be very few chances for evasion or rather a genuine effort will be made to plug all the loopholes, whether it is in the domain of income-tax or super-tax or estate duty or expenditure tax. This taxation will help and though its revenue may be smaller as estimated by the hon. Finance Minister which may be about Rs. 3 crores, its overall effect in strengthening the revenue in the other spheres would be quite good. In spite of this I heard yesterday the hon. Finance Minister stating that the primary objective of this Bill is to get more revenue and plugging the loopholes is a secondary objective. I like this frank statement. So far our experience had been that whenever a new taxation comes, Government come with a plea that the taxation, call it excise duty or cess or anything else, is for certain developmental work and an impression is given that the taxation is not an extra burden. But, during the course of years we find that that development work or that idea recedes in the background and the new taxation measure becomes as good a taxation measure as any other. But here we have found that the hon. Finance Minister has stated very

clearly that by itself the gifts tax is very important as it would be fetching, say, about Rs. 3 crores.

There is a very big controversy so far as its effects are concerned. The definition and the interpretation of various clauses would be heatedly debated not only here, not only in the Select Committee or after reference to the Select Committee and its report in the House again, but in the course of the years. These days I hear many times big industrialists and capitalists saying that if they have to start a new industry they do not need only the financial resources, they do not need only an efficient management, but they need an army of lawyers to safeguard them and save them or protect them from the various taxation measures. I agree that they put it in a different way, but I think not only this Government but every Government in the world faces the problem of evasion of taxes on the one hand and harassment by the Government officials on the other. These two things apparently look contradictory to each other or that they clash with each other, but many times it is not so. The harassment starts with a view to extract some money and the assessee is quite happy to part with something because ultimately he would be a gainer and not a loser. Therefore, harassment and evasion, these two are not contradictory forces. Many times we feel like that, but they complement, supplement or help each other. That is why the task given to the Government, to us, to the Select Committee is important in the sense that we have to find out that here is no unnecessary harassment and at the same time room for evasion of taxes is not left there.

Take a few cases. There is a point whether the income-tax officers should be vested with more and more powers of discretion. For example, there is a business deal. Now, how far it is a genuine deal and how far it is not a genuine deal or sometimes there is a genuine distress sale and whether it is a distress sale or whether it is not, or whether this gifts tax should be

[Shri Heda]

applied over it or not, all these are questions for which we have given discretionary powers to the income-tax officers. We have to do it. But the point is that if we can avoid it and see that there is no unnecessary harassment or the scope of discretion given to the income-tax officers is decreased, I think it would be better for us. Further, there are certain cases where, I think, the Government should do a sort of re-thinking.

Take the case of a company which is in its initial stages and which is expected to make some profits, say, after three or four years, but for some reasons or other it could not do so. Many times the managing agents come forward and forego their commission. Sometimes they forego their salaries. Now, the point is whether this fore-going of salaries and commission will come under the mischief of this gifts tax and whether gifts tax will be levied on the managing agents or not. Government's point is that it will not be so. A genuine business deal will not come under the mischief of the gifts tax. But the point is whether it is a genuine business deal or not. If the income-tax officer does not agree, then the alternative for the company, I think, is, even otherwise, to go to the court and get a decree. It is not an easy proposition. When cases are quite clear and the deals apparently appear to be genuine, why should anybody part with his income? Therefore, I think, in such cases, we should make some provision so that there would be no unnecessary harassment.

13.21 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

This tax is prevalent in many countries, U.S.A., Canada, New Zealand, etc. I would like to quote one sentence from the famous American jurist Professors Lowndes and Kramer. They say:

"Where a creditor as part of an arm's length business transaction forgives a debt, it seems clear that he does not intend to make a gift of any part of the debt for which

he fails to receive consideration, but that he is really exchanging the debt on what appear to him to be the most advantageous terms possible under the circumstances. If a man forgives a debt with the intention of making a gift to the debtor, there is no reason why this should not be treated as a taxable gift. But, to tell a man who has lost a substantial sum in an unhappy business deal that he must pay a gift tax upon the loss would be an absurdity...."

The point is, where there are genuine business deals where the money is not recovered, where the money or salary or commission is foregone, where he who is parting with money is a loser, to tax him on top of it would be a great harassment. These are cases where we have to examine.

From the evasion point of view, I find a prevalent practice in countries like America and others that they make a sort of a compromise arrangement. Somebody is employed on Rs. 1000 or Rs. 2000 a month. The contract is made for three years or five years. After some time, he comes with a compromise that we relieve you of the service and in lieu of it, we pay you so much money in lump sum. These compromise arrangements are devices adopted by big business in other advanced countries where this tax has been in operation for a number of years. Therefore, Government will be quite right if they take precautions. I find that they have already adopted precautions so far as the present Bill is concerned.

The point that I am stressing is, we have to save both: we have to save the assessee from being unnecessarily harassed; at the same time, we have to save the department and empower the authorities to see that no evasion of the tax takes place. That should be considered in that spirit and I think, as we gain experience, we will be modifying the concerned sections and improving them. As it is, it is an adequately good measure. But, the

few things that I just mentioned, the managing agents foregoing their commission or what we call, distress sales, these are cases where one has to see that justice is done.

There is another point about charitable institutions. Section 15-B of the Income-tax Act is there and it is applied only to those contributions which are of a secular nature under that section and those donations are exempted. All other charities or donations or contributions, whatever they may be, whether they are to religious institutions or to sectarian institutions or whether they are to political parties, they are charged this gift-tax. So far as political parties are concerned, I am quite clear that they should not find any exemption and such contribution should be charged under the Gift-Tax Act. When we use the word communal or sectarian or religious, many times we offend a particular section. Shrimati Sucheta Kripalani has said that in spite of the fact that we have declared our aim to be a welfare state, our welfare activities have not spread to such an extent that every activity, every corner is covered. If that is not so and if somebody comes forward and makes a charity, whether it apparently has the garb of religion or even community—there are quite a number of hospitals, scholarship trusts which are apparently in the name of certain communities, which are meant for certain communities—in application, exemptions are generally given. Therefore, I do not think that much will be lost if we treat them a little differently than section 15B of the Income-tax Act. I think it will involve a sort of policy matter. However, I feel that there is a case for the Government to consider the whole matter.

Then, I come to the rate. So far as the rate is concerned, for finalising what rate should be charged, we aggregate five years' gifts. Why are we doing so? From the speech delivered by the hon. Finance Minister yesterday, which I heard, I find only one thing that probably he wants a five year review. He said that they

would distribute the gifts in a number of years in such a way that there will be a very low yield from the gift-tax. What is wrong there? If somebody plans his economic life well in advance and every year parts with small gifts, we should rather encourage it. Why should we penalise him in the same manner as we do others? However, I think that a man who has a sort of long range plan, who respects the law and at the same time wants to take the maximum advantage of the concession that are given should be encouraged. If we give a concession with one hand, we should not try to take it away with the other.

Then, I will refer to the anomalous position that is created when gifts are made to minor sons. The point is, whether the gifts will be charged both under the Gift-tax Act and also Income-tax. Suppose a gift is made to a minor son or daughter. It is presumed that it will attract the Gift-tax Act. On the other hand, under section 16 of the Income-tax Act, the income from the property gifted to the minor will be clubbed with that of the income of the donor and assessed. The question is whether such a position will be created. If such a position is created, it is an anomalous position and will amount to double taxation. Not that we have avoided double taxation; nor that I am opposed to double taxation. If that is not our spirit and if we do not mean it, we should not do it.

Lastly, I will refer to the novel feature of this gift-tax. For the first time, I think, that feature is there and the feature is that a rebate is allowed if the donor pays the tax within a specified time after he makes the gift. That is, as we do in commercial concerns. Take, for example, the electricity bill. It is received and the department gives a rebate if we pay the bill within a fortnight or some such specified period. The same feature is adopted here. I think this is a very commendable feature. If we find that it is successful here and it lessens or decreases the

[Shri Heda]

burden of work of the Income-tax department, I do not think there is any harm in adopting it or extending it to other departments.

Yesterday, Shri Supakar referred to another matter, and that was about the gifts made under the *bhoo dan* and *sampattidan* movements. I have no idea of how they will be treated, but looking to the spirit, I feel that they will not be attracted by the Gift Tax Bill, and, therefore, the donor of gifts under the *bhoo dan* or *sampattidan* movements will not be made to pay gift tax. However, the Bill is not very clear on that point, and I wish that it is made clear.

In connection with the Finance Bill, the Finance Minister gave us certain assurances yesterday, so far as transfer and other matters were concerned. He went to the extent of saying that if there were any case where injustice had been done or something was interpreted against the spirit of this Bill, then Government would try to remedy it administratively. He took shelter under the plea that he was not a lawyer, but he can take the help of the Law Ministry which is at his disposal. Therefore, I feel that if the words in the clauses of the Bill lead to an interpretation which would go beyond the intention of the Bill itself, then we should in time try to remedy it. I hope the Select Committee will do it.

With these words, I welcome the Bill.

**Shri Radha Raman** (Chandni Chowk): At the very outset, I welcome this Gift Tax Bill. We have been discussing various taxation measures in this House, and I think it is in the fitness of things that a Bill of this nature has been brought forward to integrate the tax structure that has been proposed to be introduced in the country for reducing the inequalities and for leading the society towards the goal of socialistic pattern.

I also welcome the Finance Minister's having thought of referring this

Bill to a Select Committee before it is finally adopted here, because I feel that the Bill as it stands requires closer examination of its clauses. I have full hope and confidence that when the Bill emerges from the Select Committee, some of the defects which have been pointed out by the previous speakers would have been removed.

I also welcome the Finance Minister's gesture, while he was moving his motion for referring this Bill to the Select Committee, that he has it in mind to remove some of the defects that appear in the Bill while it is considered by the Select Committee. I however, feel that some points which have occurred to me should be brought before this House, and they should receive the attention they deserve from the Finance Minister.

