

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

FIFTY-FIFTH REPORT

Sardar Hukam Singh (Kapurthala-Bhatinda): I beg to move:

"That this House agrees with the Fifty-fifth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 18th July, 1956."

Shri R. D. Misra (Bulandshahr Distt.): Sir, I have to rise on a point of order....

Mr. Speaker: To this report?

Shri R. D. Misra: To the motion moved by Sardar Hukam Singh. In this report I have seen that the Resolution of Shri H. V. Kamath has been included and put in the agenda. It cannot be put. Because, all Resolutions pending....

Mr. Speaker: May I say this for the consideration of the hon. Member? This only deals with the allocation of time. When I come to Shri H. V. Kamath's Resolution, if the hon. Member has any objection, he can raise.

Shri R. D. Misra: Time has been allotted.

Mr. Speaker: Merely because time has been allotted, if a Bill or Resolution cannot go on and there is some difficulty, it can be raised. Allotment of time does not carry us anywhere.

The question is:

"That this House agrees with the Fifty-fifth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 18th July, 1956."

The motion was adopted.

RESOLUTION RE ENQUIRY INTO WORKING OF INCOME TAX DEPARTMENT

Mr. Speaker: Now, the House will continue further discussion of the following Resolution moved by Shri H. V. Kamath on the 25th May, 1956:

"This House recommends that a Committee consisting of seven members, not less than four of whom should be members of Parliament, be constituted to enquire into and report within six months about the working of the Income Tax Department, with recommendations to improve the efficiency in the administration of the department leading to quick assessment and better results in revenue collections."

Shri D. C. Sharma was in possession of the House. What has the hon. Member got to say?

Shri R. D. Misra (Bulandshahr Distt.): My objection is that, as the Resolution was pending in the last session, it cannot be taken in this session, because the Resolution lapses with the prorogation of the House. The House was prorogued on the 2nd of June. The Resolution lapses on the prorogation of the House. Under sub-clause (3) of article 107 of the Constitution, only Bills have been saved from lapsing. The article says:

"(3) A Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses."

Nothing has been said about Resolutions. Only Bills can be taken up because it has been specially provided in our Constitution. At the same time, we have to see what the effect of prorogation is. On page 105 of *Introduction to the Procedure of the House of Commons* by Campion, it is said:

"The effect of a prorogation is to pass a sponge over the Parliamentary slate. All proceedings which have not been completed—as, e.g. all Bills which have failed to

obtain the Royal Assent (although they may have passed the House of Commons itself)—lapse.”

The Resolution lapses. Under the Constitutions of Australia, Canada, Ceylon, etc., where parliamentary procedure is followed, all these things lapse. The term ‘prorogation’ used must be taken to be used in the meaning in which it is used in England and other countries following parliamentary procedure. My objection is that this Resolution cannot be taken for discussion now in this House because it has lapsed. You may be pleased kindly to give a ruling on this point. It is out of order.

Sardar Hukam Singh (Kapurthala-Bhatinda): Our business in this House is regulated by the rules that we have framed. These rules provide that a Resolution would not lapse.

Shri Feroze Gandhi: (Pratapgarh Distt.—West cum Rae Bareilly Distt.—East): Can the rules of the House override the provisions of the Constitution?

Sardar Hukam Singh: I am coming to that. I am referring to rule 319 which says:

“A motion, resolution or an amendment, which has been moved and is pending in the House, shall not lapse by reason only of the prorogation of the session.”

We are bound by these rules and we have been conducting the business according to them. A question can be raised here that this rule is *ultra vires* of the Constitution. Perhaps that is what is meant by the objection of the hon. Member. It is not a question which you have to decide offhand simply by hearing arguments on both sides which may be expressed here. The rules are framed by reference to the Rules Committee. They are approved by the House and then they form part of the Rules of Procedure. If any Member has got any objection to any one of these rules, even if it be *ultra vires* or otherwise of a particular

provision, a motion can be brought here for amending or deletion of the rule. That shall have to be referred to the Rules Committee. And after the Rules Committee have made a report on it, it shall have to come before the House for approval. That is the only procedure how we can amend or modify the rules.

That motion cannot be made here simply by an objection raised by a particular Member saying that this rule is *ultra vires*, and that is not to be decided offhand by you. So, I would request that we may continue according to the rules of procedure that we have got in this respect: Rule 319 is very clear on this point. If the hon. Member is so advised, he can move for the amendment or deletion of this rule. He could give a motion, and then you would have to refer it to the Rules Committee, and after the report of the Rules Committee is received, the House may approve or reject that modification.

Shri R. D. Mishra: May I make one submission? I have quoted an article of the Constitution, while Sardar Hukam Singh has quoted a rule. You have to find out whether we are to be governed by the Constitution or by the rules which are subordinate to the Constitution, and which is the authority superior in this. As far as I could see, the Constitution is superior to all other rules and laws, whether they have been made by the House or by any committee or by the Speaker or anybody else. Under the Constitution, we have taken an oath of allegiance to the Constitution....

Mr. Speaker: The hon. Member has urged that point already. Has he got any other new point? If he has not got any other point, I shall call upon Shri Kamath.

An objection has been raised on the ground that this is opposed to the Constitution. Sardar Hukam Singh has said that it is in conformity with the rules. If hon. Members want to say anything on this, I shall allow them to do so. First, I shall call the Mover of the resolution.

Shri Kamath (Hoshangabad): I would only like to say that while I do not question the legal and constitutional wisdom of my hon. friends here, I had somehow intuitively apprehended that some such objections might be raised in the House today. So, on the 1st of July or the 30th of June, I had sent a letter to the Lok Sabha Secretary giving fresh notice of the resolution. Though it was not necessary, I know, under the rules, yet somehow or other I got that intuitive apprehension that some objection might be raised because Parliament had been prorogued, and therefore, I had given fresh notice in time for the ballot. I do not know whether that has been balloted or not; it is not my fault if it has not been balloted, but I had given notice of a fresh ballot. From Bombay I had sent a letter.

Several Hon. Members rose—

Mr. Speaker: Has the hon. Member, Shri Kamath, anything more to say? He has given fresh notice of the resolution.

Shri Kamath: On the 30th of June or 1st of July, I had posted a letter from Bombay. I do not know whether the resolution has been balloted or not.

Shri N. C. Chatterjee (Hooghly): As Sardar Hukam Singh has pointed out, our rule is clear in this respect. It reads:

"A motion, resolution or an amendment, which has been moved and is pending in the House, shall not lapse by reason only of the prorogation of the session."

Now, the question is whether this rule is repugnant to the Constitution, which says in article 107 (3) that:

"A Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses."

I submit that rule 318 is not necessarily repugnant to the Constitution. Article 107 (3) simply says that a Bill pending in Parliament shall not lapse.

Mr. Speaker: It does not say about other matters; then, the procedure of Parliament shall govern us.

Shri N. C. Chatterjee: You would see that there is nothing in the Constitution to show that other matters shall lapse. It is not said in that language in the Constitution.

Mr. Speaker: Article 107 does not say what happens to other matters. It refers only to Bills. It makes an exception in favour of Bills. So far as the other matters are concerned, where the procedure is not provided for in the Constitution; it shall be according to that laid down in the House of Commons. The hon. Member read *Campion* and he said that everything shall lapse. But the Constitution-makers in our country laid down that the Bill will not lapse. They made a specific provision in this respect, making a departure from the parliamentary practice in the House of Commons. In other matters, the rest of the practice in the House of Commons prevails. What is the explanation for this?

Shri N. C. Chatterjee: Here, they are making it perfectly clear that a Bill pending in Parliament shall not lapse.

Mr. Speaker: Therefore, every other thing is governed by the practice in the House of Commons.

Shri N. C. Chatterjee: Can there not be the other interpretation that motions and other things shall lapse at the discretion of Parliament? Otherwise, they would have made it perfectly clear, when they applied their mind to these provisions, as to what would be the effect of prorogation. If the intention was to wipe out everything,—as the extreme view taken in the House of Commons is, namely that everything is wiped out—they would have said so; and in fact, even a Select Committee cannot sit during the inter-session periods.

As a matter of fact, this point was raised by one member, but, of course, we were discussing it unofficially.

You know the Joint Committee on the States Reorganisation Bill and the Constitution (Ninth Amendment) Bill was summoned to meet during this inter-session, and we sat from day to day from the 2nd of this month until we reported back the other day. The question was raised whether that was also illegal.

Mr. Speaker: That relates to a Bill.

Shri N. C. Chatterjee: What I am pointing out is that if you take that reading, then even our report shall be *ultra vires*, technically speaking.

Mr. Speaker: The hon. Member need not be under the impression that I have come to any conclusions on this matter. As he would argue any particular case, he might tell me that these are all the objections that can possibly be raised. Under article 107, particularly, an exception is made in the case of a Bill pending in Parliament. If a Bill has been referred to a committee, then is it not also to be considered or held as pending in Parliament? A committee of Parliament is a wing of the House. Therefore, does it not come under the exception created in clause 3 of article 107?

Shri N. C. Chatterjee: The only thing I would submit for your consideration is that there are no express words which absolutely say that a motion or resolution or amendment shall automatically cease and be treated as wiped out, and must not be taken into account, unless it is reintroduced formally.

When the article says that a Bill pending in Parliament shall not lapse, I submit that there may be another interpretation also possible namely that regarding other matters, it is left to the discretion of Parliament, because if it was the intention that every other matter shall be completely obliterated from the parliamentary proceedings and can be revived only after formally being reintroduced again, then suitable words

ought to have been put in. Otherwise, in the absence of any such express provision, Parliament, which is a sovereign authority has got the residuary powers. In the exercise of that residuary power, when there is no express injunction in the Constitution, rule 319, I submit, is not absolutely out of order.

Shri S. S. More: (Sholapur): Unfortunately, our Constitution does not definitely lay down what the effect of prorogation will be. As far as the English constitution or the English law is concerned, there are definite provisions which describe the effect of prorogation, and these affects are very far-sweeping. Not only Bills which have not been passed, but Bills which have not received the assent of the Crown, before the House was prorogued, are supposed to have lapsed; and it is much more so in the case of resolutions and other motions.

As far as we are concerned, in article 105 (3), it has been provided that in other respects, the powers, privileges and immunities of each House of Parliament shall be those of the House of Commons, unless they are defined, and a distinct departure is made from the rules prevailing in the House of Commons, by a law of this House. As far as this House is concerned, we have not passed any law defining our own powers, privileges and immunities, that is to say, either those of the House or of the Members of committees or of Members individually.

In the absence of any such law, passed by this House, article 105 (3) comes into operation. And we have to see whether the Constitution by itself lays down any departure from the rules or other privileges that are accepted in the House of Commons.

As I was coming into the House, I heard Sardar Hukam Singh referring to rule 319. My submission is that if we read article 105 (3) and article 107(3), which makes an exception in the case of Bills, together, this part-

[Shri S. S. More]

cular rule, namely rule 319—it may be a part of the rule—cannot be valid but is repugnant to the Constitution. It is for you, Sir, to decide whether it is so repugnant or not.

Then my submission is that these rules cannot by any stretch of imagination be said to be a law passed by Parliament, because law means an Act which we have passed, just as we have passed Acts for granting or defining salaries to the different officers of Parliament or the Ministers or Members. In the absence of such an Act which will override article 107(3), my submission is that the effect of prorogation, as it obtains in the House of Commons, must also have its own course in this House in this country. If we accept that proposition, then the repugnancy of this particular rule becomes very much evident.

