

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to amend the Coal Mines (Conservation and Safety) Act, 1952".

The motion was adopted.

Sardar Swaran Singh: I introduce the Bill.

ORISSA APPROPRIATION (No. 2)
BILL

The Deputy Minister of Finance (Shri B. R. Bhagat) On behalf of Shri Morarji Desai, I beg to move:

"That the Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Orissa for the financial year 1961-62, be taken into consideration".

Mr. Speaker: The question is:

"That the Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Orissa for the financial year 1961-62, be taken into consideration".

The motion was adopted.

Mr. Speaker: The question is:

"That clauses 1 to 3, the Schedule, the Enacting Formula and the Title stand part of the Bill".

The motion was adopted.

Clauses 1 to 3, the Schedule, the Enacting Formula and the Title were added to the Bill.

Shri B. R. Bhagat: I beg to move:

"That the Bill be passed".

Mr. Speaker: The question is:

"That the Bill be passed".

The motion was adopted.

12.09 hrs.

INCOME-TAX BILL—contd.

Mr. Speaker: The House will now resume further consideration of the following motion moved by Shri Morarji Desai on the 27th April 1961, namely:—

"That the Bill to consolidate and amend the law relating to income-tax and super-tax be referred to a Select Committee consisting of 30 members, namely, Shri K. R. Achar, Shri P. Subbiah Ambalam, Shri Amjad Ali, Shri Premji R. Assar, Shri Bahadur Singh, Shri Prafulla Chandra Borooah, Shri D. R. Chavan, Shri Shree Narayan Das, Shri Mulchand Dube, Shri M. L. Dwivedi, Shri D. A. Katti, Shri P. Kunhan, Shri Bhausahab Raosaheb Mahagaonkar, Shri Mahew Maniyangadan, Shri M. R. Masani, Shri T. C. N. Menon, Shri Radheshyam Ramkumar Morarka, Shri Narendrabhai Nathwani, Shri C. D. Pande, Shri Naval Prabhakar, Shri Ram Shanker Lal, Shri Shivram Rango Rane, Shri Jaganatha Rao, Shri K. V. Ramakrishna Reddy, Shri Asoke K. Sen, Shri Laistram Achaw Singh, Dr. Ram Subhag Singh, Shrimati Tarkeshwari Sinha, Shri Radhelal Vyas, and Shri Morarji Desai with instructions to report by the last day of the first week of the next session."

Shri N. R. Muniswamy (Vellore): May I raise a point of order, Sir, with regard to the motion moved by the hon. Minister of Finance yesterday referring the Bill to a Select Committee consisting of 30 Members? The form given in the Order Paper was for reference to a committee consisting of 20 Members. But what the hon. Minister exactly did was to refer it to a Select Committee consisting of 30 Members. The number was increased and it was not brought to the notice of the House. He may have reasons for raising the number by 10 more; there may be experts on

†Introduced with the recommendation of the President.

*Moved with the recommendation of the President.

income-tax law. But, still, he must bring it to our notice and the House must be aware of it. I do not want to visualise the reasons. The number might be very small. But without bringing it to the notice of the House and assigning reasons for it he should not have done it without anybody's knowledge.

Mr. Speaker: Whatever might have been there in the original motion, at the time of making the motion he could easily say that it is not 20 and that he would like to make it 30. Evidently, the hon. Member says that he has not made such a statement.

The Deputy Minister of Finance (Shri B. R. Bhagat): Sir, he made a motion for reference to a Select Committee consisting of 30 Members.

Mr. Speaker: He could easily have said that in the original motion he wanted to have 20 Members but that now he had made it 30. I can allow motions to be made correcting the original motion, if necessary. If the correction is of a substantial nature, the hon. Members can say that they were taken by surprise. Then, I would consider whether it is necessary to give some more time. But so far as the amendment of 20 to 30 is concerned, I do not think the business of the House should be interrupted. It does not make much difference.

Was any hon. Member in possession of the House?

Shri C. K. Bhattacharya (West Dinajpur): Mr. Speaker, Sir, I have given notice of an amendment to the motion of the hon. Finance Minister for reference of this Bill to the Select Committee. The amendment is this:

The following be added at the end:

"And also to consider and report on the provisions contained in the Indian Income-tax (Amendment) Bill 1961, by Shri C. K. Bhattacharya, M.P."