In the first place, I find that the object of this Bill is to avoid all such evasions or to plug all such evasions as are often practised by the tax-payer in this country. It is unfortunate that in this country there are many people who think that it is their right to evade tax. I somehow do not side them or do not defend them. In a country where we have our own Government, it is absolutely necessary that every man should try to fulfil his obligations, legal and otherwise, and do his duty.

As this gift tax will affect only a small minority, I do not even think that if there be some hardship on some people who are tax-evaders, the Bill should try to give them any help, because we have to plug all loopholes, so that the Bill may bring in more tax to the Government and enable it to raise such funds as are necessary in order to fulfil the obligations that are placed on them.

I, however, feel when gifts are passed on to any person, that person is often either a close relation or a lineal descendant. I was therefore thinking why there should be a wider circle and why there should not be a specific mention that the tax would apply to only such cases where the



gifts are made to either the lineal descendants or the close relations and where the intention of the giver or the donor is just to avoid taxation. I do not mean that everybody who gives a gift is trying to evade tax, and, therefore, he should be put to unnecessary harassment. I just want this matter to be given the close attention of the Finance Minister, and if he can remove this defect from the Bill, I shall be happier.

In regard to clause 3, I find, and I support what the previous speakers have also mentioned, that gifts made by a wife who receives gifts from her husband will be subject to double taxation, and if double taxation can be avoided, then we should try to avoid that. For instance, if A gives a gift of Rs. 5 lakhs to his wife, he will pay gift-tax on Rs. 4 lakhs, because Rs. 1 lakh is exempted. If the wife makes a gift out of that gift to another person, amounting to Rs. 3 lakhs, it will mean double taxation. I do not know how it will be proper to have double taxation imposed in such instances. I wish that the Finance Minister will give it his due consideration.

**Shri Morarji Desai:** May I tell the hon. Member that the husband can give directly to the other person to whom the wife wants to give, and in that case, there will be no double taxation?

**Shri Braj Raj Singh:** Yes, that is the best way.

**Shri Radha Raman:** That is quite true. But sometimes, it so happens that the husband gives a gift to his wife, and the wife may gift it not necessarily at that every moment, but she may do it later on.

**Mr. Deputy-Speaker:** The husband may desire that the gift should pass through his wife.

**Shri Radha Raman:** Then, under the Gift-Tax Bill, gifts to charitable institutions which have been recognised under section 15B of the Income-tax Act will alone be exempt. As the previous speakers have pointed out, there are many institutions which receive

quite substantial amounts from generous people. So, if it is restricted to section 15B only, I am afraid, that it will be difficult for many people to pass on any amount to such institutions, and they will suffer thereby. Particularly, when it is mentioned that only secular institutions will be taken into consideration, I am afraid it will work hardship. Though in our country we have adopted a policy of secularism—I commend it and I think it is a very good policy—at the same time, we have so many religious, sectarian and communal institutions in our country. We do not want to encourage them in future, but at the same time, we do not want them to suffer on account of their having adopted at one time a certain name which is continuing. They have earned goodwill and they have also done a lot of good work.

I therefore think that the provisions in this Bill regarding charitable institutions should be modified in such a way that gifts given with good intentions to charitable institutions, irrespective of their being religious or communal for the time being, should be exempted. If we do not do that, I have grave doubts whether the purpose of the Bill will be fully served. It will work as a hardship, and charities to such institutions will go down bringing a lot of hardship to them.

Clause 7 proposes that the tax in respect of gifts made in a year shall be determined by aggregating the total value of all taxes paid by the assessee during the preceding five years. There is no reason why for rate purposes gifts made during five years should be taken into account. Seeing that the rate of the gift tax is as heavy as that under the estate duty, this aggregation of five years' gifts is bound to work hardship. I therefore think that some provision should be made in order to avoid this difficulty and hardship. If a person wants to pay a certain amount annually, if he wants to give phased charity, he should not, in any way, be put to disadvantage. That is my contention.

[Shri Radha Raman]

In clause 18, rebate is given to the assessee for voluntary payment. I wholeheartedly commend this provision. I want that there should be given more and more encouragement to assesseees for voluntarily doing their duty and paying whatever is due to Government. What I find today is that honest assesseees are treated in the same manner as dishonest assesseees. Oftentimes, the income tax officers or gift-tax officers go with the presumption that every assessee is a dishonest person. Even when returns are filled and submitted as best as they can, as honestly as possible, the presumption of the officers is that there is some loophole, some evasion, some kind of *golmal*. I think they should not go with this presumption. In spite of the fact that there are in our country many people who like evasion and practise evasion, I have a feeling that there is no dearth of men who would like to pay what is due to Government. They like to be honest in filling and submitting returns. For advance payment or voluntary payment, a rebate of only 10 per cent is allowed in the Bill. I only say that where returns are submitted by honest people and the returns are found to be honestly filled and submitted in time, there should be some such encouragement and appreciation on the part of the Government as well as the revenue department, to make the people feel that those who do their duty honestly will get certainly better treatment and are confronted with no difficulty from the assessment department.

I somehow feel that there is enough of harassment given to the assessee in getting their returns assessed. May be because some people do not actually know how to fill in a return and some others have actually dishonest intentions. At the same time, I do not believe that in this country there will not be enough people who will be quite willing to fill in and submit returns honestly, paying what is due to Government, provided their action was appreciated and there was some kind

of consolation that such action always put them in a better and advantageous position.

I therefore suggest that Government should devise some method not merely to give rebate, as suggested in the Bill, but also other encouragement, so that the assesseees know that honest filling in and submission of returns in time receives appreciation and encouragement at the hands of the income tax department or the revenue department.

Then there is a conflict between section 16(3) of the Income-tax and the provisions of the Gift-Tax Bill. Under the Income-tax Act, income from assets transferred to wife or minor children is liable to income-tax in certain cases. At the same time, such income is liable to gift-tax under the Gift-Tax Bill. Therefore, I want that this provision should be closely looked into and properly examined. If this conflict is also removed, it will have gone quite a long way to satisfy the demand of the time or the demand of the people.

I wish the Gift-Tax Bill will bring Government Rs. 3 crores as anticipated. It will rather enable us to go a step further in having a tax structure in the country which will ultimately lead to removing inequalities and effecting proper distribution of wealth which often accumulates in a few hands and reaction other people. This will help us in bringing about the socialist pattern of society which we are aiming at.

श्री सुनसुनबाबा (भागलपुर) : उपाध्यक्ष जी, जो दान कर लगाया जा रहा है और वह जिन उद्देश्य में लगाया जा रहा है, मैं उस का समर्थन करता हूँ। जो लोग बेईमानी से टैक्स देने में बचते हैं, उन के ऊपर जरूर टैक्स लगाया जाना चाहिये। जो लोग टैक्स से बचना चाहते हैं, वे एक या दूसरे रूप में केवल अपने घर में ही उस धन को रचना चाहते हैं।

वे अपने सम्बन्धियों को ही दे कर दूसरे टैक्स में बचन चाहते हैं। इसलिये मेरी यह राय है कि जहां तक गिफ्ट टैक्स का मसाला है, वह केवल वहीं पर लागू हो, जहां कि अपने सम्बन्धियों को गिफ्ट दे कर इस तरह में टैक्स से बचने का प्रयत्न हो। दूसरे प्रकार के गिफ्ट्स में—दानों में—यह लागू नहीं होना चाहिये।

इस के अलावा इस बिल में बहुत से ऐसे प्राविजन हैं, जिन के अनुसार कुछ ऐसी अवस्थाओं में टैक्स लगाने का मुद्दा दिया गया है, जहां कि यह गिफ्ट टैक्स किसी हालत में लगना नहीं चाहिये। हमारे वित्त मंत्री जी ने कल बोलते हुए दो तीन बातों के लिये तो कह दिया है कि उन पर यह टैक्स नहीं लगाया जायेगा। उन्होंने कहा है कि यदि शिक्षा के लिये कोई दान दिया जायेगा, या यदि कोई अपने कर्मचारी को प्रेचुइटी या इस तरह का दान देगा, तो उस के ऊपर यह टैक्स नहीं लगेगा। यह बहुत ठीक है। उन्होंने यह भी कहा है कि मिलिट्री कमेटी में इस बात पर भी निगाह रखी जायेगी कि ब्यापार सम्बन्धी जो ट्रांजेक्शन होते हैं, उन के सम्बन्ध में लोगों के ऊपर किसी किस्म का अत्याचार—हेरामबंद न हो। मुझे आशा है कि मिलिट्री कमेटी में इस के ऊपर ध्यान दिया जायेगा। नहीं तो इस बात की आशंका है कि जो लोग ईमानदारी से, बौलाकाइडी तरीके से कोई बात नद करते हैं, कोई समझौता करने हे, जिस में उन का मुकसान भी हो जाता है, उन को उस हालत में गिफ्ट टैक्स भी देना पड़ेगा। इनकम टैक्स आफिसर के लिये भी बड़ी मुश्किल है। अगर उस के सामने जायें, तो वह भी कहेगा कि यह किस तरह की बात है। मैं धारा को इस की एक मिसाल देता हूँ।

समझ लीजिये कि किसी ने किसी को—ए ने बी को ५० हजार रुपये दिये। बाद में ए यह देखता है कि बी की दशा ऐसी हो गई है कि उस रकम के लिये कोर्ट में जाने पर भी ५० हजार रुपया बसूल करना किसी हालत में