My submission is that though the Resolution is tabled by Shri Kamath who belongs to this side of the House, we are fighting here for the purity of our rules, for the correct applicability of our rules. Therefore, the effect of the prorogation has the effect of killing the Resolution, and once the Resolution has been killed by law, nobody can inject life into it. That being so, according to the operation of the law itself, according to the operation of the Constitution itself, this Resolution has lapsed because the House came to be prorogued subsequently and the effect of prorogation has been to nullify or to remove, so to say, from the register of pending business all resolutions. And this is not a recommendatory suggestion by the Constitution; it is mandatory and obligatory. The only exception is in the case of Bills. What is its effect, what are its implications, Bills at what stage can be said to be protected by this, whether Select Committees sitting during the inter-session period are sitting validly or not are questions which are irrelevant to the present point.

Therefore, I would say that article 105 read with article 107(3) which makes the intention of the legislature clear, makes the position clear that the effects which follow prorogation in the House of Commons will also inexorably follow here, and the Resolution cannot survive and must be deemed to have been knocked out of the register of our resolutions.

Pandit Thakar Das Bhargava: (Gurgaon): Sir, attention has been called to article 107 which says that a Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses. We are not dealing here with Bills at this stage. We are only dealing with a Resolution. This article 107(3) does not speak of resolutions at all. That is my first submission. So far as this goes, this does not say that a Resolution shall certainly lapse.

When we were referred to rule 319 by the Deputy-Speaker, rule 319 says that a Resolution shall not lapse by reason of the prorogation of the House, we have to decide whether by implication article 107(3), which says that a Bill pending in Parliament shall not lapse, can be interpreted to mean that impliedly all other things shall lapse. But we have got a certain rule made by this House, adopted by this House, that is rule 319.

Shri S. S. More: It is not adopted.

Pandit Thakar Das Bhargava: It is a rule of the House now. If there is any objection that the rules were not made by Parliament nor assented to by the President, this objection is of a general nature. So far as this particular rule is concerned, I take it that it is sacrosanct and binding on this House. In this connection, I would refer you to article 118(1). According to me, article 105 has got no application whatever here. That article deals with powers, privileges etc., of the Houses of Parliament. This has got nothing to do with the subject-matter of our discussion.

Shri S. S. More: Why? 'Powers' is there.

Pandit Thakur Das Bhargava: My hon. friend says that article 105 relates to this. My submission is that it does not relate to this matter at all.

Shri S. S. More: It is a question of power of the House.

Pandit Thakur Das Bhargava: What does article 105 deal with? The heading is 'Powers, privileges etc. of the Houses of Parliament..', whereas article 118 deals with legislative procedure. So it has got nothing to do with article 105. This is not a question of powers etc. Article 118(1) says:

"Each House of Parliament may make rules for regulating, subject to the provisions of the Constitution, its procedure and the conduct of its business".

Now, this is a specific clause dealing with rules that regulate the business of this House. If that is so, my submission is that, the question of conflict can arise only when these rules are repugnant to, or against, the Constitution itself. Otherwise, this power of the House is very secure, very ample, and very plenary—I should say—because the words are:

"Each House of Parliament may make rules for regulating, subject to the provisions of the Constitution.."

If your construction is that 'subject to the provisions of the Constitution' means in regard to article 107 that we cannot say that a Resolution shall not lapse, if that is not within our powers, I can understand the objection being good. But I should think that if that were so, article 118 would have made it quite clear or article 107 would have made it quite clear. Now, merely by a statement in article 107 that a Bill shall not lapse, we cannot jump to the conclusion that all other things shall lapse, because it is not specifically said

so there. Here such a conclusion cannot be drawn by implication, especially when we have article 118 in which the powers of the House in respect of legislative procedure are defined.

Shri Gadgil (Poona Central): What is the implication when a special provision has been made?

Pandit Thakur Das Bhargava: I do not know that implication. The framers of the Constitution could equally have said that just like Bills not lapsing, other things will not lapse or will lapse. In the absence of any specific positive enactment, I should think that we cannot read into it what is not there. Rule 319 is not against the Constitution and there is no conflict.

Therefore, article 118 gives us the power to make rules governing our procedure, and I should think it is not against the implications of article 107(3) and, in my humble opinion, rule 319 is good unless and until it is changed by this House and therefore resolution did not lapse and can be discussed today.

Shri Venkataraman (Tanjore): The rules which are now before the House have been validly adopted under article 118(2) of the Constitution.

Shri V. G. Deshpande (Guna): Have we adopted those rules?

Shri Venkataraman: Clause (2) of article 118 says: that the rules of procedure applicable to this House before the Constitution with such adaptations and modifications as may be made by the Speaker shall be the rules of procedure. Therefore, the rules of procedure which we have before us are properly framed, duly constituted rules of procedure. Such a rule of procedure is not inconsistent with article 107(3), unless it were to say that a Bill shall lapse. On the other hand, there is nothing said about resolutions in that article. So it is open to the legislature or its body to frame a provision in which they can say that it shall lapse or shall not

[Shri Venkataraman]:

lapse. Parliament in its discretion, in its wisdom, thought that a Resolution also should not lapse. The question is, is that inconsistent with the Constitution? If, as I said in the beginning, we had made a rule that a Bill shall lapse, it would be contrary to article 107(3), it would be outside our powers. But where there is no such provision with regard to a Resolution and where we have validly adopted and validly constituted rules of the House which provide that a Resolution shall not lapse, I submit it is not against the Constitution and it shall not lapse.

Shri C. R. Narasimhan (Krishnagiri): With your permission, I may supplement what my hon. friend, Shri Venkataraman, said by saying that the constitutional provision which is quoted as barring our discussion of this Resolution here is only illustrative in the matter, and not exhaustive.

3 P.M.

Shri Gadgil: I am really anxious to understand what the position exactly is. Now, some lawyers to my right have enunciated a certain interpretation. Another lawyer from my left has enunciated another principle. For a layman like me a little more light is necessary, (An Hon. Member: Also a lawyer) when I find that the objection raised is not confined to the subject which is immediately relevant and feel that this objection may be raised when other important Bills which were considered in certain stages after the prorogation of the House. It is, therefore, necessary that the House should have the benefit of the views of the Law Minister or, at any rate, the Attorney-General, which will make the position abundantly clear. Not that I mean that you are not competent to give a ruling on this; you undoubtedly are and it is your right and privilege, but I suggest this in order to enable you to come to a very right decision. It is sure to have much wider implications than I understand today. I would most respectfully request you to withhold your

ruling and give it after hearing the Law Minister as well as/or the Attorney-General.

Mr. Speaker: I shall now hear a Minister.

The Minister of Defence Organisation (Shri Tyagi): I am afraid I cannot add to the wisdom of the lawyers any more now.

Shri V. P. Nayyar (Chirayinkil): I think Shri Misra has unnecessarily complicated the issue. He seems to think, that because of a provision in article 107(3) of the Constitution that a Bill pending in Parliament shall not lapse by reason of the prorogation of the House, we have necessarily to take recourse to what is obtaining by way of procedure in the House of Commons in matters other than Bills. He quoted Sir Gilbert Campion. I may submit that in view of the definite provision contained in article 118(1), it is absolutely unnecessary to have recourse to what is obtaining in the House of Commons.

The question whether the rules which we have today are the rules framed under that article or not is a different question. But, for all practical purposes these rules prevail and these rules have been framed in such a way that there can be no argument that they are inconsistent with any of the provisions of the Constitution. Therefore, I submit, there is no case for following the procedure of the House of Commons.

Just because article 107(3) has laid down that a Bill shall not lapse by reason the House being prorogued, it does not follow or lead us to the inference that all other items of business—resolutions or anything else—can be barred. If such an inference could be drawn then Shri Misra's point may have some force. There is no exclusion of such matters. The Constitution-makers have definitely laid down that when a Bill is the subject-matter, this shall be the procedure. The makers of our Rules of Procedure have laid down that a resolution shall

not lapse if it is part-heard. In so far as they are not inconsistent with any of the provisions of the Constitution, the Rules of Procedure shall be certainly binding. If my hon. friend can point out how the continuance of this resolution after the session was prorogued becomes inconsistent with any of the provisions of the Constitution, then, there is a case worth considering. In so far as he has not succeeded in doing so, I submit there is no necessity for resorting to the precedent obtaining in U.K. The provisions of the article being clear and the rule being very specific about resolutions, I submit that we must continue to discuss it and brush aside the frivolous objection.

Shri Ramachandra Reddi (Nellore): The Constitution has laid down the procedure with regard to Bills and other matters. It has also definitely laid down in article 118, a provision enabling the House to make rules. This House is generally guided by the articles of the Constitution, as well as the procedure laid down by the Speaker in recent months—the rules framed by the Rules Committee and approved by the House. Rule 319, as has been pointed out by the hon. Deputy-Speaker, is definite about the matter. Further, the procedure in the House is guided not only by the Rules but also by the conventions that are set up in this House. (*Interruption.*) The conventions have been very clear. In previous years, if I remember right, such resolutions have been allowed to come even after prorogation as part-heard ones and as such there is nothing to prevent this House from proceeding with this resolution which has already been discussed partly. Any constitutional difficulties or doubts should be set right by the Rules of Procedure as well as the conventions that have been adopted by this House.

Mr. Speaker: Regarding Shri Kamath's part-heard resolution which was moved in the last session of Parliament, which session was prorogued after it was adjourned *sine die*, an objection has been raised that along

with the prorogation this resolution also—along with others lapses. Article 107 of the Constitution is referred to. Article 107(3) of the Constitution refers specifically to a Bill pending in Parliament. It states that a Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses. From this it is sought to be inferred that this resolution and other notices will lapse. A provision has been made only with respect to the Bill and, therefore, the others must lapse. But, it does not specifically say so. With respect to that the House of Commons practice is referred to, evidently under article 105(3).

"In other respects, the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom and of its members and committees, at the commencement of this Constitution."

Reference has, therefore, been made under sub-clause (3) of article 105 to the practice and procedure in the House of Commons, because no specific provision is made in the Constitution and article 107(3) applies only to Bills. *Campion* has also been referred to.

Shri R. D. Misra: *May's Parliamentary Practice* was also referred to.

Mr. Speaker: *Campion* and *May's Parliamentary Practice* have been referred to for the purpose of showing that in Great Britain, in the House of Commons, as soon as a session is prorogued, all the pending notices lapse including notices of Bills, even though they might have been part-heard and so on. That has been referred to for the purpose of showing that in this case where no provision has been made regarding resolutions that practice ought to be followed and, therefore, the resolution lapses.

[Mr. Speaker]

As against this, it has been pointed out that in article 118 provision is made for each House, subject to the provisions of the Constitution, to make rules. Rule 319, which has been referred to, makes a provision for the continuation of those resolutions which had been already moved. That rule says that a motion or resolution which has been once moved and pending before the House shall continue. The resolution is sought to be maintained as one in order under rule 319. But objection is taken to rule 319 on the ground that the rules must be consistent with the articles of the Constitution, "Each House of Parliament may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business". Whatever force there might be there, sub-clause (2) of article 118 has also to be read along with that. The practice embodied in this rule 319, I understand, has continued to be guiding the destiny of this House and also the destinies of the previous Central Legislatures since 1921. Clause (2) of article 118 says—

"Until rules are made under clause (1), the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature of the Dominion of India shall have effect in relation to Parliament subject to such modifications and adaptations as may be made therein by the Chairman of the Council of States or the Speaker of the House of the People, as the case may be."

Clauses (1) and (2) seem to be independent of each other. Clause (1) says that when new rules have to be framed, they have to be framed subject to the laws of the Constitution. But the Constitution itself says, under clause (2) of this article, that in the absence of any new rules or until new rules have been framed, these rules will continue in operation. Therefore, this seems to be appropriate. The practice embodied in this

rule has been there since 1921. Therefore, no new modification has come into existence, and the question does not arise as to whether it is consistent with the Constitution or not.