This is my amendment.

Shri V. P. Nayar (Quilon): Who is this Bhattacharya?

Mr. Speaker: It is himself.

Has the hon. Member's Bill been introduced?

Shri C. K. Bhattacharya: It has been introduced and it has received the sanction of the President also. In moving my amendment, I submit that there is a precedent for accepting such an amendment. If I remember aright, in 1954, when Dr. Katju was moving for the reference of the Criminal Law (Amendment) Bill to a Select Committee, there was a Bill by Shri Ramaswamy, who is now a Minister, pending for consideration of the House, and the House allowed both the Bills to be referred to the Select Committee together for the same purpose.

I hope you will kindly allow me to move this amendment so that my Bill which also deals with a very important matter, amendment of section 2, may be referred to the same Select Committee. The sections which I propose to . . .

Mr. Speaker: He need not go into details. The point is whether I should allow this amendment or not.

Shri C. K. Bhattacharya: . . . That is for your consideration, Sir.

Mr. Speaker: Does the hon. Minister want to say anything? The hon. Member has introduced his Bill to amend the Income-tax Act. He has obtained the sanction of the President also. That Bill will come up some other day. When is it coming?

Shri C. K. Bhattacharya: It may be coming on the 5th May.

Shri Narayanankutty Menon (Mukandapuram): May I point out this, Sir? The motion was moved by the hon. Minister yesterday. The hon. Member might have moved an

[Shri Narayanankutty Menon]

amendment yesterday. He might have given notice of it. Nobody knows what his amendment is.

Mr. Speaker: Apart from the question of surprise, all that the hon. Member wants is that when this Bill goes to the Select Committee the Select Committee may take into consideration the provisions of his Bill also. But the instance he quoted, Shri Ramaswamy's Bill, is not in point for this reason. Shri Ramaswamy's Bill was already referred to the same Select Committee. So, when this Bill comes for consideration he may move that the Bill may be referred to the same Select Committee so that they may have both the Bills before them for consideration and they may come to a conclusion. We cannot allow an amendment on some other Bill which has been introduced. Whether the House accepts it for consideration or not is still in doubt. We cannot go into that Bill now. If he had given an amendment already, that is a different matter. He has not done so. The only procedure which I can think of now is this. We cannot take the hon. Members by surprise. When the hon. Member's Bill comes up for consideration he may move that it may be referred to the same Select Committee.

Dr. M. S. Aney (Nagpur): The motion may come up on the 5th for consideration, but it may not be reached at all.

Mr. Speaker: I cannot help it.

Dr. M. S. Aney: That is another difficulty.

Shri C. K. Bhattacharya: Unless I get priority, my motion, though in the list, may not come up for consideration.

Shri Tyagi (Dehra Dun): The hon. Member's Bill is only an amending Bill. Now, since the whole of the Income-tax Act is being rewritten,

all the clauses are open for amendment in this House. So, whatever his Bill may be, it can come in the shape of amendments to this main Income-tax Bill. Therefore, he would be better advised to forward his suggestions to the Select Committee to be considered, whether they would accept them there. Or, when the Bill is considered here finally after the report of the Select Committee he may move his amendments to the respective clauses of the Bill.

Mr. Speaker: That is always open to a Member.

Shri Naushir Bharucha (East Khandesh): This amendment should not be permitted because when a Bill is referred to a Select Committee this House is presumed to have accepted in fact the basic principles. The House has not had the opportunity of discussing the basic principles underlying the Bill of my hon. friend. There may be conflicting principles in these two Bills and that might create complications.

Secondly, as you rightly observed, just because on one occasion a proposal of that type was allowed, this should not be done now. We are not aware of the circumstances under which it was done before. Probably, the Government approved the principles underlying the Bill of Shri Ramaswamy also. Therefore, it should not be done in the present case.

Mr. Speaker: I am not allowing the amendment. If the hon. Member thinks that his Bill must have priority, he can move the House. Certainly, the House may consider it favourably because a similar Bill is here. Or, if that is not carried, as Shri Tyagi has suggested, it is always open to any hon. Member to send suggestions to the Select Committee. I am not allowing this amendment.