संभव नहीं है। वह यह देखता है कि यदि मैं कोर्ट में जाता हूँ, तो कोर्ट में मेरा इतना खर्च होगा, लेकिन वह रकम बसूल नहीं हो सकेगी। इस हालत में वे दोनों कामप्रोमाइस कर लेते हैं और ए कह देता है कि अच्छा भाई, मुझ को २० हजार रुपये दे दो और ये २० हजार रुपये पांच बरस में चार चार हजार रुपये कर के ऋदा कर दो। जैसी कि इस वक्त इस बिल की क्लोजिंग है, इस बात का डर है कि उस व्यक्ति को बाकी के ३० हजार रुपयों के ऊपर गिफ्ट टैक्स देना पड़ेगा। मैं निवेदन करना चाहता हूँ कि यह बात बहुत अच्छी नहीं होगी। ब्यापार में प्रति दिन इस प्रकार की व्यवस्था की जानी है और रुपया पैसा दिया जाता है। जो व्यापारिक ट्रांजेक्शन होते हैं, उन में भी हम देखते हैं कि यदि किसी ने किसी बात का ट्रांजेक्शन कर लिया और उस को फुनफिल नहीं किया जा सकता, तो उस में से कुछ छोंड़ दिया जाता है, माफ कर दिया जाता है। मुझे आशा है कि वित्त मंत्री जी बिल में इन सब बातों को माफ कर देंगे, जैसा कि उन्होंने आश्वासन दिया है और यदि वे बातें माफ नहीं होंगी, तो परिणाम यह होगा कि इस मामले को इनकम टैक्स आफिजर के पास ऊपर छोड़ देने में लोगों को बहुत तकलीफ होगी और इनकम टैक्स आफिसरों की भी टिक्कत हो जायेगी और इस के साथ ही वहां पर कुछ करप्शनके लिये रास्ता खुलने का डर रहेगा वित्त मंत्री जी ने यह भी कहा है कि यदि ऐसी बातें होंगी, तो हम एडमिनिस्ट्रेटिव तरीके से रिस्कीफ देंगे। लेकिन, जैसा कि इस बारे में तजुर्बा है, ऐसा बहुत कम होता है। तो ठीक यही होगा कि बिल में इन सब बातों को अच्छी तरह माफ कर दिया जाय।

इस के बाद में एक दूसरी बात की तरफ ध्यान दिवाना चाहता हूँ। एक आदमी के पास रुपया है और दूसरे के पास काम करने की शक्ति और बुद्धि है। आजकल अक्सर यह देखा गया है कि वे दोनों आदमी मिलकर काम करना शुरू कर देते हैं। पहला आदमी कहता है कि तुम्हारे पास पैसा नहीं है, चलो, हम तुम को

## [श्री शुनकुनवाला]

वकील पाटनर के तौर पर ले लेते हैं—इतनी नैलरी देते हैं, एक लाख में पच्चीस, तीस या पचास बगैरह देते हैं। इस का कारण यह होता है कि अगर फ़ैबल सैलरी दी जाय, तो काम करने और लाभ करने का इन्सेंटिव नहीं होता है। यदि लाभ करने के लिये कुछ देने का तरीका निकाल लिया जाय, तो काम अच्छी तरह से होता है। इस बिल के वर्तमान प्राविजन्स के अनुसार इस बात का डर है कि इस सम्बन्ध में जो प्राफ़िट शेयरिंग होगा—पच्चीस, तीस या पचास—वह देने के लिये गिफ्ट टैक्स देना होगा। जो भ्रादमी रुपया लगायेगा, उस को ऐसा करने पर गिफ्ट टैक्स देना पड़ेगा। यह बात भ्रच्छा नहीं है। वित्त मंत्री जी से मेरी प्रार्थना है कि वह इस बात का भी ध्यान रखें।

जैसा कि भ्रमी मेरे पूर्व वक्ता ने कहा है, स्त्री को यदि कोई दान दे दिया गया और वह किसी दूसरे को दे, तो उस में डबल टैक्सेशन हो जायेगा। हमारे वित्त मंत्री जो ने कहा कि ठीक है, यदि हसबैंड देना चाहता है, तो वह सीधा क्यों न दे दे। यहां पर यह सवाल नहीं है कि वह—भ्रर्थात हसबैंड—देना चाहता है या नहीं। यदि स्त्री को दान दिया गया है, तो यह उस की मर्जी की बात है कि वह देती है या नहीं और बाद में उस का क्या आइडिया होता है।

मन्दिर आदि चैरिटेबिल इन्स्टीच्यूशन्ज को दान देने का प्रश्न भी हमारे सामने आता है। हमारे हिन्दू भाई मन्दिरों को बहुत कुछ दान देते हैं और यदि मन्दिर वाले किसी और को वह दान देते हैं, तो उस पर टैक्स लग जायेगा। हम को तो टैक्स देना पड़ेगा ही, किन्तु बाद में उन को भी टैक्स देना पड़ेगा। यह नहीं होना चाहिये, क्योंकि मन्दिर में जो दान दिया जाता है, वह किसी खास उद्देश्य और खास काम के लिये दिया जाता है। भ्रर्थात् ब्राह्मणों, भिक्षुओं बगैरह को खिलाने के लिये और संस्कृत पाठशाला खोलने के लिये दान

दिया जाता है। इसलिये उन लोगों पर और उन कामों पर रुपया खर्च करने और देने पर टैक्स नहीं लगना चाहिये।

बहुत से ऐसे पब्लिक परपजिज हैं, जो इनकम टैक्स एक्ट के सेक्शन १५ (ए) के अन्तर्गत नहीं आते हैं। आज कल जो लाइवरीज और शिफा के लिये जो संस्थायें होती हैं, उन में दान दिया जाता है। हो सकता है कि वे सेक्शन १५(ए) के अन्तर्गत न हों। यदि वे उस के अन्तर्गत न हों तो उन सब इन्स्टीच्यूशन्ज में दान देने पर गिफ्ट टैक्स नहीं लगना चाहिये।

यहीं थोड़े बहुत मेरे गुभाव हं। यदि ये सब दिक्कतें दूर कर दी जायें, तो हम को कोई ऐतराज नहीं है कि यह गिफ्ट टैक्स लागू कर दिया जायें।

14 hrs.

Mr. Deputy-Speaker: Shri Ghosal.

Shri Vajpayee (Balrampur): There is no quorum in the House.

Mr. Deputy-Speaker: I will have it counted at 2:30.

Shri Ghosal (Uluberia): Sir, in this sort of legislation, the Government can have the largest amount of agreement with the Opposition. The Gift-Tax Bill was in the offing since last one year. It now completes the circle of integrated tax structure of our country. There is nothing new or to be surprised at its introduction. My objection is regarding the loopholes in the body of this Bill. The difficulty is this. When the Government wants to bring some progressive measures, it always brings it in a half-hearted manner. It seems that some force is working somewhere in their machinery or in their associates which does not allow the Government to go the whole hog in the implementation of the progressive measures. This Bill leaves some loopholes which sometimes even defeat the purpose of the Bill itself. For

this lacuna the Government fails to achieve the expected result. If legislations are passed with some amount of foresightedness the number of amending Bills will decrease gradually.

Now, I would like to draw the attention of the hon. Members of the Select Committee to the loopholes which exist in this Bill. There would be no objection if some amount is exempted from the taxation for the expense of the marriage of the daughters or other near relatives. But if in that category all female relatives who are alleged to be dependent are included, the loophole becomes large enough to drain out a huge amount of money. In the case of female relatives, this must be restricted to the near relatives like daughters and sisters only. The provision of Rs. 10,000 for each marriage seems to be too high. The Government is on the one hand advocating the abolition of dowry system. I think this will encourage the people to fall an easy victim to the evil which we want to abolish. This provision should be much lower. In the case of insurance also, the same principle should be applied.

All sorts of relatives or dependents should not be included in this category so that large amounts may be thrown off through that gap.

The last loophole which I would rather call a manhole is regarding the gift of a man to the wife of a lakh of rupees because it is a preposterous limit and a fabulous exemption. As regards the point about double taxation raised by some hon. Members, I would like to say this. If the wife after getting a gift again executes another gift in favour of another man, what happens? It cannot be called double taxation if a tax is levied on the second transaction. That is not double taxation. Because there are two separate transactions.

Lastly, I want to say this. The hon. Minister assured us yesterday that bonus, pensions, gratuity, etc. would be exempted from the Gift-Tax. I do not know whether the contribution made to the political parties

should also be taxed under the Gift-Tax Act.

**Shri Morarji Desai:** That was income-tax; not gift-tax.

**Shri Ghosal:** My last point would be regarding the machinery for the realisation of the tax because we have got bitter experience about it. Many hon. Members have already complained in the House and also many eminent persons have complained outside about the defective working of the system. The pattern of realisation of the gift-tax is just like that of the income-tax with some minor variations. My point is that many good measures may be founded by the defective working of the machinery. Our first attention should be given to the working so that we can improve the machinery and the people who want to evade tax and deprive the Government of its legitimate dues could be detected easily and brought to book. In the case of income-tax, we find that the disputes on the taxable amounts are dragged on from department to department and thereafter from court to court. After a long time we find a big amount of the tax turns out to be a dead money. In order to avoid such contingencies, I would like to draw the attention of the Select Committee for improving the realisation system of the gift-tax.

Lastly, I come to the recommendation of Shri Kaldor about certain improvements also. He says that if an extra crore of rupees were spent on raising the standard of salaries in the revenue department, the return to the State in terms of additional revenue collected is bound to be many times the additional cost. So, Government should take sufficient note of it so that the machinery can work well and with honesty and integrity. Lastly....

**Mr. Deputy-Speaker:** There have been two lastly's already.

**Shri V. P. Nayar (Quilon):** This is the last 'lastly'.

Shri Ghosal: This is the final lastly. I would like to draw the attention of the Select Committee to the rates given here. The rates are not even according to the recommendations of Shri Kaldor. I request this Members of the Select Committee to look into this and consider this point also.