In this connection, article 105, which has been relied upon, may also be referred to. I think that article 118 is absolutely independent of article 105. Definite provision has been made in article 118 regarding the procedure for the Houses of Parliament—rules and regulations relating to the procedure and conduct of business, mentioned in clauses (1) and (2) are complete. Wherever new rules have not been framed, the old rules including the practices will continue. Thus, the general provisions in article 105 stating that in other respects the procedure of Parliament will apply, will not apply, to the rules of procedure. It starts with the freedom of speech of a Member and says that no Member of Parliament shall be liable to any proceedings in any court. "In other respects" will apply only where specific provision has not been made but in this case clause (2) of article 118 covers the matter. That also does not appear to help the hon. Member who has raised this objection.

Under those circumstances it is not necessary to decide the general principle at present, as was rightly pointed out by Shri Gadgil. It is enough for me to come to the conclusion that this motion is not out of order and that it has not lapsed. Further, Shri Kamath says that he gave notice, and if it has not been accepted or balloted, it is not so much his fault as a reading by the office as to what is necessary and what is not necessary. The office found that under rule 319 this motion is quite in order. If this is a matter which should certainly be pursued later on, there is also provision for it here. If any hon. Member is not satisfied with any particular rule on any ground—whether it is not clear, whether it is opposed to the Constitution as laid down or any other ground—the matter

may be brought up before the Rules Committee. Therefore, it is enough if I restrict my ruling to this particular issue that has been raised as to whether the motion of Shri Kamath, which is part-heard, has lapsed or not. It has not lapsed.

Shri Kamath: Before the House proceeds to debate, I invite your attention to the fact that the Resolution has been allotted a further period of 2 hours 36 minutes. Will you kindly refer to the report presented by the Deputy-Speaker. I hope the time will be reckoned from now.

Mr. Speaker: You mean without the time taken on the raising of this objection? The objection has been over-ruled and at least that should be given five minutes: (Interruption). What I would say is that whenever a resolution is taken, whatever time is allotted is meant also for all objections relating to the particular matter. Therefore, if the House wants to allot some more time, I have no objection. Anyhow this will also stand over and overflow as spill-over, to the next day.

Since Shri D. C. Sharma is not here. I now call upon Shri N. C. Chatterjee.

Shri N. C. Chatterjee: I am very happy that Shri Kamath's motion has not been killed and your ruling keeps it alive.

Mr. Speaker: It has not died.

Shri N. C. Chatterjee: As a matter of fact, I take it that all Members of this House are actuated by one objective, namely, to rationalise our system of tax administration, but the only difficulty is that the objective cannot be achieved unless we improved the efficiency of the machinery of enforcement.

3-16 P.M.

[MR. DEPUTY-SPEAKER in the Chair]

There can be no greater indication of the need for improving the efficiency of the tax system than the appointment of the Income-tax Investigation Commission. As you know, that Commission has now been struck

down by the Supreme Court judgment, but the late Chief Justice of India, Shri Varadachariar, was appointed Chairman of the Commission; and Mr. Justice Rajadhyaksha and Shri Mazumdar along with Justice Varadachariar had submitted the report of the Commission. Though they have done something and the Department is trying to do something, I am afraid still the administration is not up to the mark. At page 187 of their report, they say—

"The Income-tax Officer and the system of which he is the product are held, in these replies, responsible for driving the tax-payer first to non-cooperation, then to hostility and thirdly to evasion. Incivility, incompetence, extortion and lethargy are some of the accusations made against the Income-tax Officers....."

Shri Tyagi: It is an old report.

Shri N. C. Chatterjee: Shri Tyagi reminds me that it is an old report. It was submitted in 1950.

Shri Kamath: He was not a Minister then.

Shri N. C. Chatterjee: We acted under this report and we tried to do something. He has left the Ministry of Revenue to defend India, but he needs not defend the shortcomings of this Department even now. Justice Varadachariar and others have pointed out—

"Even after making due allowance for exaggeration of language, it is evident from the replies that a strong feeling of distrust and discontent exists in the public mind against the administration of Income-tax in this country."

I am sorry to say that what this Investigation Commission said in the year 1949 or 1950, to a large extent is true today, and everybody who has got something to do with the administration of Income-tax knows that there is a strong feeling of distrust and discontent in the public mind. I am hoping that something shall be done

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by this Parliament to remove this feeling of distrust. Possibly you have seen the great book on income-tax by one of the recognised masters of this subject, Sir Jamshedji Kanga, and in his foreword he says—

“Sir Leo Money told the Royal Commission on Income-tax that his taxation was the best expenditure he made and he got more satisfaction from it than from any other expenditure laid down by him.”

I am hoping that Indian citizens will one day take the same point of view. He goes on—

“But a widespread taste for taxes promises to be a thing of slow growth. The State is very intangible to the average man. The necessity for a separate statute like the Taxation on Income (Investigation Commission) Act, 1947, is a sufficient indictment of the defectiveness of the machinery of this Act for checking and check-mating tax evasion.”

Therefore, we are all interested in seeing that the machinery is made more efficient, and we want that the machinery should be overhauled and geared up. I make one submission for the consideration of the hon. Minister and that is this. The honest tax-payer in India feels that he will continue to be penalised by being taxed at a higher rate than the rate at which he should be taxed because other people are not sharing the national burden as they should. There was a reference to the book written by Mr. Nandi. The other day an hon. Member pointed out that I was responsible for writing the introduction. The Finance Minister said the book came from a crankish brain. Possibly the hon. Finance Minister is in Bombay or Maharashtra. (An Hon. Member: Poona). Anyhow, he is not here and he is there in Samyuktha Maharashtra. (Interruptions.) When Galileo discovered something, he was called a crank. Similarly it was the

same case with Copernicus. It was so with many great men. This man Mr. Nandi is not so great but we should put on record our appreciation of the efforts of one of the officers of this department who had the courage and wisdom to put in black and white the blackspots which ought to be removed. I know that there are personal reflections which ought not to have been there; I have said so in my foreword. I think this Book will make people think and take action. It is not so much because I wrote the foreword that I say these things; I find capable financiers and financial journals have said that there is an avowed anxiety on the part of the author to improve the calibre of officers. That is the main object which inspired this author and he wanted the Government to get more revenue than what it gets today. The author has gone into the details and he has given us facts which show an objective approach. I hope the hon. Finance Minister will give due thought and attention to some of the observations he has made.

Apart from this author, I may remind my friend Shri Tyagi that there is a report in my hand called the Report of the Taxation Enquiry Commission. It submitted its report in 1954. To a large extent it also confirms the findings of Shri Varadachariar and Justice Rajadhyaksha and their colleague. I do not know what is the real estimate of the leakage of revenue in India. Prof. Kaldor has said that it is a very large amount—300 to 400 crores of rupees. I think the hon. Finance Minister contradicted that and said that it is a fantastic figure. I think he gave the figure about forty crores or something like that. Dr. John Mathai was the Finance Minister of India and later on he was the Chairman of the Taxation Enquiry Commission. In Volume II of its report, the Commission says on page 189 in the chapter entitled ‘Evasion and Avoidance’:

“It is not possible to estimate accurately the extent of the leak-

age of revenue in the past. It is observed from statistics in connection with the 'Disclosure Drive' that income as originally included in the income-tax department by assesses who made disclosures was grossly understated, the difference between the income as originally returned and that disclosed later to the department being, on the average as much as 600 per cent."

With great respect to the Finance Minister, I should say that his estimate is a very gross underestimate.

There are some countries in Europe which take special delight in tax evasion. In France they say that if you pay the tax really due from you, you will be looked down upon by businessmen. The look upon tax-dodgers as successful businessmen. Again in Italy they say that only a dozen persons—it may be even less—submit their returns and the income-tax department which makes people pay in spite of no returns.

We are all trying to rationalise the system. With great respect to Dr. Mathai and his colleagues, I should say that even that Commission did not do full justice to this task. I have gone through the chapters very carefully. I must admit that they have not ignored realities of the situation but they have not made concrete suggestions to improve the working of the department. There is a very large volume of arrears leading to great loss of revenue. Year after year there are irrecoverable demands which means great loss of revenue. Something should be done so as to have a speedy assessment and a speedy realisation. For years and years nothing is done. I do not know why it should be so. For five or six years the firms are submitting their returns but the assessments are not completed. This procrastination in assessment must be avoided.

The Income-Tax Investigation Commission in paragraph 410 of its report had made a very pertinent remark. It says that the department has never

been able to reach that resilience which can absorb shocks and adjust itself to new demands. Therefore, the department has got to be put on a better footing. We all know the Colwyn Committee was appointed in England. It came to the conclusion that, although there were tax evasions, the administrative set-up there was almost perfect. I wish we could say that here. We must admit that our system and set-up is not only not perfect but requires to be greatly improved. It will not do any good to indulge in a reckless language of denunciation and criticism of the entire department. The department has a very difficult task. It has to deal with people who specialise in tax evasion.

I am not thinking of avoidance. In law, avoidance and evasion are two different things. I remember the judgment of Lord Simonds who said that there is apt to be confusion between the two. It is important that we should realise that avoidance and evasion are two different things. Lord Simonds said—I am reading from the judgment reported in 31, Tax Cases, 141:

"It was urged that the construction that I favour leaves an easy loophole through which the evasive taxpayer may find escape. That may be so; but I will repeat what has been said before. It is not the function of a court of law to give to words a strained and unnatural meaning because only thus will a taxing section apply to a transaction which, had the Legislature thought of it, would have been covered by appropriate words."

Judges after judges have said that it is perfectly proper for a citizen to arrange his business affairs in such a way as to lighten the tax burden; there is nothing wrong in that; that is only avoidance.

What I am thinking of is evasion and the department has got to tackle the people who resort to various devices. Some devices are given in this report. One device is to have

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fraudulent changes in the account books. That is the most difficult thing to unravel. Maintenance of multiple sets of account books, opening of accounts under assumed names and thereby diverting the profit to different names, entering into contracts in the names of dummies or figure heads and lastly keeping transactions out of account books are the various devices. Therefore, the income-tax department has a very difficult task. It is a colossal task. We must remember that. We must also remember that for years together we have brought in this country a spirit which went against the Government.

We had been fighting the British Government and the greatest man in India, Mahatma Gandhi, was saying that the Government is a Satanic government, we should non-co-operate and that we should try to oust it by non-co-operation. Businessmen—I do not know how many of them paid to the Congress at that time—took that opportunity of saying that we should not pay the full taxes to the Government which is keeping us in bondage and thus replenish that power in order to rivet the fetters which were holding us in slavery. But today India is independent. We have a national Government. It may be that there may be so many drawbacks on the part of the Treasury Benches and it may be that we want to remove them. But whoever may be on the Treasury Benches, they are entitled to see that the willing allegiance of the people is there, that the private sector and the business community respond and pay their dues under the law. There is one observation which this gentleman, Shri N. Nandi, has made in this book which is also very important. He has made this observation under the heading "Taxation policy operating more harshly against those paying tax" which I would ask this Parliament to consider very seriously. He says from his experience:

"Heavy rates of taxation always degrade ethical standards. Unfair

and harsh tax laws act against the cause of revenue. They cause resentment and conflict. The present tendency to evade tax, and the lack of goodwill and ready co-operation on the part of the public are largely due to high taxation rates, which are operating more harshly against those who are paying the tax than would have been the case were it for the laxity on the part of the administration which is largely responsible for not properly bringing under assessment lots of tax-evaders, and thus for preventing distribution of the burden of taxation evenly on all concerned."