श्री बाजपेयी : उपाध्यक्ष महोदय, प्रधान मंत्री ने अन्तर्कालीन वित्त मंत्री के रूप में जो गिफ्ट टैक्स लागू करने का प्रस्ताव रखा था, कुछ अपवादों को छोड़ कर सभी ने उसका स्वागत किया था गत वर्ष से हमने जिस कर-पद्धति का अवसम्बन्ध किया है उसमें दान कर या उपहार कर को एक आवश्यक धर्म के रूप में स्वीकार किया गया है। प्रमत्ता होता यदि गत वर्ष ही व्यय कर और सम्पत्ति कर के साथ हम उपहार कर को भी लाते। लेकिन धेर से ही सही, यह कदम सही दिशा में उठाया गया है और इसी लिये प्रायः सभी ने इसका स्वागत किया है।

लेकिन विधेयक का जो रूप हमारे सामने आया है, उसमें कई कमियाँ हैं। कई कमियाँ हैं और मुझे विश्वास है प्रवर समिति उस पर गम्भीरता से विचार करेगी। कोई भी धनवान या पूजिपति सरकार को टैक्स भ्रष्टा न करे या दूसरे शब्दों में चोरी करे, उसे रोकने के लिये जो भी कदम सम्भव हों, उठाये जाने चाहिये। लेकिन उसमें इस बात का ध्यान रखना आवश्यक है कि उस कर का जाल इतना चौड़ा और लम्बा न फैलाया जाय कि उसमें ऐसे लोग भी फँस जायें जिन्हें फँसाने का शायद हमारा भी इरादा नहीं है।

सब से पहले इस विधेयक के अन्तर्गत जो एम्प्लोयर्स दी गई है, उन की ओर मैं आपका ध्यान दिलाना चाहता हूँ। अभी अनेक माननीय सदस्यों ने इस बात का उल्लेख किया है कि देश में अनेक ऐसी संस्थाएँ बनती हैं, विद्यालय हैं, अस्पताल हैं, जो किसी

एक सम्प्रदाय तक भले ही सीमित हों किन्तु जिनका उद्देश्य जन-हित का है और वे अपने ढंग से राष्ट्र के निर्माण में योग देना चाहती हैं। इस सम्बन्ध में इंडियन इनकम टैक्स एक्ट की जो १५-बी की धारा है वह एक ही सम्प्रदाय तक सीमित है, दातव्य संस्थाओं को अपने में शामिल नहीं करती है। यही यहाँ पर सेकुलरिज्म का नाम लिया गया है। मैं समझता हूँ सारा देश इस बात से सहमत है कि राजनीति में महात्मा का मतादेश नहीं किया जाना चाहिये। लेकिन यदि बॉरिटेबल इस्टीमेशनम हैं और भले ही वे एक वर्ग या समाज के एक भाग तक सीमित हों, उनके दिये गये दान के ऊपर किसी प्रकार का टैक्स लगाना आज की परिस्थिति में उचित नहीं है और इस इनकम-टैक्स विधेयक के अन्तर्गत ऐसी संस्थाओं का भी मतादेश किया गया है। जो इनकम-टैक्स एक्ट में व्यवस्था है उसके अनुसार यदि कोई संस्था केवल एक सम्प्रदाय तक सीमित है तो उसे १५-बी के अन्तर्गत मिलने वाली छूट नहीं मिलेगी। मैं समझता हूँ इस विधेयक में इस तरह का मंशोधन किया जाना चाहिये जिस से कि सभी प्रकार की दातव्य संस्थाएँ उसके अन्तर्गत आ सकें।

इस सम्बन्ध में मेरा एक और विवेचन है कि सी रुपये में अधिक जो भी व्यक्ति दान करेगा उसके ऊपर वह गिफ्ट टैक्स लागू हो जाये। कई सज्जन ऐसे हैं जो विद्यार्थियों को शिक्षा के लिये उन्हें प्रतिवर्ष सहायता देते हैं और शिक्षा का सर्वा जिस गति से बढ़ रहा है उसको देखते हुये सी रुपये की सीमा निर्धारित करना न्यायोचित नहीं कहा जा सकता। वह सी एक विद्यार्थी की एक वर्ष की पढ़ाई की फीस भी नहीं होगी। मैं समझता हूँ कि इस विधेयक के द्वारा हम कोई ऐसा काम करें जिस से देश की जनता में हजारों वर्ष के संस्कारों के कारण दान देने की जो प्रवृत्ति है उसको चोट लगे, यह ठीक नहीं होगा। अन्य देशों से विपरीत हमने एक ऐसी समाज

व्यवस्था, ऐसी धर्म-रचना का विकास किया जा जिस में सब बातों के लिये शासन पर निर्भर रहना आवश्यक न हो और व्यक्ति एक दूसरे की तथा समाज की अपने आप सहायता करे। यदि इस गिफ्ट टैक्स का परिणाम यह हुआ कि हमारे देश में जो दान देने की पुरानी पद्धति चली आ रही है उसका कुछ आघात लगे तो मैं नहीं समझता कि विधेयक के निमतानुसारों का जो उद्देश्य है वह उसमें पूरा होगा।

गादियों के सम्बन्ध में जो उपहार दिये जाते हैं उनकी भी यहाँ चर्चा की गई है। इसके बारे में इस विधेयक में यह लिखा है :—

“...female relative dependent upon him for the necessities of life on the occasion of her marriage”.

मैं समझता हूँ इस वाक्य को बहुत संकीर्ण बना दिया गया है। ऐसी भी लड़कियाँ हो सकती हैं जो शादी के समय अपनी आजीविका कमाने के लिये छोटा सा काम करती हों और पूरी तरह से इस शब्दावली के अन्तर्गत जो व्यक्ति उन्हें उपहार देने वाला है उस पर निर्भर न करती हों—कृष्ण अंशो में तो निर्भर करती हों—उनके लिये इस विधेयक में जो व्यवस्था की गई है उसके अन्तर्गत इस प्रकार की जो लड़कियाँ हों वे भी गिफ्ट प्राप्त करने से वंचित हो जायेंगी या अगर उन्हें गिफ्ट दिये जायेंगे तो देने वाले को टैक्स देना पड़ेगा जिस से वह बचना चाहेगा। इसलिये मेरा निवेदन है कि आजीविका कमाने या छोटा सा काम करने या पार्ट-टाईम काम करने और उससे थोड़ी सी आय प्राप्त करने को इसमें शामिल नहीं किया जाना चाहिये और उसके लिये पूरी छूट दी जानी चाहिये।

इस विधेयक के संकलन ४ में कुछ ट्रांजेक्शंस का चिह्न किया गया है जिनके ऊपर यह गिफ्ट टैक्स लागू होगा और उसमें आगे चल कर कहा गया है जिस का अर्थप्राय यह है कि यदि कोई व्यक्ति किसी दूसरे व्यक्ति को कर्ज दे और कुछ कारणों से उस कर्ज को पूरी तरह से वसूल न कर सके और परेशान होकर यह फैसला कर ले कि कर्ज मैंने छोड़ दिया क्योंकि मैं वसूल नहीं कर सकता या जिस में वसूल किया जाना है उसकी स्थिति ऐसी है कि उसमें अब लेना सम्भव नहीं है तो इस प्रकार की जो भी छूट दी जायगी कर्ज में उसके ऊपर छूट देने वाले को गिफ्ट टैक्स देना पड़ेगा। इसका अर्थ यह है कि जो कर्जदार है और जो कर्ज देने वाला है उन दोनों के बीच हम मुकदमेबाजी को प्रोत्साहन देंगे और अगर मुकदमेबाजी के बाद भी कर्ज नहीं मिलेगा तो उस स्थिति में जो अफसर होगा जो निर्धारण करेगा कि कितना गिफ्ट टैक्स दिया जाना चाहिये उसकी मर्जी के ऊपर छोड़ दिया गया है कि वह इस बात को देखे कि कर्ज पूरी तरह से वसूल हो सकता है या नहीं हो सकता है। मैं समझता हूँ यह डिस्क्रिशन काफी बड़ा है, इसका इस्तेमाल हो सकता है और यह भी सम्भव है कि कर्ज की जो रकम छोड़ दी जाय उसके बारे में अफसर का यह मत हो कि तीन चौथाई रकम तो ठीक छोड़ी गई है मगर एक चौथाई ठीक तरह से नहीं छोड़ी गई है और उसके ऊपर गिफ्ट टैक्स लिया जाये। मैं समझता हूँ कि इस विधेयक में यह मर्यादित होना चाहिये कि अगर कर्जा या इस प्रकार के और भी कोई ट्रांजेक्शन कोई व्यक्ति अगर छोड़ना चाहता है और जिस के लिये उनको छोड़ा जा रहा है वह उस परिवार का नहीं है या उस व्यक्ति से सम्बन्धित नहीं है जिस से यह प्रकट हो कि उसकी नियत टैक्स को इवेड करने की है तो उसको मजबूर नहीं किया जाना चाहिये गिफ्ट टैक्स देने के लिये।

### [श्री बाजपेयी]

इस सम्बन्ध में प्रवर समिति गम्भीरता से विचार करे, इस बात की आवश्यकता है।

विधेयक में एक धीरे भी व्यवस्था की गई है। अगर कोई व्यक्ति बैंक में ज्वॉयेंट ऐकाउंट रखे, और अगर जिस के नाम रक्का संयुक्त रूप से वह उस की पत्नी हो, और अगर पत्नी उस ज्वॉयेंट ऐकाउंट में से कुछ रुपया निकाले, चाहे वह रुपया घर के काम काज के लिये ही निकाला जाय, तो उस धन राशि को उस के पति द्वारा, गिफ्ट टैक्स के अन्तर्गत लगाया समझा जायेगा। अब उस में एक यह व्यवस्था की गई है कि १ अप्रैल, १९५७ से इस तरह की जितनी ज्वॉयेंट टेनेन्सी या बैंक ऐकाउंट्स हैं उस के ऊपर यह विधेयक लागू होगा। अधिनियम में परिवर्तन होने के बाद में समझता हूँ कि इसे रिट्रोस्पेक्टिव एफेक्ट देने की जरूरत नहीं है। अब तो यह विधेयक पास हो रहा है और ऐसे पति पत्नियों को, जो एक ही बैंक में ऐकाउंट एक साथ रखते हैं, चेतावनी मिल गई है। वह जो अब अलग अलग ऐकाउंट खोलेंगे। अगर पिछले एक साल तक जिन्होंने साथ साथ रक्का, वे किसी कठिनाई में न पड़ें, इस दृष्टि से बिल में संशोधन होने के बाद १ अप्रैल, १९५८ या १ मई, १९५८ से विधेयक की इस धारा को लागू किया जायेगा।