Sir, the other day I was talking to a British business magnate, who is one of the biggest in my part of India. In Calcutta he is the boss sahib of one of the biggest British firms and they had dumped millions and millions of pounds into this country. They were thinking of expansion especially in the mineral field, which would have done great service to Bengal and also Bihar. But now he said that they were thinking of winding up or at least curtailing their venture. I asked him why they were doing so. He said: "Your tax system. Taxation is so high that it is impossible to continue in this country". I told him about the British rates. They are still very heavy. Though not heavier than ours they are also taking something corresponding to 14 annas or 14 annas six pies in the rupee. But he said that there the State provides many things which they do not get here—especially free medicine, free education, old age relief, insurance and so on which are there in a welfare State. Even, Sir, you know, when the Socialist Party came into power in England, they did not add to the tax burden but tried to give relief.

Now, what I want this Parliamentary Committee to realise, if it commends itself to the acceptance of this House, and I hope the hon. Minister will respond to our request, is this, that the time has come when we

should see how to rationalise our policy, our system of taxation; not to take a very limited perspective of things but try to find out in an independent India what should be done to help the people and to bring about a proper attitude of public relations. I am pleading for that. I am pleading for the establishment of an atmosphere of co-operation, which is essential for the purpose of getting an efficient administration of tax collection. This over-centralisation ought to be ended. There is a multi-graded hierarchical character of administration, but that leads more or less to routine administration and that does not really solve the problem. I know that certain steps have been taken, but I maintain they are still ineffective and our Income-tax Department in India is today ill-equipped in the matter of really trained staff to cope with the gigantic work and that cuts at the root of the sound structure of taxation and tax collection. It results in inequitable burden being spread on honest tax-payers.

First of all, you must have administrative measures whereby you must have external survey and you must have internal survey. We must know the extent of the evasion. We must also know about the liaison with other departments. We have been amending section 34 and other sections giving powers,—almost horrible powers which no other Parliament would possibly give—executive powers, powers of search, seizure and others, and that ultimately would be ineffective unless the public co-operate, unless you can make the business world really come in unison with the department in the national interest. I am therefore hoping that, in order to have a successful implementation of our objective without which there cannot be any successful working of the Five Year Plan, we shall be able, in co-operation with the department, in co-operation with the Minister and in co-operation with the taxation experts, through this Parliamentary Committee to devise some system which will improve the machinery and at the same time establish the right

spirit, the right relationship, between the assesses, the citizens taxed and between the revenue authorities which would be good for all concerned.

Shri Ramachandra Reddi: I support wholeheartedly the resolution moved by my hon. friend Shri Kamath. The idea underlying this resolution is not so much to irritate the Government or the administration that is in charge of income-tax, but to focus the attention of this House as well as the Government on the important question of income-tax assessment and collection. It is more or less to give an opportunity both to the Government and to the hon. Members to understand to what extent the administrative machinery has been functioning correctly and smoothly, whether it has got the wherewithal for a proper administration of the same, including the intelligence of the staff, the conscience of the staff and the honesty of the staff.

We have been told that large amounts of tax are being evaded. Varied estimates have been made of it. The hon. Finance Minister some time back told us that there is an evasion to the extent of Rs. 40 crores. An English expert seems to have told the public and the Government that the evasion comes to nearly Rs. 200 crores to Rs. 300 crores per year. Whether both are wrong or both are right, there seems to be a scope, a large scope for investigating into the matter much more correctly and finding out to what extent evasion is going on and to what extent evasion can be prevented. I think recently—I have not seen the report—the Central Board of Revenue, while disagreeing with the estimate of Prof. Kaldor, have given a very high figure from their own assumption of the tax evasion in this country. They seem to have said it to be nearly Rs. 100 crores to Rs. 170 crores per annum. If it is Rs. 40 crores, as mentioned by the hon. Finance Minister, it comes to nearly 10 per cent. of the total income of our country. If it is Rs. 200 crores, as pointed out by Dr. Kaldor, it comes to nearly 50 per cent. of our

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total income. Even if the figure given by the Central Board of Revenue is taken, it will come to nearly 40 per cent. of our total revenue. That is a high percentage of amount which is denied to the Government by way of evasion and it does not go to prove the efficiency of the administration of the department.

To begin with, the main instrument of administration is the Income-tax Manual. I am told—subject to correction I may mention—that the Income-tax Manual, which was originally produced in the year 1921 or 1922, has not been brought up-to-date until 1954-55.

Shri V. P. Nayar: Not up to 1933.

Shri N. C. Chatterjee: 1933 is the latest.

Shri Ramachandra Reddi: I was told by somebody that it has been brought up-to-date in the year 1954 partly and partly in 1955. Even if it is so, the department has taken nearly 32 to 33 years to bring the Income-tax Manual up-to-date and it does no credit to any department which is responsible for the administration of the finances of this country. That shows the slowness and the lethargy with which the Department seems to have been working.

As regards the establishment that is required for the Income-tax Department, the Government themselves, in their reply to the question on the floor of the House—No. 961 dated 19th December, 1955—agreed that there is inadequacy of staff. They say:

"It is a fact that the present number of I.T. Officers is less than the required number. 248 posts of I.T. Officers are vacant. 250 additional posts have recently been sanctioned. The exact requirements of the Income-tax Department are being examined by a Reorganisation Unit which has been set up in accordance with the recommendations of the Taxation Enquiry Commission. The vacancies are filled up by promoting

well-equipped and experienced inspectors. The Reorganisation Unit, under Shri Indrajit Singh, is now expected to report by about 30th June, 1956."

I would like to ask the Government whether this report has reached their hands and whether it has been examined by the Government. The report, according to them, must have reached them by the end of last month.

In reply to another question,—No. 870 dated 18th August, 1955, the Government have said:

"The matter of appointment of a small advisory committee of non-officials attached to each Commissioner of Income-tax to discuss matters of general policy relating to administration is still under the active consideration of the Government."

I do not know to what extent some of these ideas that have been occupying the minds of the Government have been able to see the light of day, and whether the Government have progressed sufficiently well in the matter of implementing some of these ideas.

The Taxation Enquiry Commission, in chapter XIII of their report, have made certain recommendations which I would like to refer to. In recommendation No. 169, they have said something about the clearance of heavy arrears. In recommendation No. 171 they have said something about the suggestion that the dual control should be removed. In recommendation No. 174 they have dealt with the public relations aspect. In recommendation No. 178, they have referred to the appointment of special revenue officials exclusively for the I.T. Department's collection work and in recommendation No. 190, they have suggested that the strength of officers should be raised as soon as possible to the number required, and so on and so forth. I do not want to weary

the House by repeating all the recommendations that have been made by the Taxation Enquiry Commission in this regard. But I would only ask the Government whether any or all of these recommendations have been thought about by the Government and to what extent they have been able to implement them and to what extent they have been able to successfully work out the recommendations as well as the results thereof. I should think that there is something wrong with the fundamental training of the officers themselves. I have no intimate knowledge of the training conditions; but I am told that sufficient training is not given to the officers, that they are allowed to have even three to four chances for passing examinations, that examinations are merely nominal and that the question papers that are set are useful only for attaining the standards of the upper division clerks. In several cases the Income-tax Officers do not even know how to read the accounts and probably most of them are not expected to be accountants. I should think that it is a very healthy reform that these officers should have an intimate knowledge of the accounts and of accountants, because, in the method and manner of accounting, so many details can be hidden and if they are properly detected, so many details can be brought to light. So, it behoves the Government to think about the following suggestions that I would like to make in regard to the training of the officers. More or less in the same way as the I.A.S. officers are trained in the administration, I think the Income-tax Officers must have a regular course of training in several activities of the Income-tax Department. They might be given periodical clerical work and some of them might be appointed as under-studies of experienced Income-tax Officers.

Further, I do not know whether most of the Income-tax Officers have intimate knowledge of the working conditions of the bullion market or of trade conditions. In my own experience, I have seen that certain officers have begun assessing the assesseees

even without knowing what exactly the nature and the conduct of certain businesses are. They would do well to visit and acquaint themselves with the bullion markets and other industrial concerns, share markets, etc. and also study the market fluctuations. Perhaps some visits incognito to some of these markets would be able to reveal to them some of the intricate questions that are arising there. Everybody knows that most of the firms maintain double sets of accounts. To what extent these double sets of accounts are being studied by the Income-tax Officers and to what extent they have got the capacity of studying them and understanding them and also coming to certain conclusions is not known. There are very interesting proceedings in the courts of law regarding income-tax cases. The officers must be deputed to go and study some of those cases and to watch some of those proceedings so that they might know something about income-tax law also. In that way, they would also have opportunities of training themselves for the examination of witnesses. An active and intensive study of typical industries and cost accounting, etc., would also be very useful to them.

Having said this, I would only mention that there should be sufficient co-ordination between the Income-tax Department and the other departments of the Central Government, in the matter of industry or trade. There does not seem to be that amount of co-ordination that is required to give the Income-tax Department all opportunities of knowing what is happening actually in the commercial departments. I would just quote an instance for the use of the Government. This instance comes from Bihar. An American firm started with a capital of Rs. 20,000 the export of mica. The firm's name is Asherville Schoon-maker Mica Co., Inc., of New York. It started with a nominal capital of Rs. 20,000 and it seems to have made a business of Rs. 20,56,000 worth of total export of mica during the period from June, 1952 to February, 1953. In the same year, they

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have lost to the value of Rs. 27,000. That means, the capital must have been wiped out by the losses. In 1953-54, they seem to have made a total export to the value of Rs. 39,00,000 and the losses came to Rs. 1,63,600. In 1954-55, they made a total export to the value of Rs. 34 lakhs and the losses came to Rs. 3,10,000—all on a capital of Rs. 20,000!

Shri V. P. Nayar: No profit even for a change!

Shri Ramachandra Reddi: So, this company is undoubtedly a bogus company run in the name of some Indians who are the stooges. The result is that in every way the country is a loser. The company shows deflated values of mica exports and it sells the commodity in America probably at a higher rate. The ultimate result is that there is unnecessary and unhappy competition between the local exporter and such companies, and the Government loses in several ways, namely, in sales tax, export duty and also through income-tax. Such firms are usually given licences for export. Whether it is the Central Government or the Provincial Government, if the department of commerce is a little bit vigilant in such respects, they would be able to find out the proper man to whom a licence can be given and refuse the licence to such people who are not found to be honest and proper. The same company seems to have in subsequent years started another company in another name, doing the same business. Evidently this is going on unnoticed by the Income-tax Department. I have given only one instance; probably there are many such instances in the country. I would only request the Government to see that every other department, especially the commerce department, gives the income-tax department sufficient opportunities of knowing what exactly are the activities in which the commerce department is indulging. To that extent, they will be helpful to the income-tax department in coming to right conclusions in the matter of assessment.

There is always a tendency for the officers, especially those at the district level, to take up very small cases and begin to scrutinise them to the extent of making it appear that they are harassing them. In fact such harassment only leads to concealment and usually they leave out the big fish, because it is not possible to find out the big fish so easily. I would suggest that greater attention should be paid by the department, at whatever level it might be, to the method of assessing and finding out the bigger men who are trying to evade assessment. They should concentrate their attention to a larger extent upon the bigger men, so that their accounts may be prevented from escaping the attention of the Government. I would only suggest that with a proper organisation of the department and with greater concentration of attention on bigger assesses, they will be able to find out whether it is possible to secure more money for the Government and whether it is possible to ignore small sums. Attention has been drawn to one particular aspect—I am speaking subject to correction. I am told, and I hope the Government will correct me if I am wrong, that in the case of the hon. Ministers at the Centre as well as big officers of the Government who are deputed on delegation or otherwise to other countries, their salaries and allowances are drawn outside India and such salaries and allowances are exempted from income-tax. I am not sure of the position but if it is correct, if there is any truth in it, I would like to ask the Government whether evasion starts with the Government itself.