जब जल्दी से टैक्स भरा करें, इस के बारे में विधेयक में रिबेट धान ऐडवान्स पेमेंट की जो व्यवस्था की गई है वह बहुत अच्छी है, और उस का सभी लोगों ने स्वागत किया है। यदि अन्य टैक्सों के सम्बन्ध में भी इसी तरह का कोई आकर्षण हम लोगों के लिये पेश कर सकें कि वे जल्दी से अपने टैक्स भरा करें और उनको कोई छुट दी जाये

तो मैं समझता हूँ कि उस से टैक्स की प्रदायगी में जल्दी होगी। लेकिन इस सम्बन्ध में भी मेरी दो आपत्तियाँ हैं। यह हो सकता है कि जो टैक्स प्राक्सिस हैं, वे असेसमेंट करने में एक साल से ज्यादा समय लगायें, और जिन कार्यों के लिये ऐडवान्स किया जायेगा उन के बारे में असेसमेंट में अधिक समय लगाने की प्रवृत्ति भी हमें दिखती है, जैसा कि इनकम टैक्स की वसूली के समय होता है, ऐसी स्थिति में रिबेट की प्रदायगी में बहुत कुछ आकर्षण बाकी नहीं रह जाता।

एक दूसरी बात है, यदि कोई व्यक्ति ५०,००० रु० की गिफ्ट दे तो ४ परसेंट के हिसाब से २००० रु० टैक्स हुआ और यदि वह ऐडवान्स पेमेंट है तो १००, २०० रु० का लाभ होगा। मैं समझता हूँ कि यह काफी बड़ा लाभ है और लोग जल्दी से टैक्स की प्रदायगी करना चाहेंगे। लेकिन अगर कोई व्यक्ति २ लाख रु० की गिफ्ट दे तो १५ परसेंट के हिसाब से उसे ३०,००० रु० का टैक्स देना होगा, लेकिन बिल में अनुकार वह केवल १६००० ऐडवान्स रुपया जमा कर सकता है, जिस का मतलब यह है कि उसे सिर्फ १६०० रु० का रिबेट मिलेगा। मैं समझता हूँ कि यह रिबेट की राशि कम है, और अगर अपना रुपया बाहर लगावे तो उस के बदले में उन्हें जो प्राप्त होगा इस से कहीं अधिक होगा। इस सम्बन्ध में भी जो प्रदायगी गिफ्ट पाने वाले हैं उन को भी जल्दी से जल्दी पेमेंट करने का आकर्षण हो सके, इस लिये कुछ संशोधन की आवश्यकता प्रतीत होती है।

अन्तिम बात इस टैक्स की वसूली के सम्बन्ध में है। जो भी धारा कर, सम्पत्ति कर या व्यय कर के वसूली के बारे में व्यवस्था की गई है, वही इस पर भी लागू होगी। इस का अर्थ यह है कि जो भी कर्मचारी हैं, अधिकारी हैं, उन के ऊपर काफी बोझ पड़ेगा और इस कारण वसूली में अनेक



प्रशासनिक कठिनाइयां लड़ी होंगी, जिन की धीरे टैक्सेशन इन्क्वायरी कमिशन में भी अपनी रिपोर्ट में ध्यान आकृष्ट किया था वे कठिनाइयां आज भी अनुभव में आयेंगी। इस विधेयक के अन्तर्गत यह अनुमान किया गया है कि सरकार को ३ करोड़ प्रति वर्ष की प्राप्ति होगी। मैं समझता हूँ कि यह अनुमान अधिक है धीरे ताज्जुब नहीं होगा अगर एक वर्ष के बाद हम यह रकम काफी घटी हुई पायें, जैसा कि अन्य टैक्सों के बारे में हुआ है। लेकिन यदि वस्तुतः ३ करोड़ ६० प्राप्त होता है तो जो सरकार ने इस टैक्स की वसूली के खर्च की व्यवस्था की है वह ८ लाख ० की है। मैं समझता हूँ कि टैक्स वसूल करने वाले कर्मचारी धीरे अधिकारी प्रणाली तरह से अपने कर्तव्य का पालन कर सकें, इस दृष्टि से यदि उन की कार्यक्षमता को बढ़ाने के लिये उन्हें कुछ अधिक सुविधायें दी जायें तो यह उचित होगा। उन में कार्य करने की आज जो कुशलता है उस का हम अधिक उपयोग कर सकें धीरे प्रामाणिकता में वे अपने दायित्व वहन करें। इस दृष्टि से जो टैक्स वसूल करने का प्रशासन है उन में भी सुधार किये जाने चाहिये।

इन शब्दों के साथ सामान्य रूप से इस विधेयक को अपना समर्थन देने हुए मैं समाप्त करता हूँ।

**Shri Somani (Dausa):** Mr. Deputy-Speaker, Sir, the primary objective of this Bill is to plug the loop-hole under which it has been possible for persons to make gifts to reduce their liability under the various taxes, and indeed the Prime Minister, while introducing this Bill, had indicated that this transfer of property in favour of close relatives has been the commonest form of avoiding tax liability under the various Acts.

So far as this basic objective of plugging this loop-hole is concerned, there can be no difference of opinion. While suggestions have been made

by Prof. Kaldor and by some other experts also that this loop-hole could have been plugged by amending the Estate Duty Act rather than by bringing in this new taxation measure, all the same, the need for bringing this measure cannot be questioned. But my submission is that this Bill goes much beyond fulfilling this obvious need, and there are various provisions in this Bill of such a sweeping character, that unless the Select Committee thoroughly examines the implications of the various provisions, I am afraid the Bill might cause undue hardship and difficulty in various directions. I therefore appeal to the hon. Finance Minister and to the Members of the Select Committee to realise this, namely, while on the one hand they should ensure that the basic objective of this Bill is not in anyway compromised or prejudiced, on the other hand they should also examine the adverse repercussions which the various provisions of this Bill may have on the smooth functioning of the business houses.

The first suggestion that I want to make is that this tax should be levied on the donees and not on the donors, and I do it for a very valid reason. Indeed, Prof. Kaldor himself had made a similar suggestion.

**Shri Morarji Desai:** Does the hon. Member accept his scheme?

**Shri Somani:** I am referring to Prof. Kaldor because this integration of the new taxation pattern has been primarily based on the recommendations of Prof. Kaldor. Therefore, I am drawing the attention of the Government to the fact that Prof. Kaldor himself suggested that this gift-tax should be levied on the donees and not on the donors. This can be illustrated by the fact that if a person makes a gift of Rs. 5 lakhs in one year, either to one of his close relatives who has already got adequate resources or distributes it to 50 or 100 needy persons, still the incidence of tax remains the same. Obviously, it will be logical from the point of view of our socialistic pattern of society also if the incidence of tax on gifts

[Shri Somani]

which are distributed in such a wide circle is less. As a matter of fact, this practice of making gifts to needy persons should be encouraged, and not discouraged. I, therefore, submit that the suggestion made by Professor Kaldor to make this tax payable by the donee should be properly examined.

Indeed, the number of taxes which an individual has to pay in this country is so large. We have about 15 kinds of direct tax in this country, compared to as many as 18 or 19 which are known throughout the world. Even from the point of view of incidence of this tax on a single person, it is desirable that the gift tax may be transferred to the recipient rather than to the person who makes that gift.

Coming to some other provisions, I refer to clause 4, about which references have been made by many preceding speakers. I would confine myself to making observations about a few difficulties which, I think, will arise unless this clause is suitably modified. Instances have already been given how in case a managing agent foregoes his managing agency commission in the interest of the company itself, that commission which to foregoes is regarded as a gift and will be taxed as such. I do not think it is the intention of the Government to tax the managing agency commission which an agent has forgone in the interest of the company. I hope it will be possible for the Select Committee to clarify the position in this regard.

Similarly, there are a large number of transactions in the day to day functioning of a company or a business house which can be made liable to this gift tax, unless a suitable clarification is made. It may happen that in the case of business when the trade discounts and rebates are given at varying rates on the same day, the Gift-Tax officer may legitimately hold a certain minimum discount as the normal trade practice and regard

anything that has been given above that minimum discount as chargeable under the gift-tax Bill.

Indeed, I have been told that even the sales of cement and paper and such other commodities, which are made to the Government at a reduced price on certain assurances which have been given to the industry may also be liable to be taxed under this Bill. There are various kinds of other examples which have been given. But, instead of lengthening the list of illustrations, I would like to appeal to the Select Committee that it should be made clear that all business transactions of a *bona fide* nature will be completely outside the purview of this tax.

Then, there is the question of the compromise arrangement. Here again, the provisions in this Bill will encourage all sorts of litigation. Because, in the ordinary course it will be difficult to convince the gift-tax officer that all legitimate steps have been taken before any debt has been compromised or written off and, to that extent, people may be forced to waste unnecessary money for recovering certain dues when they clearly know that that would not be possible, whatever litigation they might resort to. Therefore, it is only fair and reasonable that any sort of compromise that may be arrived at in the day to day ordinary business in the routine manner should not be subject to this tax.

I can understand if this provision is made applicable to the debts which may have been made to some of the close relatives or associates of the individual concerned. Here there may be grounds for certain suspicion or doubt. But so far as any outstanding or debt in the case of outside parties are concerned, there is absolutely no justification to give any discretion to the gift-tax officer to look into any compromise that may be arrived at in settling the debts. He may or may not allow any such compromise and he may, on his own judgment, impose

gift tax on any amount which they themselves think unrecoverable if he feels that adequate legal or other steps were not taken by the party to realise those debts. It is, therefore, very essential to make a clarification. If at all this restriction is to apply, it should be confined to the debts or outstandings against persons who may be falling within the definition of "associates".