Shri Tyagi: It is legal.

Shri N. C. Chatterjee: If the hon. Minister says it is legal, the fact is admitted.

Shri Tyagi: When once they are outside India, their pay—it may be one month's pay or two months' pay—is not liable to income-tax here.

Shri Ramachandra Reddi: I would be happy if I am told that what I stated is incorrect. Anyhow, I have placed before the House the information that I have received and it is for the Government to correct me. There are several methods of manipulating the accounts and rules; to what extent manipulation is resorted to, I am not able to say at this stage.

Shri Tyagi: When one goes and draws his pay outside, he has to live outside.

Shri N. C. Chatterjee: If he is an Indian Minister, his salary accrues in India, even though it may be drawn outside India. Therefore, the place of accrual determines the taxability of the income under the Income-tax Act.

Shri Ramachandra Reddi: I do not want to take more time of the House. I have said a few points in favour of the resolution and I am sure that other hon. Members are also anxious to speak on it. I would only request the Government to accept the resolution either in this form or in any other form and to see that proper arrangements are made for an enquiry into the cases of delay and evasion. They should find out effective methods for preventing evasion in this country.

Shri V. P. Nayar: I am supporting the resolution moved by Mr. Kamath. I am also happy that the Minister in-charge is assisted by the expert on income-tax affairs, Mr. Tyagi.

The affairs of the income-tax department, as they are today, require a very deep probe and I do not think Government will dispute that. You will remember Sir, that when we were discussing the Finance Bill this year, I suggested that possibly the income which we could legitimately derive from income-tax, if we were able to cover a substantial percentage of the tax earners, would be about Rs. 200 to Rs. 300 crores. At that time Prof. Kaldor's report had not come and we based our calculations on national income and certain other factors. I remember that the Finance Minister told us that it was an exaggeration and according to the computations of the

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Government, the figure would not be more than Rs. 40 crores. I am amused to find that, although it is not more than a few weeks, the Central Board of Revenue, which is the machinery responsible for the collection of income-tax, has estimated the amount of evasion between Rs. 160 and Rs. 175 crores. I find this in the introduction of the Board of Revenue to the report of Prof. Kaldor. What we want to know is not whether it is Rs. 40 crores or Rs. 200 crores; it may be anything. In this context, when we are embarking on a second Five Year Plan and when for meeting the expenditure on the plan, the Finance Minister thinks that he has to indulge in deficit financing to the extent of Rs. 1200 crores and yet go to foreign countries with a beggar's bowl, why should we not tap the internal resources? You will be surprised to know that in India income earners form only a very microscopic minority compared to other countries. I found from Prof. Kaldor's report that in United Kingdom, which has a much smaller population than we have, about 13 million people pay income-tax and that figure represents about 60 or 70 per cent. of the income earners of the country, while we in India, with a population of 372 million, have a tax-paying population of less than half a million. I do not say that it is because of one factor alone.

In India evasion of income-tax is the result of two major factors. One is the very peculiar ingenuity of the tax-evader in India and the other factor which subscribes to this position is the callous negligence or the absolute inefficiency of the department which administers income-tax. I cannot find words to express the magnitude of the blunders which they have been committing. Mr. Tyagi has a smile on his face; he had introduced a drive at disclosure sometime ago and I think that he left that Ministry dejected, disappointed and defeated.

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The points which he wanted to attack still remain. An attack on all fronts was called for and is called for

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Government have not thought of doing it. You know, Sir, better than I do that when a machinery gets out of order, a casual overhaul will do no good. The trouble with the Income-tax machinery is that it requires a complete and a very thorough overhaul. In an automobile which has not been working for quite a long time, if you attend to the carburettor or decarbonise the engine, it would not run. In the case of the Income-tax department, there are basic defects, there are fundamental defects. If the Government are keen to collect more money through a proper administration, I submit that the basis, or as in the automobile, the engine and every part of it, has to be overhauled. Is the Government prepared to do it?

During the discussion of every Finance Bill, every session, we get this amendment or that amendment to the Income-tax law. What is the result? The result is that today, when we require thousands of crore of rupees for the next Five Year Plan, when all that money can be collected here by the Government officials, we are not able to collect more than Rs. 30 or 40 crores. Any Government which has to admit this, I submit in all humility, must hang their head in shame. What is the position? We are indulging in deficit financing and yet going to foreign countries with a beggar's bowl, realising very well that here in India, tax evaders withhold from the Government annually an amount not less than Rs. 160 or 175 crores, according to the admission of the Central Board of Revenue. I may not attach very much importance to the estimate made by Prof. Kaldor. May be he was wrong; or may be, he did not have all the statistics. Here, the Government themselves have admitted.

What is the resolution of Shri Kamath? How can anybody possibly hope to object to that resolution, unless a person is bent upon doing a very foolish Act? This is absolutely non-controversial. Where is the controversy? Can the Government or Shri

M. C. Shah or Shri Tyagi say that we do not want to collect income-tax from the tax evaders who have money to give? Can they say that a Parliamentary Commission, endowed as this House is, with several brilliant Members, cannot go into details? All that the resolution wants is that a Committee consisting of certain Members of Parliament should be appointed to go into the defects in the administration of Income-tax law with a view to find out how we can have a better coverage of the tax. The object of the Committee is,—I think Shri Kamath also thinks that way—only to find out what are the ills, what changes have to be made and what new revisions have to be made for achieving our object. It will only be a list of the reforms or new procedure which the department will have to introduce. Even granting that that is controversial, what is the position? We are on an all out drive to finance the Second Five Year Plan. These two factors by themselves must lend support to the resolution.

I also want to refer to Prof. Kaldor's report. It has not been possible for the House to go into its details. I also do not want to convert this into a debate on that report. But, there are certain striking features which the report has revealed and over which we cannot sit idle. The Central Board of Revenue is also alive to this. If the Government say that they are not alive to this huge or colossal tax evasion, I can understand that. Government themselves admit this in the note. How did Prof. Kaldor come here? He did not come of his own accord. He was invited because Government thought: Here is an expert who is capable of probing into the question and suggesting remedies. Prof. Kaldor came on the invitation of the Government. He enquired into several points. Government have published the report. Government have chosen only to dispute one point. They say that all the other points are being studied. The one point which they have chosen to dispute is the assessment of the possible amount of tax evasion. It is

interesting to note that in the last para of the report, the Central Board of Revenue only want to say that Prof Kaldor's estimate of Rs. 200 or Rs. 300 crores may not be true. It is said:

"While less alarming than the results found by Prof. Kaldor those figures do not invite complacency..

Though no complacency need be invited it is inherent.

.....and the task of roping in the new incomes created by the 5 year plans will tend to increase the complexity of the problem."

It is precisely because of the complexity of the problem that Shri Kamath wants a Committee to be set up to go into the details.

There is another aspect. I do not want—I have got the Income-tax Investigation Commission's reports, several of them—to go into the diversity in the *modus operandi* of the very big sharks who have found it possible to avoid or evade income-tax for decades. I do not want to go into them. But, certain passages in Prof. Kaldor's report are entitled to our particular attention. These are on page 124. I know very well that the hon. Minister Shri M. C. Shah has read it. I only want to drive them home as Shri Kamath prompts me. It is said:

"Everyone is agreed that apart from manipulations of various kinds which are broadly classed under the term "tax avoidance", there is considerable amount of evasion in India due to fraudulent concealment of income secured through false entries in the account-books....."

I ask a very simple question. Is it not shameful for the Government to have these observations made by a foreign expert? Prof. Kaldor continues:

"It is fairly generally agreed also that such practices have become more widespread since the last war."

It is a corrupt problem. Even today, there can be no dispute that tax evasion is on the increase.

"The important question—he adds—is how much income is concealed in this manner in relation to the income which is assessed to tax."

I am only pointing out that these observations by themselves must have made the Government open their eyes,—long closed eyes—and must make them realise, here is a question into which a very important and powerful Commission should probe. He has also said that the administration of the department is absolutely inefficient. I was not desirous of speaking on this Resolution. I was prompted to do so by publication. I am sorry, Shri Tyagi is not here, because I find a very good eponymium has been paid to Shri Tyagi for his drive for disclosure. With your permission, Sir, I may read a sentence from a book which has been sent to most of the Ministers. We also have received copies of this book because we happen to be Members of Parliament. The book is by Mr. N. Nandi. The title is: *Ills that beset the Income-tax department*. I do not say that all the facts are couched in a language which any one of us would have chosen. But, it contains a set of facts which Government must either contradict or verify. From this book I find that in no Income-tax office can you find the Income-tax Manual made up to date. I have worked in Government offices. I know, even though it is not an Income-tax office that office procedure cannot be followed unless there is a Manual. If you are in the Secretariat, you must have the Secretariat Manual. If you are in the Accountant General's office, you must have the Account Code. Without that it is impossible to work. When we know that it has not been possible for the Government to give as much training to the officers as would have been necessary, is it not something funny that even today, the Income-tax officers have to rest content with the publication of the Manual dated as far back as 1933? I wonder whether Shri

[Shri V. P. Nayar]

M. C. Shah who is listening to the debate himself has a copy of the Manual. If he has got, I would be grateful to him if he could let me have a copy.

The Minister of Revenue and Civil Expenditure (Shri M. C. Shah): What book?

Shri V. P. Nayar: Income-tax Manual brought up-to-date. Any publication of the Manual after 1933.

Shri M. C. Shah: It is there: 1956. If you want a copy, you must pay for it and get one.

Shri V. P. Nayar: Most of the officers do not still have it. It is definitely alleged in this book written by a person who was 30 years in service

Shri M. C. Shah: In what capacity?

Shri V. P. Nayar: As an under-dog, perhaps. He was not a top official. That is all the more the reason why we must believe him, because the lower the officer, the more the honesty with which I credit him.

I was referring to the reason why Shri Tyagi or Shri M. C. Shah will not take action. Unfortunately, or fortunately, the language is not very happy. Shri Tyagi has been paid the following encomium. I am reading from page 178 of this book:

"His golden and picturesque formula 'We should gather honey and not sting' still rings in my ears, and all the good and noble things he expressed in this connection still give me intense joy. But what depressed and disappointed me was his colossal ignorance of the real affairs of the department, and his positive withdrawal from the realistic situation and giving way to fanciful thinking."

Such things should have provoked one undoubtedly. But in spite of that, this book has a foreword by no less a person than my esteemed friend Shri N. C. Chatterjee, who also may not agree with the language or the diction.

Shri N. C. Chatterjee: I am pointing it out myself.

Shri V. P. Nayar: Even in the foreword, he has pointed it out. But it contains a set of facts, which it is the duty of Government either to contradict or to go into. It cannot be brushed aside, because it contains very serious allegations of corruption, of inefficiency, of the lack of proper planning, and of manipulations by several agencies in order to help tax evasion. And I think that it is time that Government must either consider these matters or publicly say—because this book is now a public property—that there is nothing very serious about it. You cannot just dismiss this book by saying that it is the effusion of a crankish brain. Certainly not. This book cannot be dismissed like that.

I again want to emphasise this aspect, that considering the non-controversial nature of this resolution—because I understand from Shri Kamath that about 46 Members have subscribed to this resolution, and out of those 46, there are many Members from that side also.....

Shri N. C. Chatterjee: 23.

Shri V. P. Nayar:nearly half are Congress Members; besides, the other representatives of the various groups and parties in the House have also subscribed to this resolution. That by itself must show that it is a non-controversial measure.