Then, much has already been said about contributions to charities or religious institutions. I do not think it is the purpose of this Bill to bring all those contributions within the mischief of this Act. There are a large number of religious, educational and social institutions. Although the hon. Finance Minister yesterday pointed out that the incidence of this gift tax on such contributions may not be large, the fact has to be recognized it will be a sort of harassment if small contributions over Rs. 100 are brought within the purview of the Gift Tax Bill. When it is not going to bring any substantial revenue, I submit, there is absolutely no justification for making all these contributions liable to tax under the Bill. Therefore, as has been already pointed out by various speakers, such contributions, irrespective of the fact whether they are exempted under section 15(b) of the Income-tax Act or not, should be outside the purview of the Gift Tax Bill.

I submit that, as in the case of the public companies, which have been exempted, some private companies which come under section 23A companies should also be exempted. There are a number of genuine cases where the companies come under the category of section 23A companies due to certain definitions in the Income-tax Act. I submit that this exemption should be widened and such companies should also be exempted from this Bill.

While the basic objective of the Bill is one against which there can be no objection, there are various provisions in the Bill which will in-

volve unnecessary hardship, difficulty and harassment to the persons concerned. So, it is very desirable to modify and simplify the Bill in a manner which, while keeping the basic objectives intact, will remove the provisions which may cause unnecessary hardship.

**Dr. Sushila Nayar (Jhansi):** Mr. Deputy-Speaker, I join in the support that this Gift Tax Bill has received from all sections of the House and I agree that it is a very desirable step. As was pointed out by various speakers, it completes the tax structure that we have evolved so as to promote the ideal of socialistic pattern and removal of disparities of income and wealth.

Now, while I welcome this Bill, as I welcomed some of the other similar taxation measures, which have been introduced earlier, there are certain details which do need attention. Several of them have already been pointed out. I wish to emphasise that while taxation is very necessary for running the various services that the State has to run and for removing the disparities and for ensuring equitable distribution of the wealth that is being produced, at the same time I feel that the real remedy for removing these disparities and the most effective method of achieving the socialistic pattern or *sarvodaya* type of society is by increasing the awareness and realisation in the hearts and thinking of the people that accumulation of wealth in a few hands is neither a source of joy, happiness or enjoyment nor does it confer other type of real benefit. In other words, to the maximum extent possible the idea of voluntary sharing, the idea that the individual is a part of society and the happiness, prosperity and well-being of the individual depends on the happiness, prosperity and well-being of society as a whole should be encouraged to the greatest extent possible. To that purpose I feel that the exemption that has been given for making a gift for the education of one's children should not be limited to one's own children. If anybody is willing to spend money to make a gift for

[Dr. Sushila Nayar]

the education of not only his own children but any other children, it should be exempted. Money spent or money given by way of donation for the education of children anywhere should not fall within the purview of gifts tax.

Similarly, exemption has been given for making donations to those charitable institutions which are registered and are recognised charitable institutions. There are a number of institutions doing very good work, which are perhaps not registered and which are not able to stand on their own feet. They are in the earlier stages and when they become registered and are recognised they have other sources from which money can be available to them, for instance Government grants or Social Welfare Board grants etc. But during those initial stages, when they are not registered and are not recognised, they can take roots and continue to render the services and develop the services that they have started only through private charity.

A number of us, who have been engaged in social service in various spheres forms, are very well aware of the importance of not having this source of charity dried up or minimised. An argument is sometimes given that after all a man, who is willing to donate say Rs. 1,000 towards a charity or to a charitable institution, can give a few rupees for meeting the tax also. As things are, somehow or the other it is human nature that tax, even of a small amount, acts as a great deterrent. Therefore while the gifts tax is most welcome to plug the holes and prevent the abuses which can occur and which have occurred in the form of an individual making presents of large sums of money or property to one's own kith and kin to escape death duty, estate duty and other forms of taxation, genuine charity and genuine willingness on the part of an individual to share his earnings or his wealth with the needy sections of the society should be encouraged and to do so it

should be made exempt from taxation. I would commend to the hon. Finance Minister the recommendation made by several hon. Members in this House that it would be desirable to levy the gifts tax when the gift is within one's family or within a certain circle, which may be defined, but outside that circle if a man is willing to give money or extend help to others it should be free from taxation.

There are a number of very hard cases which many hon. Members must be familiar with—cases of sickness, cases of genuine old age distress, cases of widows in distress and cases of orphans in distress—which will not be covered by any of those items which have been included in the list of exemptions given so far. These cases should be covered. It will take us a long, long time in this country to have a well-developed comprehensive social security system which takes care of all needy sections of society. Till that time these needy people have to be taken care of somehow or the other and those members of society, who are willing to do so, should be encouraged in that direction. What we want is distribution of wealth. If that distribution can take place on a voluntary basis and the donor gets the joy out of it as well, there should be no objection to it. As a matter of fact, the spirit of voluntary sharing can go a very long way in building up that moral fibre which is the backbone for the success of all our taxation measures. It will eliminate the leakages that take place the dishonesty and the tax evasion that keeps on occurring all the time. And talking of that I wish to bring a very important instance to the notice of the hon. Finance Minister. A large number of people in this country are being persuaded to offer *bhoo dan* or to offer *sampattidan*. Now, are those people to be subjected to the levy of the gifts tax?

Shri C. D. Pande: Oh yes, certainly.

**Dr. Sushila Nayar:** It will not be right to do so in my humble opinion. Sant Vinoba is going walking from one end of the country to another in trying to create that awareness in the hearts of our people that the individual owes a debt to society, that what the individual earns is through the help of society and therefore he should share it with society. Now, if that spirit catches on and if the people, who have wealth and who earn a lot of money, become aware of it that society is entitled to a share out of their wealth, out of their earnings, the natural corollary is that they would think twice before earning that money or accumulating that wealth through anti-social measures. They are willing to share it with the society, because they feel that they have got it through the help of society and they should share it with the society. It is obvious that they should not earn it through anti-social means, bribery, corruption, blackmarketing, adulteration, etc. This spirit is far more important, to my mind, for the regeneration and development of our country, of our economy and all-round uplift of the nation than a few lakhs or even a few crores of rupees earned through taxation. I wish to submit that with that spirit, the income of the Government is likely to increase many times, because, all the loop-holes that we are trying to plug today will, to a very large extent, be plugged voluntarily. Therefore, I wish to submit in all humility that the gift-tax should take very good care that it does not discourage people from voluntary sharing. I support the plea that has been made for exempting gifts to religious institutions even though they may serve a particular sect or community. I wish, nobody thought in terms of particular communities or particular religion. However, things being what they are, some of these religious institutions render very good service even though it is to a small section of society and they should be allowed to continue their good work.

In general, this gift-tax measure can, in my opinion, be the greatest

boon to the nation, because, it can encourage the natural tendency towards charity that is there in the hearts of our people. It can encourage the spirit of voluntary sharing more and more so that the moral fibre of our people rises high. I plead again that care should be taken to exempt *Bhoodan*, *sampattidan* and all other forms of voluntary sharing and every effort be made to encourage the spirit of voluntary sharing with the help of this Gift-tax Bill. With these words, I support the Bill.

**Shri D. C. Sharma:** Mr. Deputy-Speaker, the first observation that I want to make is that the date fixed for the submission of the report by the Select Committee, 1st May, 1958, does not give enough time to the Select Committee to go into all the points that have been raised. I believe that instead of doing its work in a hurried manner, the Select Committee should do it in a very elaborate manner so that this work is done as well as it should be. Therefore, I would say that the date for the submission of the report should be extended at least by one week.

The second point that I want to make is this. I do not think that this gift tax will give us an integrated tax structure in this country. Where is a tax structure in this country? I do not think there is any tax structure in this country. If there is any tax structure, it is not integrated. When you talk of integration, you mean to say that there is going to be an organic connection between one part and the other, that there is going to be a logical connection between one part and the other. So far as our taxes go, we have been going along the British path and we have been following the system of muddling through. I believe that this Gift-tax Bill is, again an anti-estate measure. We have the income-tax measure. People evade it. We have the expenditure tax measure; people are evading it. We have the wealth tax measure; we have the estate duty. Now we have this gift-tax measure. I want to ask the hon.

[Shri D. C. Sharma]

Finance Minister—I am very glad that he is our Finance Minister and we are all proud of him—"what after this?" If people evade this measure also, if people escape the meshes of this net also, what kind of measure is he going to bring forward? I have to say that the whole taxation policy of this Government is a policy which is not based on any rational thinking, which is not based on any thinking in terms of the needs of our country, which is not based on any thinking in terms of the millions of our country. I should say, sometimes, we go to this man or that man, we go to Mr. Kaldor or some other person. What are we doing? Our tax structure is a patch work structure. I should say that this patch work structure should be amended and reformed. We should do something about it so that there is a structure which is worthy of a great country, worthy of a great nation. I do not feel happy when I think of the tax structure of this country.

Another point that I want to make is this. It has been said—it is a very pathetic confession on the part of the Finance Ministry and on the part of the nation—that the only effective method of checking such attempts at evasion or reduction of tax liability is by levying a tax on gifts. Evasion has been a chronic disease in this country. It has been a persistent and malignant disease. It has been a disease which has corroded the financial vitals of our nation and of our country. It has gone on from year to year. We are not ashamed or repeating it even in the Statement of Objects and Reasons of the Bill. I would like to know what we are going to do to stop this. I say that even if 50 per cent of the suggestions that have been put forward today are adopted, evasion of this tax will be in a much larger measure than possible. Yesterday, it was said that this measure will be liberalised. I know how the Wealth-tax Bill was liberalised. I know how the Expenditure-tax Bill was liberalised. We

liberalised to an extent when very little vitality was left in them, very little power to get money was left in them. I hope the Gift-tax Bill will not be liberalised in the same manner so that it becomes a Bill without any teeth, becomes a Bill which defeats its own purpose and becomes a Bill which gives away more than it can get. I would submit respectfully that we should go about the work of liberalised in such a way that the Gift-tax Bill remains a revenue-earning Bill, a money earning Bill and does not merely form part of our statute-book to be shown to the world that we have taken a step in the direction of a socialist pattern of society. I would submit respectfully that this Bill should be made effective. It should be made operative in the best sense of the word. Too many concessions that have been asked on the floor of the House should not be given. Because, in that case, we will have a Gift-tax Bill which will be a Gift Bill without any tax. That is what it will come to.