Secondly, in the context in which this has come up for consideration, when the Finance Minister and his colleagues are running from pillar to post seeking aid, this must lend itself to a greater consideration. As I submitted before, if for any reason, whatever be the grounds of Government, this resolution is not accepted, it will only mean either of two things, that is to say, either, because it comes from the Opposition, it will not be proper for Government, who want to have a

monopoly of all the wisdom to accept it, or Government are bent upon doing a deliberately foolish act, even to the cost of the nation, in order to protect less than one per cent. or half a per cent. of the tax-paying people. Either of those must be the reason. I am not inclined to continue on this strain, but I would submit that I am really sorry that in such an important debate which determines the position of our funds for the financing of the Second Five Year Plan, the Finance Minister himself should have chosen to be absent. I know he is in his hibernaculum, a retreat into which has almost become a fashion or habit with him these days.

Mr. Deputy-Speaker: Why go into those things?

Shri V. P. Nayar: I am pointing out that when these questions were raised, they were always answered and contradicted by the Finance Minister, Shri C. D. Deshmukh, and I remember last time when this matter was discussed, Shri Kamath was told by the Finance Minister that he would be present for reply. I am very sorry that he is not present, because of.....

Shri N. C. Chatterjee: Something.

Shri V. P. Nayar:something, or some developments, I do not want to go into them at this stage.

Shri Feroze Gandhi: What is wrong with Shri M. C. Shah.

Shri V. P. Nayar: Shri M. C. Shah, with his innocence

Shri M. C. Shah: May not be able to reply in Sanskrit.

Shri V. P. Nayar: I have the greatest affection and respect for Shri M. C. Shah. That is a different proposition. Shri M. C. Shah has not been made to answer these points, when they were raised, and it was Shri C. D. Deshmukh who always answered those points.

I would wholeheartedly support the resolution sponsored so very ably by Shri Kamath and supported by eminent Members like my esteemed friend Shri N. C. Chatterjee and Shri Ramachandra Reddi. I would once again make a request to Shri M. C. Shah personally and to Government that they should not consider this resolution as a resolution coming from the Opposition and on that ground put it into the waste-paper basket, as they usually do. They should not do so, because this is a resolution for the betterment of the national finance, for finding out more money from internal resources. When you accept this resolution, you can be sure that a very small minority of the tax-payers, about half a million, will be pricked, but that much prick is absolutely essential in order to finance the Plan for the benefit of the whole nation.

Shri M. C. Shah: I have listened to the speeches of the hon. Members very patiently and carefully. I thought there would be rather strong speeches on this resolution, but even the fire of my hon. friend Shri V. P. Nayar was not there.

I must at the outset say that I cannot accept this resolution, but I am happy that the hon. Mover has given me an opportunity to explain to the House how the Income-tax Department works.

There are very complex problems, and perhaps, because of the ignorance of the working of the department, some of the criticisms may have come from hon. Members. But I would like to explain to them the whole position, that is, the working of the Income-tax Department from the year 1939 upto the present day, that is, 1956. Hon. Members may be aware that the income-tax collected during the pre-war days was about Rs. 19 crores, and during the war period the incomes rose very high, and the income-tax collections went up very high. Upto 1944, the Income-tax Department had worked with just a skeleton staff. During the war period it was not pos-

[Shri M. C. Shah]

sible for the Income-tax Department to recruit people. It was only in 1944 that the class I service was formed in that department, and the recruitment was started. In 1945, there were only 550 income-tax officers. In 1946, a special officer was appointed to go into the whole question of the reorganisation of the Income-tax Department, in view of the rising incomes and the rising collections. During the war-time, the figure had gone up to Rs. 190 crores, but leaving apart the war-time period.

Shri Ferose Gandhi: Amount evaded or realised?

Shri M. C. Shah: Realised.

If you leave apart that period, you will find that from Rs. 19 crores in the pre-war days, now we have come to Rs. 170 or 180 crores. In 1946, as I said a special officer was appointed to go into the reorganisation of the whole department, and thereafter, slowly and slowly, we have begun to recruit the officers. Today we have got about 1200 officers, and I am told that number is also not yet sufficient. All these officers are recruited through the Public Service Commission as well as by promotion from the local areas. In 1950, the Varadachari Commission reported on the working of the income-tax department. They made certain recommendations. We examined all those recommendations, and we have tried to put into effect some of the recommendations which were to be adopted soon.

Thereafter the Taxation Inquiry Commission also reported. They wanted to have the whole income-tax department reorganised, and following upon their advice, some 13 or 14 months ago, we had appointed a very highly placed officer, who was with the Taxation Inquiry Commission, to look into the working of the department, and to suggest methods of reorganisation and standardisation, doing away with procedures which might cause delay, and introduction

of certain other methods. That officer is working on that job since more than one year. He has been given special staff, and his report is expected by the end of this month.

My hon. friend, Shri Ramachandra Reddi, quoted my reply. We expected that report by the end of June, but that officer has taken some more time. Therefore, he is to submit the report by July, 1956.

There are three main points raised in the debate by the various Members. One is about evasion. Much has been said of the question of evasion. The Kaldor report is quoted here. It has been stated that Professor Kaldor has already stated that there is evasion to the extent of Rs. 200 to Rs. 300 crores and that that evasion must be taken as a correct estimate. I do not know whether hon. Members have read the whole Report. We have placed copies in the Library. We propose to distribute printed copies to hon. Members. We have already given orders to print the Report. I was expecting that those printed copies would be ready and available to hon. Members so that after going through the whole Report, they might be in a position to say whether those estimates were to be accepted or, as Professor Kaldor himself has said, those estimates were founded on slender statistics placed before him. He himself has stated that that estimate should be taken with a great deal of caution.

My hon. friend, Shri V. P. Nayar, who read from the report of the Central Board of Revenue, wanted to inform the House that even the Central Board of Revenue had accepted the figure to be about Rs. 160 crores. My hon. friend is not in his seat and I cannot say anything about his poor reading of the report. The report of the Central Board of Revenue has not stated that evaded tax is to the extent of Rs. 160 crores. What it has stated is that the evaded income will be about Rs. 160 crores, and on that the income-tax may be to the extent of

about Rs. 40 crores. We have all along said that there has been evasion; we have never said that there has been no evasion. We have maintained already that there is evasion to the extent of Rs. 30 to Rs. 40 crores, and slowly we are trying to remedy that state of affairs.

Shri M. C. Shah: As I said, if the Nayar has come back. As I said, the fire has gone out of him.

Shri V. P. Nayar: Did you pour cold water.

Shri M. C. Shah: As I said, if he reads the report, he will find that his reading was not correct. He knows English well. He was in government service, as he himself stated. So he may be knowing about all these things. What was mentioned in the report of the Central Board of Revenue was that the income was about Rs. 160 crores, that is, evaded income. It is different from income-tax on the evaded income.

Shri V. P. Nayar: I want to correct the hon. Minister. Perhaps, I do not know the meaning of English as he knows. But this is how it reads:

"It is estimated that the evasion of income is of the order of Rs. 160 to Rs. 175 crores....."

Shri M. C. Shah: That was what I said. It must be distinguished from evaded income tax. The tax on the evaded income is different from the evaded income. If my hon. friend meant that evaded income was Rs. 160 crores, I have no quarrel with him. But he said that as against the estimate of Rs. 200 to Rs. 300 crores of evasion of income-tax mentioned by Professor Kaldor, the Central Board of Revenue had admitted about Rs. 160 crores of evaded income-tax. That was what I understood him to say. Therefore, I had to correct him. If he says that the evaded income is Rs. 160 crores I have no quarrel with him.

Shri V. P. Nayar: What is the tax on that?

Shri M. C. Shah: It may be about Rs. 40 crores, because all the Rs. 160 crores may not be in the higher slabs, that is, those paying 14½ annas. Some may be in the lower income slab. About Rs. 10 crores may be at the marginal level, about Rs. 10 crores may be in between and about Rs. 20 crores may be at the higher income level. We have never made a secret of this inference.

Shri V. P. Nayar read from page 124 or so some statement of Professor Kaldor and said that it was shameful for the Government to have all those statements. I am afraid that Shri V. P. Nayar may not perhaps be aware of the fact that Professor Kaldor was invited by the Finance Minister himself. We wanted to know how the matter stood. He is considered to be an expert in England. We wanted to have him here to go into all these matters. Therefore, we are not afraid of what he has stated. We have to examine his Report, to verify the estimates that he has made and study the suggestions he has made and thereafter, to find out if we can just add to our resources by adopting some of the suggestions he has made. We are already studying that Report. With regard to certain suggestions about additional forms of taxation he has made, perhaps, Shri V. P. Nayar may be knowing that we have already sent three officers to various countries, to Sweden, Japan and United States of America, and we are sending another highly placed officer to just co-ordinate the studies that they are conducting on the suggestions made by Professor Kaldor.

About evasion, we do not say that there is no evasion; we accept that there is evasion. How to find that evasion out? We are just trying the methods to detect evasion. The Income-tax Investigation Commission had suggested the starting of a special department to investigate cases from where they had left. Already we have the Directorate of Inspection and Investigation to go into these cases.

[Shri M. C. Shah:]

We have created special circles all over the country where all these important cases are concentrated and we have already placed very efficient officers to look into all those cases. We are trying to tighten up the machinery of the income-tax department and we are trying to plug the loopholes in the Income-tax Act.

Every now and then we are faced with some difficulties. We have the rulings of the Supreme Court. We come here for the amendment of the Act. The other day we wanted to have section 5(7A) amended and the hon. Member opposite who spoke so vehemently about evasion and about the working of the income-tax administration was there to oppose that measure which the Government wanted to bring in order to rope in those big people who had their activities spread all over the country and to have their cases dealt with by some special officers in specified circles.

Shri N. C. Chatterjee: I may just interrupt. What I pointed out was that the amendment was based on a mis-reading of the judgment of the Supreme Court. The Chief Justice of the Supreme Court pointed out that there should be some standards, some canons, some objective tests which should be prescribed before you allow a case to be taken away from Delhi, say, to Travancore or Timbuctoo. That is very improper. That is what I pointed out. You should prescribe certain conditions in order to make the Act equitable, fair and just.

Shri M. C. Shah: He says that he was for that amendment of 5(7A). I take him at his word.

As I was pointing out to the hon. Members, we are trying to plug the loopholes in the Income-tax Act.

There are two kinds of evasion; one is evasion by legal methods, taking advantage of the loopholes of the present Act and the other is having fraudulent account books—two or three sets of account books.....

Acharya Kripalani (Bhagalpur-cum Purnea): There is also a third method; bribing the administration.

Shri M. C. Shah: We took last time powers to find out whether there are double sets of account books, whether there are fraudulent entries made in the account books shown to the Income-tax officers while real transactions were in some other books. Then too, there was opposition and there was some reluctance on the part of some hon. Members of this House to vest the income-tax department of the Government with these wide powers. But, if you want Government to find out all this concealed income from the genuine account books that are not shown to the income-tax department, it is absolutely necessary that Government should have all these wide powers.

I may inform the hon. Members of this House that because of all these, perhaps, defective sections of Income-tax Act—after the passing of the Constitution—we propose to have a high-power Commission or Committee—whatever name we may like to give it—to go into the whole Income-tax Act and to codify it with a view to see that it may be simpler and more effective. We may not then have to face questions arising out of judgments of the Supreme Court.

The House is well aware that the Income-tax Investigation Commission Act was passed by this House and about 1200 cases under 5 (1) and 5 (4) were referred to the Commission. Some of the cases were investigated and settled and nearly Rs. 50 crores of concealed income was found and nearly Rs. 28 to Rs. 29 crores of income-tax was to be realised and there were still many more cases pending before the Commission. The matter was taken up to the Supreme Court and section 5(4) was held *ultra vires* of the Parliament and we had to amend section 34(1A) in order to dispose of these cases under section 5(4).