**An Hon. Member:** Or a gift of tax Bill.

**Shri Narayanankutty Menon (Mukandapuram):** May I seek a clarification from the hon. Member regarding exemption given to gift of Rs. 1 lakh to wife?

**Shri D. C. Sharma:** I am coming to that.

**Shri Narayanankutty Menon:** We would like to know your opinion.

**Shri D. C. Sharma:** I wanted to make a few observations with reference to the clauses. I come to clause 3. It is said that a new liberal exemption is provided for gifts made to one's wife. I do not understand much about these things.

**Some Hon. Members:** Why?

**Shri D. C. Sharma:** I would submit respectfully that there may be emotional logic behind it to give exemption to a gift of Rs. 1 lakh to one's wife.

15 hrs.

There may be sentimental logic behind it, to give exemption for a gift of Rs. 1 lakh to one's wife; there may be any other kind of logic also behind it, but I tell you that the logic of finance is not behind it. The logic of the developmental economy of the country is not behind it. Therefore, I do not think that this concession which is being given for gift to one's wife should be persisted in. I think they should also be treated in the same way as we are treating the other persons and no special kind of privilege should be given to them.

**Shri C. D. Pande:** It should be to other's wives, and not to one's own wife.

**Shri D. C. Sharma:** Again, I want to submit very respectfully that I am very much worried about the way in which the values of gifts are to be determined. In the first place, there is no time at my disposal to go into the whole gamut of the Income-tax Department, but I would say that we are saddling the Income-tax Department with new duties every day, with bigger duties every day, and with more duties every day, which they have not yet been able to face.

I want to tell the Minister that he should send some of these income-tax officers for training to those countries where this gift-tax has been administered. For instance, they should be sent to Sweden, so that they will learn how this gift tax can be administered in the best possible way. Again, I want to say that so far as the administrative machinery of our country is concerned, it has not proved to be adequate so far, and I hope that the strain that will be put on this machinery by this Bill will not be so big as to make that machinery much more ineffective than it is already. Therefore, something should be done. For instance, I am told that only Rs. 8 lakhs are going to be spent for expanding the Income-tax Department. I am glad that the money that we are going to spend on it is

not very high. But I would say that if we want to make this Bill really operative, then we should not mind even if we spend a little more money on the officers who are going to be employed to collect this tax. I think in this matter economy should not be our guiding policy; in this matter, we should have what may be called adequacy, and not economy, and I would be happy if a little more money were provided for these persons.

Everybody has welcomed the rebate of 10 per cent. Of course, everybody will welcome it. You do not require any arguments to welcome it. But I would say that rebate is generally given on consumer goods. If we want to popularise some consumer goods, we want to give rebate on their prices. I do not see any reason why rebate is being given in this Gift-tax Bill. It is a very dangerous precedent that the Finance Ministry is setting up, a precedent which is fraught with great dangers, and I would say that the Select Committee should go into this question from all points of view, so that we are not led along a path which will not prove to be a path for our good.

Again, the plea has been put forward for all kinds of institutions, sectional, sectarian, and religious and so on. I would submit very respectfully that donations for charitable purposes are sometimes given in a way which does not serve the ends which they aim at. I would request the Finance Minister to see to it that no charitable institution which is devoted to sectarian or sectional or communal or religious interests is given any concession of any kind. On the one hand, you say that you want to build up a socialistic pattern of society by means of this Bill, and on the other, by giving exemptions to sectarian and other institutions, you are putting the clock back.

I would submit that in this matter we should be very firm, and we should not try to foster this spirit which has proved to be very dangerous to our country.

[Shri D. C. Sharma]

Of course, this Bill is very good, so far as its objects are concerned, and so far as its principles are concerned. On that, no two views can be there in this House. All the same, I would submit very respectfully that we should not liberalise this Bill out of existence, as we have liberalised some of the other Bills like the Expenditure Tax Bill and the Wealth Tax Bill almost out of existence. That is the only thing that I want to suggest to the Finance Minister.

**Shri Morarji Desai:** I am very thankful for the welcome that this Bill has received from all sections of the House and also for the various suggestions that have been made to make the Bill more effective, and, therefore, also, perhaps, more rational in some matters.

I need not assure my hon. friend, the great professor, that there is no intention to gift away the Gift Tax Bill, and it is not for that purpose that it is being referred to the Select Committee. It was a very literary piece that was given to me, but when he said that there should be no sentiment, I found him full of sentiment. Literature and sentiment cannot be kept apart, nor can finances be kept apart. After all, the finances of our country are also meant to satisfy the sentiment of making people happy.

**Shri Narayanankutty Menon:** Happiness is not a sentiment.

**Shri Morarji Desai:** Otherwise, there is no necessity. Therefore, all sentiment ought not to be taboo in the mind of my hon. friend, the professor, because sentiment plays a great part in human life and is very important, more important than the economic part of it. At any rate, that is my view; that is the view that I hold.

**Shri D. C. Sharma:** As Finance Minister?

**Shri Morarji Desai:** I shall be very careful to see that my sentiments do not run away with the finances of the country. On that score, I can give him an assurance. But he ought not to be very hard on the majority of the people in the country and in the world who think better of human life than he thinks. He chooses to remain alone and wants all the people to go the same path. Well, I hope he will be more tolerant to the other people and more friendly.

**Shri Narayanankutty Menon:** That is too late.

**Shri Morarji Desai:** I do not want him to hurry at all. But I certainly want him to have sympathy for all of us who have thought better of life than he has.

The question was raised just in the beginning of the debate that a person might pay much less tax by giving every year Rs. 1 lakh for fifteen years; and the calculation was made that instead of paying Rs. 2½ lakhs or something near about that of estate duty, by giving away like that, he will pay about Rs. 1½ lakhs. That is possible. I cannot deny that it is not possible. But is it going to be an ordinary event in the matter of gifts? It would be a rare case, and I do not think there will be even one case like that where a person chooses to give away Rs. 1 lakh every year. And if he chooses to give away Rs. 1 lakh every year, I shall be very glad if he gives away his whole property in a *bona fide* manner in his own lifetime; and I shall not mind if no tax comes to me, because he will have benefited society a great deal.

**Shri Supakar (Sambalpur):** Not to society. Suppose he gives it to his grandson.

**Shri Morarji Desai:** There will not be 15 or 20 grandsons for every person to give like that. There may be a stray case. Even then, it is part of human society that is benefited.



There was a question raised about *sampattidan* and *Bhoodan*, whether these two movements will be hurt in any way by this Bill. There is no intention that these two great movements should in any way be hurt or hampered by this Bill. I am quite sure that the Select Committee will see to it that that does not happen. I have no doubt that all sections of the House will be supporting such improvement . . .

**Shri Narayanankutty Menon:** Yes, yes.

**Shri Morarji Desai:** . . . as is necessary because all the political parties are committed to this, as far as I know.

There was a question, at the same time, of exempting charitable institutions which are not covered by the Income-tax Act. It is difficult to define every charitable institution, but, as I said, all charitable institutions which are of a public nature, if they are not covered by the Income-tax Act, may be covered. But that may be a question for the Select Committee to consider. I cannot say exactly what will be the consideration of the Select Committee in this matter. I have no doubt that all the suggestions that have been made on the floor of the House—and even those which are not made but which will strike the Select Committee—will be very carefully considered, even though the time given to them is only about four or five days. Even from the point of view of my hon. friend who wants that the Bill must not be liberalised in such a way that it disappears into thin air, it is necessary that more time should not be given. It will defeat his own purpose if more time is given. . . .

**Shri Heda:** How?

**Shri Morarji Desai:** If there is more time, more and more demands will be made. That is the nature of all demands.

**Shri V. P. Nayar:** It is an admission that you yield to pressure.

**Shri Morarji Desai:** Nobody is going to yield to pressure. Even in the matter of the wealth-tax or the expenditure tax, I refuse to admit that they were in any way watered down. What was done was only to rationalise them and to see that they were not a source of harassment to any citizen, howsoever one may like a citizen or may not like him. Therefore, there was no intention of doing that in the Select Committees. I am quite sure that the Select Committees did their work very well. We need not doubt the intentions of the Select Committees which represent always all sections of the House, and I can say that so far the Select Committees of this House have behaved in the most admirable manner. We have no reason to think that the Select Committees on this Bill and the other Bill will not consider all the suggestions that are made with a view to see that the Bills are improved in the interests of the country and not against the interests of the country. If in the interests of the country, some concessions have to be given, they should be given; but it should not be taken that the concessions are given in order to gift away something to somebody.

There was a suggestion that the limit of Rs. 100 given for miscellaneous gifts should be raised. It is difficult to raise it to such a limit where it will not then be a source of nagating the whole Bill. Therefore, it has to be kept at a certain level. The whole thing will be empirical, whatever we may consider. Still, if it can be arranged in such a way that it cannot be misused or the misuse will be minimum or very little, I have no doubt that the Select Committee will give its thought to it.

The question of managing agency commission was raised. Under the income-tax law, we have reached an administrative arrangement that wherever managing agency commission is given up on account of losses or with the *bona fide* purpose of helping the company, it is given consi-

[Shri Morarji Desai]

deration. But where it is given up in order to avoid or reduce the tax that the managing agents have to pay, then there will not be a case for exempting it for this purpose. That will also be the consideration in this matter. I am quite sure that the Select Committee will be able to consider it on those lines. There is absolutely no intention on the part of Government to consider anything which is given up in a *bona fide* manner for a public good to be something wrong. We want to encourage the desire and the urges of people to be good to other people and to be more liberal. This does not mean that we intend this as a check on these liberal instincts of people. But we do not want the liberal instincts to take advantage of society to see that liberal instincts are encouraged and utilise these instincts for other purposes which do not fulfil the liberal spirit.

It is, therefore, that we have got to hedge these things round with several provisions. I wish that the tax could be made very simple. We should like all taxes to be made very simple. But all taxes can be made very simple only if you live in a society where every person is prepared to contribute his maximum to society whenever the society needs it. We have not reached that stage, and it is no use quarrelling with some people if they try to evade something, when we find that almost all human beings try to evade some or the other of their duties and responsibilities.

**Shri Narayanankutty Menon:** Then why not punish the guilty people?

**Shri Morarji Desai:** We have got to punish some evasions and we have got to ignore some evasions. If we try to punish all evasions, there is always a difficulty in that we will not be able to punish even the evasions which we can. Human agency can only try to do the possible and

not the impossible. Those who try to do the impossible let themselves into holes from which they cannot come out. That is the only lesson which I want my hon. friends opposite to take.

I was asked by my hon. friend, Shri Nagi Reddy, whether rulers would be covered by the Gift Tax Bill regarding their privy purses. There also, if a transfer is made from a privy purse as a result of a legal or customary obligation on the ruler, the transfer will not be exempt. And it must be remembered that by a specific provision in the Expenditure Tax Act, we have excluded certain items of expenditure incurred from the privy purse. Such expenditure cannot, therefore, be treated as gift and subjected to gift tax.

So far as other gifts which a ruler may make are concerned, I do not see why they should not be subject to tax, but this is also a matter which I would certainly leave to the Select Committee to consider and make a firm decision.

I was reminded about Prof. Kaldor's report or suggestions by several hon. Members. Prof. Kaldor is a very learned person and has made very valuable suggestions. But therefore, it cannot be argued that all those suggestions should be accepted. We do not go merely by one person or the other. We try to take the good from everywhere wherever it is available and utilise it to the best of our capacity. In the matter of Prof. Kaldor's suggestions also, we try to take these suggestion as they benefit us. It is not even claimed by Prof. Kaldor—I had a short discussion with him only a few days ago for only a few minutes—that he knew the conditions of this country completely. He, therefore, admitted that whatever he said might not be completely within applicability to conditions in this country. Therefore, we have got to consider these matters from that standpoint. That is how we are considering them.

It was said that the Professor considered that there would be an income of Rs. 20 crores from the gift tax.

**An Hon. Member:** Rs. 30 crores.

**Shri Morarji Desai:** Let it be Rs. 30 or Rs. 40 crores. Imagination can make it anything.

**Shri C. D. Pande:** He did not know this country.

**Shri Morarji Desai:** I would like to give the basis on which he calculated. First of all, he made a very high rate of gift tax. Then he said that it should be taken from the donee—it should have application to the donee's wealth. I do not know how donee's wealth will be there. In many cases, where gifts are given to people where the donees have no wealth whatsoever, I do not know what the rate can be. It is a very difficult matter. But, more than that, he also assumed that private property in India in estates of Rs. 25,000 and above were of the order of 4,000 crores. I do not see how this could be assumed. He may be right; he may be wrong. I cannot say that he is wrong. It is not possible for me, because nobody has been able to make a correct estimate of these things yet.

Then, he also assumed that 1/25th of this would be transferred every year by death or gift. I do not know how these mathematical calculations end in human life and especially in the matter of finances. I do not know whether he has dealt with the finances of any country (*Interruption.*) If he had dealt with the finances of any country, then, his valuable suggestions would have had a more practical aspect in this matter, particularly in the matter of this gift-tax. I cannot say that they will be very practical and, therefore, his estimate is not possible to be followed by us. That is all that I can tell my friends.

I do not want to claim that now the taxation structure is integrated and complete. I have never claimed it. I would not like to claim it. But,

we are trying to make the taxation structure of this country a very reasonable one, a very effective one and a very efficient one. And, it is a growing structure. Its shape also will change from time to time and will change more and more as society also changes, and as methods of earning income also change. All these matters will bring in changes in the tax structure. Therefore there is no use going on with any preconceived notions about the taxation structure of this country at any rate.

I can therefore assure my hon friend the great professor that there is no desire on the part of this Government to claim that we are making something very ideal or an ideally integrated structure. He called it a tax for stopping evasions or something. If he is satisfied with it. I am satisfied to give that name also to it. It does not matter to me whatever name is given to it. But this gift-tax, as we said, is a tax which is necessary if we want to have the Estate Duty tax, the expenditure tax, the wealth tax and the income-tax to work properly and to work efficiently. In that way it is a composite view that is taken in the matter of all these taxes.

There is a question which has been raised by several hon. Members about religious institutions. I can very well understand the sentiments of many of my hon. friends in this matter. *Prima facie*, it may appear that this is an instinct which ought to be supported and encouraged. I have no objection to it. But when we are concerned with the finances of the whole country, when a tax which will benefit the general taxpayer and the general citizen of this country is concerned, we have got to see that no sectarian movements get any advantage from the tax system of the country. And if, therefore, there are any exemptions, the exemptions should not apply on the basis of benefit only to a particular section of the country. It is only on that basis that we are saying that religious institutions which

[Shri Morarji Desai]

are only of a particular kind or of a particular community should not be exempted from this gift-tax. If any gift of Rs. 50,000 comes to be made to a religious institution, is the person making it so illiberal that he will not want to make 4 per cent of, Rs. 2,000 as a gift to Government at the same time? Why is he so hard on Government and so liberal towards the temple only? (Shri C. D. Pande: Psychology.) Let him also be equally generous to the Government of the country, to the temple of the country. I do not think any loss will accrue to him. On the contrary, it will benefit him more. Or, he can give Rs. 48,000 to the temple and Rs. 2,000 out of this Rs. 50,000 to Government. That is what he can do. But, these are matters where we do not think that we should consider the Government is hard. It is a matter of principle with Government in this matter. But, I do not want to restrict the scope of the Select Committee in any way and the Select Committee will certainly consider that. I am only trying to put before the hon. House a view that I personally hold in this matter.

It is not necessary for me to go into further questions relating to this Bill especially because it is going to a Select Committee which is going to consider the whole structure very carefully and make it as perfect as it is possible for the hon. Members to do at any given time. I have only one suggestion to make. I would make a request for the addition of two hon. Members to the Select Committee which I have already proposed. I would propose that Shri Thirumala Rao and Dr. A. Krishnaswami may be added to the Select Committee as proposed by me. I hope that the motion as moved by me with this amendment will be accepted by the hon. House.

**Shri Narayanankutty Menon:** Can I seek a clarification of the hon. Minister? The tax exemption seems to be for a gift of Rs. 1 lakh to the wife and the hon. Minister has not

given any cogent reasons for exempting that, whether it is statecraft or any other consideration. What is the consideration which weighed with the Government for this?

**Shri Morarji Desai:** I had already spoken about it when I made the motion. If the hon. Member was not present at that time.....

**Shri Narayanankutty Menon:** I was here.

**Shri Morarji Desai:** I had already spoken about it. There cannot be any reasons given in this matter which can satisfy everybody. It is a thing which we consider legitimate and there may be other considerations for a husband to make a gift to his wife. And, a majority of people are husbands and wives in the world.

**Shri C. D. Pande:** May I ask one question from the hon. Minister?

**Mr. Deputy-Speaker:** Does it arise from this relation of husband and wife?

**Shri C. D. Pande:** No, Sir. There are certain institutions which are denominational or religious in name but they render service to the whole community. What will be the case of such institutions like the Jain Vidyalaya or the Jat Vidyalaya where all the students are educated?

**Shri Morarji Desai:** We should not go by names. We should go by the scope of their work and actual work that they are doing. I think the Select Committee will certainly take this into consideration.

**Mr. Deputy-Speaker:** The hon. Minister has moved an amendment to his own original motion that the names of Shri Thirumala Rao and Dr. Krishnaswami be added to the original list. I will put it to the House. The question is:

"That the names of Shri Tirumala Rao and Dr. A. Krishnaswami be added to the original list."

*The motion was adopted.*

I will put the original motion, as how modified, to the vote of the House. The question is:

"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 Renuka Ray, Shri Liladhar Kotoki, Shri Jaganatha Rao, Shri Narendrabhai Nathwani, Shri Radheshayam 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 Satyandra Narayan Sinha, Shri George Thomas Kottukapally, Shri A. M. Tariq, Shri Kamalnayan Jammalal 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. Khadilkar, 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, Shri Thirumala Rao, Dr. A. Krishnaswami and Shri Morarji Desai with instructions to report by the 1st May, 1958."

*The motion was adopted.*

#### ESTATE DUTY (AMENDMENT) BILL

**The Minister of Finance (Shri Morarji Desai):** Sir, I beg to move:

"That the Bill further to amend the Estate Duty Act, 1953, be referred to a Select Committee consisting of—Shri Asoke K Sen, Shri C. D. Pande, Shri M. Thiru-

mala Rao, 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 Narendrabhai Nathwani, Shri Radheshayam Ramkumar Morarka, Shri Harish Chandra Mathur, Shri Vidya Charan Shukla, Shri Radhelal Vyas, 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 Jammalal 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. Khadilkar, 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 Tribhuvan Narayan Singh, Shri N. Siva Raj, H. H. Maharaja Pratap Keshari Deo, Shri Naushir Bharucha, Dr. A. Krishnaswami and Shri Morarji Desai with instructions to report by the 1st May, 1958."

It is intended that the Bill that I moved last and this Bill should be considered by the same Select Committee so that it may consider both of them together. So, the names in the Select Committee for this Bill are the same as that in that Bill.

The Estate Duty Act was enacted about five years ago and when the original Bill came before this House it was discussed at considerable length. About a thousand amendments were tabled and a third of them actually discussed. The anxiety of the House as well as of the Government was the same. We were introducing an Act based not on our own experience but on that of the U.K. Naturally, we adapted it to our own requirements but we had to be certain