Then there was another case in which it was decided that after the amendment of 34(1A), section 5(1) was not effective. Therefore all those cases which were not disposed of by the Commission before 17th July 1955 could not be disposed of by them. Then, there was another judgment which declared that all those cases which were not disposed of before the 26th January 1950, when the Constitution came into force, were invalid and so they had to be re-tried by the Directorate of the Income-tax Department. Thus it will be seen that we are trying our level best to rope in all those tax-evaders. But we have to defer our activities because of certain rulings. We have to come again to the Parliament for the amendment of the Act here and there. In view of these complications, hon. Members will realise that we are working under great difficulties.

Shri Feroze Gandhi: The hon. Minister said he is going to appoint a Commission. May I remind him that last October he had promised to appoint a Commission to enquire into the Dalmia-Jain affair and may we know what happened to that Commission?

Shri M. C. Shah: I am sorry it has no relevance to the matter before the House. If there is a question, I will reply. It may not be relevant for me to enter into a controversy in this connection. This Commission is to be appointed rather to codify the Income-tax Act in order to make it very simple and more effective.

Acharya Kripalani: He wants only some information and no controversy.

Shri M. C. Shah: I am just saying what are the difficulties that we have to encounter.

Shri Kamath: The Supreme Court is a great difficulty.

Shri M. C. Shah: I cannot say anything about that. We have to bow to the decisions of the Supreme Court. Whatever defects there are in the Income-tax Act, when considered along

with the Constitution, are to be removed and we want to make the Act very simple and more effective. That is what we propose to do.

So far as evasion is concerned, Government are more anxious than even the hon. Members who have spoken, to bring these evaders to book; but there are difficulties and difficulties. We had only 550 officers by 1945. Slowly and slowly we increased the number and today we have 1200. They are new people and we have to train them up for two years. For the first 18 months they are to be trained in the Income-tax law and other laws and thereafter for six months they are to be given practical training. Then they have to work as understudy with officers. We are taking all those officers through the Public Service Commission and they come from highly educated families. They are not different from what the officers are in other departments, but they have to study all those things. Therefore, it takes some time. I am sure that we have practically turned the corner and we will be in a better position to show very good results slowly in the course of a year or two.

My friend, Shri Reddi, referred to a point which I might take up. I had already mentioned that we would take 250 officers. It is correct. We had decided last year to take 250 officers from Inspectors and have them there. But then we had appointed an Officer on Special Duty and he said that by re-organisation, it will not be necessary to have all these 250 officers. He, therefore, requested us to wait till the report comes. Now the report is coming. Last year we wanted to have 25 additional Assistant Commissioners also. We know that there are arrears in assessments and arrears in appeals, and really speaking, we are trying our level best so that all those arrears may be cleared up soon and thereafter no case may be kept pending for more than a year or so. My view is that no appeal should be kept pending for more than a year. I am going round all the big cities just addressing the

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Income-tax Officers and impressing upon them this aspect of their work. I am sure within a year or two the time will come when those people who always ask for adjournment will complain that there are strict measures to dispose of the assessment sooner. That is what I am envisaging.

There are two other matters also along with this evasion question. There is corruption, I am aware of that fact and I admit that there is corruption. We are trying our level best to do away with corruption. Though we are not 100 per cent. successful, I may inform the House that we have been successful to a certain extent. I may inform the House that six officers have been dismissed very recently, and I invite all hon. Members to supply me with any information they may have got. I can assure the House that that matter will be immediately taken up to its logical end. Two hon. Members of the House last year informed me about corruption with regard to two Income-tax Officers. I took up the matter immediately. One of them had been prosecuted and sentenced to two years imprisonment and another had been dismissed. On appeal to the Union Public Service Commission, the Commission said that he may be removed from service, though it does not mean very much. We had already recommended six officers to be dismissed and many more are under investigation. We hope to take the strictest measures possible the moment there is some substantial information given to us. We feel that we must do as much as possible for the Department and, therefore, we have created a special investigation department wherein all these complaints are taken in hand.

Shri Kamath: Since when?

Shri M. C. Shah: Immediately. I can assure my friend, Shri Kamath, that if he gives any information, he will find that action is taken immediately to its logical end. The two hon. Members—they are not here at the

moment—will testify to that fact. I will not deter for a moment even if afterwards anybody comes forward for showing mercy in respect to those officers.

Shri Kamath: The Minister stated that there was a special department in his Ministry. I want to know since when.

Shri M. C. Shah: Since 1952, but it has started working very well since the last two years.

Shri Bhagwat Jha Azad (Purnea cum Santal Parganas): May I know whether, in the first instance, if any Member gives information on the officer who is corrupt, that case is sent to the same officer for enquiry?

Shri M. C. Shah: I take that information as confidential information and I depute very senior officers to look into the matter. If you want to satisfy yourself, I will give you the names of the hon. Members concerned, and you can just find out what had happened from those two Members who were courageous enough to give me the information. I hope that all hon. Members if they come in possession of any such information, will pass it on to me and then they will see whether action is taken on it or not.

There is another matter and that is about public relations, harassment and all those things. I know that there are complaints about harassment. I have enquired into many of them. With great regret I must say that most of them came from the parties who were interested because nobody likes to pay taxes. Here in India the income-tax assesses have to fill in their income-tax returns. Whatever incomes they have had has to be put in those returns. They have to prove that that is the only income that they have got during the year of assessment. Therefore, at times, the Income-tax Officers have to put certain queries, but the people concerned do not like those queries

My friend, Shri Trivedi, is not here, but he cited a case last time that because a certain officer wanted a car to be supplied to him and because that car was not supplied to him, the Income-tax Officer assessed the individual's income at something like Rs. 8,00,000; then when it went to the Tribunal, it was reduced to Rs. 79,000. I got that information from him. We immediately enquired into the matter and the facts are otherwise. I am sorry to say that Shri Trivedi was very much misinformed. The facts are these. That gentleman did not give his income-tax return for about six months. Then he was pressed to give it. He gave the return which showed his income as Rs. 1,49,000. When the case came up for hearing, certain questions were asked and they were not answered there and then, but he asked for adjournment. Four or five adjournments were given and eminent lawyers were brought in. Even after the fifth adjournment he did not appear. He was asked to appear again but he did not. Therefore, an *ex parte* decision was taken. The Income-tax Officer can take a decision only from the reports that he can gather. Therefore, he was assessed at Rs. 11,00,000. The matter went to the Tribunal. The Tribunal also held that Rs. 5,85,000 or so was the income. But the man had put in return for Rs. 1,49,000 only. The Tribunal approved of the action of the Income-tax Officer about the *ex parte* proceedings, and fixed the income at Rs. 5,85,000 or so. This shows that Shri Trivedi's complaint was based on wrong information. Before taking the information, one should very carefully look into the matter and should independently go into the true state of things. Wherever I have gone, I have told the income-tax officers to be very courteous. I have come in contact with the income-tax officers individually as well as at meetings. I have told them that they should be very courteous. There should be no case of harassment. In this democratic Republic, there are the elected representatives of the people and they must give very nice treatment to the assesseees.

though they must assess them according to the information available to them.

Shri Kamath: Nice treatment means what?

Shri M. C. Shah: Just give them cold water(Interruptions.) I have also impressed upon them that it is not the intention of the Government to get a pie more than what is justly due to the Government but that we are also not prepared to let go even a pie that is justly due to the Government.

Shri Nayar referred to the manual. It has been brought up to 1956 and every officer is supplied with a copy. In order to help the assesseees we have brought out in simple language a book showing the responsibilities of the assesseees: how to fill in the form and other things.

Shri Kamath: When was it done?

Shri M. C. Shah: Probably a year before. It is running the thirteenth edition. We are arranging to have copies in all the fourteen languages of the different regions. We have prepared a layman's book so that the lawyers may not come in the way. My friend, Shri Chatterjee may not mistake me if I say that I have found that mostly those professional people did not give their correct returns. I have verified these. So, these books have been brought out so that they may not go to the lawyers or to the income-tax practitioners.

We have also three public relations officers, one each at Madras, Calcutta and Bombay. We propose to extend that system. The small assesseees go to them for guidance and advice.

Shri Kamath: Anybody in Delhi?

Shri M. C. Shah: Not yet. But, we propose to help the smaller assesseees. We know that big assesseees will have big counsels to show them the way as to how legal evasion can be effected. So, we are to help the small assesseees and so we are trying to do what we can about them.

[Shri M. C. Shah]

My friend, Shri Chatterjee, said that there should be an external and internal survey. He will be interested to know that in the last three years we have already visited 4,31,295 shops and brought on record about 59,147 assesseees. We propose to extend that system. We want to see that everybody who has to pay income-tax pays it fully.

I have got here certain figures but it will take much time if I quote them. Even though the limit of exemption has risen from Rs. 3,000 to Rs. 4,200 there has been an increase in the number of assesseees. There is no necessity to have such a committee as suggested by Shri Kamath. I am glad that this opportunity was given to the Government to explain the way in which the Government is administering the income-tax department. I do admit that there is evasion; harassment and corruption should also be done away with. I entirely agree that all these things should be done. There is room for improvement. The incomes are rising and we want to have more money for the Second Plan and if you can bring more money to the Government it will always be helpful. We are alive to these things. I can only assure the House that no effort will be spared to secure the objectives that the hon. Mover had in his mind while moving this resolution. There are shortcomings and limitations but I know that, with the fullest possible co-operation from the Members of this House and the other House, we can do a lot towards the improvement of the administration. Some hon. Members talk to me in the lobbies about this evasion and that but when I ask them to put it in writing they are afraid to do so.

Shri Kamath: What you tell us in the lobbies, you need not tell here.

Shri M. C. Shah: What I wanted to say, Mr. Kamath, is this.

Mr. Deputy-Speaker: Mr Kamath should not be told directly.

Shri M. C. Shah: I am sorry. What I want to tell the hon. Member of this House is this. When they have any definite information with regard to evasion of tax or concealment of income, howsoever high or eminent the position of the person may be, I can assure the House that I shall take all possible steps to unearth that income and to bring to book the offender the moment we get that information.

Very valuable information was given to me and one officer was corrupt. He was convicted and another officer was dismissed. If the hon. Members can give me such information, I can assure them that all possible measures will be taken to investigate the cases and punish the offender, guilty of corruption or harassment. But the hon. Members should have correct information in their possession and not such information as was given out by my friend, Shri Trivedi. I just now referred to that case.

I would like to take five minutes more but the time is up.

Shri Kamath: I would take about fifteen minutes.

Mr. Deputy-Speaker: Is the House prepared to sit for some more time?

Some Hon. Members: Ten minutes.

Shri Kamath: Mr. Deputy-Speaker, as I listened to the Minister of Revenue and Civil Expenditure, I felt convinced that there was, and there is, a skeleton in his cupboard and this skeleton he is strenuously trying to conceal, trying to hide from public view and trying to see that light does not expose it to the public view. It is unfortunate that the spirit of the Second Five Year Plan has still not infected the Minister. His complacency is pathetic.

Mr. Deputy-Speaker: He has been unsuccessful in concealing it when you have found it out.

Shri Kamath: He has admitted in the course of his speech towards the end many things. In the course of his peroration he has admitted corruption, he has admitted inefficiency, he has admitted the existence of heavy arrears, and he has admitted ill-organisation. After having said all this, he throws up his hands and says: "Why this Committee?" If that, Sir, is the approach of the Government to problems of this nature, to important problems of this nature the attitude of responsibility and responsiveness that Government brings to bear upon problems of this nature, which affects our national finances, I despair not merely of the success of the Second Plan but also, Sir, I despair of the growth of a sound, strong, puissant parliamentary democracy where government is responsible and responsive to parliamentary opinion.

I thought there was no need for me to stress this aspect of the matter, My hon. friend Shri Chatterjee has ably advocated one of the main aspects of this particular resolution, and my friend Shri V. P. Nayar, on my right, has driven another point home. This resolution has been supported, as the bulletin, other records and all other papers show, by all sections of the House for the first time in the history of Parliament. As far as I am aware, no other resolution has been supported by so many members and so many sections of the House—both are there. 46 Members of the Lok Sabha, and among them nearly or over 50 per cent. are members of the ruling party, —have supported this resolution though it is unfortunate that today...

Shri B. D. Pande (Almora Distt.—North-East): I am opposed to it.

Shri Kamath: I do not know your attitude. From the Himalayan heights I do not know what attitude you will take. You may get some *jadi booti* for income-tax also.

About this resolution, as I have already said, there has been support from over 23 Members belonging to the Congress Party and the other half represent all other sections of this

House Today, however, I was rather surprised to see that not a Member of the ruling party stood up to speak either for or against the resolution. But, be that as it may, we have been familiar with this attitude of the Government on various other matters vitally affecting Parliament and the people. I am familiar with this attitude. It has been reflected on other occasions also. In spite of a clear expression of opinion by Parliament Government have turned a deaf ear to the demand made on the floor of this House for enquiries into various matters.

I will refer, Sir,—because I am racing against time—to only one or two other points which have been sought to be made out clearly, but unfortunately not so by the Minister. He referred to arrears that have accumulated. He said he had gone on a hurricane or a whirlwind tour or something like that, a very swift tour of all the establishments in India to see that these arrears are disposed of. But as long back as 1949—it is not a new story—the Income-tax Investigation Commission referred to this matter—we are today in the year of Grace, if it is Grace at all, 1956—and even today what has the Minister to say? He says, we have got arrears and we are trying to get them disposed of. If that is the pace at which this Government moves—seven years have elapsed and still they are trying to get these arrears attended to and disposed of—I do not know where it will lead us to. The Commission used strong words about this matter. They said:

"Taking the structure as it is planned, we think that it requires to be strengthened and re-arranged immediately in certain respects if the heavy arrears are to be reduced and, above all, a liberal provision has to be made for reserve in all grades and classes of establishment for emergent work."

The earlier Commission, the John Mathai Commission referred to

[Shri Kamath]

another aspect of the matter and said:

"We have been assured by the Central Board of Revenue that a long (mark the words) overdue, expansion scheme is now well under way of implementation."

That was said by the Income-tax Enquiry Commission of Dr. John Mathai. I would like to know from the Minister—I know it would be impossible for him; he won't be able to tell me—whether this long overdue expansion scheme has been taken in hand at all, the progress it has made and what sort of progress it has been.

Shri M. C. Shah: I have already stated that from a strength of 500 today we have 1200 officers.

Shri Kamath: Not the number of officers; their efficiency and all that.

Shri M. C. Shah: With regard to efficiency also I said that the report will be ready.

Shri Kamath: There is no time for all that now.

Now, Sir, I would refer to one or two other matters and then close. The Second Five Year Plan, as we all know, envisages not merely loans from foreign countries, not merely deficit financing, but also fresh taxation. Only this morning there was a question in this House on this subject, as to what measures the Government are taking with regard to the provision of Rs. 450 crores. Even if the figures of the Central Board of Revenue are taken with regard to the evasion of income-tax—in addition to that there is the extravagant administrative expenditure and waste which has to be minimised or even done away with, I am sure we will not have to go to other countries with a begging bowl, and Government also will not be compelled to resort to fresh taxation putting a burden on the impoverished people of this country, provided proper steps are taken. As has already been stated, our country has got a population of

only one million who are liable to pay income-tax, and only half a million or a little more than that actually pay income-tax.

Sir, kindly look at my resolution. What is there that the Minister can possibly take exception to? What can the Government take exception to in this resolution? The income-tax department is one of the main, and most important departments of Government. I said last time that this income-tax department is IT—the 'it' of the taxation world. Therefore, it merits a good deal of attention and care from Parliament. My chief concern is that this department should function more efficiently and less corruptly than it has been doing so far. The Minister himself has admitted the presence of these evils: it is corrupt; it is inefficient; it is ill-organised. Yet, they would not accept the need for an enquiry. I fail to see why the Minister has chosen to oppose this resolution. It must be out of sheer cussedness. Nothing else. If the resolution had been accepted by the Minister and by the Government it would not only have brought a Commission into being but it could have devised ways and means of making this department more efficient, and more serviceable to the people and to the nation, than it has been so far.

One word more and I will have done. If this Committee or Commission had been set up, its terms of reference might have included—of course, it is a matter of detail and the various details as to how the Commission should function could be thrashed out—an item as to how this income-tax administration functions in Jammu and Kashmir State. Today, in Jammu and Kashmir State, I understand that there are various flaws and defects and that the working of the income-tax department there is not at all satisfactory in the whole of Jammu and Kashmir State. If this Committee had been set up, I am sure that this House and this Parliament might have agreed to include

that item also in the terms of reference for this Commission, because Jammu and Kashmir is a part of India. The income-tax work extends to the entire country—to the whole of India—and Jammu and Kashmir, therefore, might have been included in the terms of reference. Unfortunately, it is not going to be so. But, in spite of that, I hope that the House will agree to this resolution on the consideration that it has been supported by a large number of Members during their speeches, and otherwise.

I would conclude by quoting a *sloka* and not a *sloka*. I quoted some *sloka*s last time. I expected that the Minister of Finance would be here to reply. He had promised to me privately that he would be present here to reply to me in a similar vein in Sanskrit. But he is not here. Anyway, I would only say this to the Minister now:

संकटं करपातेन समृद्धिः करधारधारणात् ।

If this income-tax department, its working, fails, the whole administration is in danger of collapsing or will collapse. If they cannot manage this income-tax department, I do not think they will manage any other department efficiently or well. I said so last time. If you lose on income-tax, you will have *sankatam*, that is, crisis. If you gather income-tax well and administer the department well, you will have *samridhi*. Again:

सिद्धे; स्मिन् यहायत्ने किं न किष्यति क्षासने ।

If you succeed in this big task, —*mahayatna* if you set this income-tax department right, what else can you not achieve in administration?

I oppose, I deplore, the Minister's attitude to the resolution. I am sorry that he has taken up such an attitude. I would only commend my resolution for the acceptance of my hon. and wise Members of the House in spite of the Minister's opposition to it.

Mr. Deputy-Speaker: There are two amendments—one by Mulla Abdulla-bhai and the other by Shri D. C. Sharma. Both of them are absent. But I shall have to put the amendments to the vote of the House.

The question is:

That for the original Resolution, the following be substituted:

"This House recommends that a Committee consisting of seven members, not less than four of whom should be Members of Parliament, be constituted to enquire into and report within six months about the working of the income-tax department, with recommendations to improve the efficiency in the administration of the department, to remove the corruption and save the assessee from harassment—thus leading to quick assessment and better results in revenue collections."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

That for the original Resolution, the following be substituted:

"This House recommends that a Committee consisting of seven members, two of whom should be members of Parliament, one of whom should be Inspector General of Police, one of whom should be a retired Judge of the High Court, one of whom should be a representative of businessmen, one a representative of salaried classes and one a retired Income-Tax Commissioner, and presided over by the Finance Minister, Government of India, should be constituted to inquire into the working of the income-tax department and submit its report within eight months".

The motion was negatived.

Mr. Deputy-Speaker: The amendments are lost. Now, I shall put the Resolution to the vote of the House.

(Mr. Deputy-Speaker)

The question is:

"This House recommends that a Committee consisting of seven members, not less than four of whom should be members of Parliament, be constituted to enquire into and report within six months

about the working of the Income Tax Department, with recommendations to improve the efficiency in the administration of the department leading to quick assessment and better results in revenue collections."

The Lok Sabha divided: Ayes 11
Noes 67.

Division No. 1

[5-30 P. M.]

AYES

Chatterjee, Shri Tushar.
Chatterjee, Shri N. C.
Chowdhury, Shri N. B.
Das, Shri, B. C.
Deogam, Shri

Haneda, Shri Benjamin
Kamath, Shri
Maitra, Shri M. K.
Mukerjee, Shri H. N.
Muniswami, Shri N. R.

Reddi, Shri Ramachandra
Rastri, Shri Raja Ram
Singh, Shri R. N.
Sinha, Thakur Jagal Kishore
Waghmare, Shri

NOES

Abdus Sattar, Shri
Achal Singh, Seth
Altekar, Shri
Alva, Shri Joachim
Basappa, Shri
Bhagat, Shri B. R.
Bhargava, Pandit M. B.
Bhargava, Pandit Thakar Das
Bhatt, Shri C.
Brajeshwar Prasad, Shri
Chatterjee, Dr. Susilranjan
Chaturvedi, Shri
Chaudhary, Shri G. L.
Das, Shri Ram Dhani
Deshpande, Shri G. H.
Dubey, Shri R. G.
Dutta, Shri S. K.
Dwivedi, Shri M. L.
Eacharan, Shri I.
Elayaperumal, Shri
Gandhi, Shri Feroze
Gandhi, Shri M. M.
Gandhi, Shri V. B.

Ganga Devi, Shrimati
Haneda, Shri Subodh
Hazari, Shri J. N.
Hembrom, Shri
Hem Raj, Shri
Iyyunni, Shri C. R.
Jain, Shri N. S.
Jatav-vir, Dr.
Jayashri, Shrimati
Jethan, Shri
Joshi, Shri A. C.
Joshi, Shri Jethalal
Joshi, Shri Krishnacharya
Kakkan, Shri
Kamble, Dr.
Katham, Shri
Khan, Shri Sadat Ali
Krishna Chandra, Shri
Majithia, Sardar
Malaviya, Shri K. D.
More, Shri K. L.
Muhammed Shafiq, Chaudhuri

Murthy, Shri B. S.
Naidu, Shri R. G.
Narasimhan, Shri C. R.
Neekar, Shri P. S.
Natarajan, Shri
Nehru, Shrimati Shivrajvati
Pande, Shri B. D.
Patil, Shri S. K.
Rachinh, Shri N.
Rajabhoj, Shri P. N.
Ramaswamy, Shri S. V.
Ranbir Singh, Ch.
Raut, Shri Bholu
Sahu, Shri Rameshwar
Sarmata, Shri S. C.
Sharma, Shri K. R.
Singhal, Shri S. C.
Suresh Chandra, Dr.
Thimmaiah, Shri
Thomas, Shri A. M.
Tiwary, Pandit D. N.
Venkataraman, Shri

The motion was negatived.

RESOLUTION RE. REPRESENTATION OF AFRICAN AND ASIAN NATIONS IN U.N.O.

Shri Brajeshwar Prasad (Gaya East): May I seek your permission to just move my Resolution and resume my seat, so that I can speak on it next time?

Mr. Deputy-Speaker: There is one difficulty. The old business could be continued without a specific extension of the sitting; but, if a new business is to be taken up, the House would have to give its approval for a definite extension of the sitting. There ought

to be a specific extension of the sitting up to 5-30 P.M. Does the House approve of it?

Several Hon. Members: Yes.

Mr. Deputy-Speaker: The sitting extended up to 5-30 P.M.

Shri Brajeshwar Prasad: I beg move:

"This House recommends to the Government of India to press for the revision of the Charter of the United Nations so that African and Asian nations may be represented in the U.N.O. in proportion to their population and the