Does any hon. Member want to speak? Shri Heda.

Shri Naushir Bharucha: What is the time allotted, Sir?

Mr. Speaker: The time allotted is 6 hours and the time taken already is 1 hour and 15 minutes. There are 4 hours and 45 minutes left. We will carry on till 2.30; thereafter it will stand over for the next day.

Shri Heda.

Shri Heda (Nizamabad): Mr. Speaker, Sir, I would start my speech by referring to the very first sentence of the Law Commission's Report. It runs like this:

"There is hardly any Act in the Indian Statute Book which is so complicated, so illogical in its arrangement and in some places so obscure as the Indian Income-tax Act of 1922."

Therefore, this comprehensive Bill was overdue; and I am glad that such a Bill has been introduced. This covers practically all the points so far raised.

The Finance Minister, in his speech itself, when he was analysing the objects of the Bill, referred to three factors. I would take the last factor and deal with it in the short span of time. The third category he mentioned was those which are designed to deal with the situation created by avoidance and evasion. He has used both the words. I am quite sure that he does not imply that both the words have the same meaning. There is a legal difference, between avoidance and evasion; and it has been accepted that avoidance is legal while evasion it illegal. Avoidance is taking place but that is not a legal offence; it is rather evasion.

If we look at the people who evade the taxes and try to study their psychology, I myself feel that we can better divide these evaders into three categories. One category of people are those who evade the tax because they enjoy evading taxes and they are in-

corrigible. They have made a profession of it and they try to evade payment of tax by every means by which they can evade the tax; whenever they do it and whenever they are successful, they enjoy the fun of it. The others are those people who are willy-nilly pushed into this category of evading the tax; many times they are being pushed into this category out of necessity. The third category is those who are persuaded to join this category; rather they are lured to evade the taxes. What happens is this.

If we look at the legal profession, a very large section of people are called income-tax practitioners. This is a lucrative job. In the old days civil practice was very lucrative that is in the days of Motilal Nehru, Tej Bahadur Sapru and others. But these days the income-tax practice has become very lucrative. People do not understand the procedure because it is cumbersome and complicated. So, people have to go to these income-tax practitioners. In the beginning they get the right advice. But slowly the idea gets into their head and when they have to pay so much extra money to the legal assistance, they feel; if we can avoid some tax, why not do it? They spend an extra sum of Rs. 1,000 or Rs. 2,000 or Rs. 10,000 a year and this very contact with the legal man or practising man lulls them into evading the tax and therefore, the situation that we have created is such that there is no other go but that there will be constant fight and clash of interests between the income-tax payers and the Government. The income-tax payers are guided and are helped by a big category of people, that is, these income-tax practitioners legal illuminaries. The Government is bringing forward amendments to the Income-tax Act. So many amendments had been there, and thereby confusion is created. We are not certain that even after the passing of this comprehensive Bill, there will be no amendments coming forward every year or there may not be even

[Shri Heda]

more than one amendment every year. Therefore, what is necessary is this. There should be in the income-tax department itself a section which would help a man to assess his income properly, to fill the form properly and to pay the tax due. If there is a division or department of this, like that—you may call it personal affairs contact or giving information—whereby anybody who is to pay the income-tax can come to this department and get proper assistance from there and also help in filling the form, he will have no need to go to these legal practitioners.

The other day when we were discussing the previous Bill—Advocates Bill—the hon. Law Minister referred to a wonderful scheme of legal aid which he had in his mind. Here I think legal aid, not by the lawyers but legal aid by the department itself, is very much necessary. The department has to change its attitude. Today the attitude of the department is: I am here only to punish you. This type of attitude is there and there is no attempt to help and assist, to come to rescue and solve the problems. This attitude is no good. The attitude should be, expressed in terms which had become popular, one like this: may I help you? This type of attitude is very much necessary. Anybody should be able to approach this section of the income-tax department and state his facts with the necessary documents and get the necessary help whenever he has any problem. Otherwise, as stated earlier, he will have to go to the legal practitioner. When he goes there, another circus starts. If you look at the social conditions in the USA or England or West Germany, you will find that tax evasion has become a very honourable thing; nobody is ashamed of it. Nobody is ashamed of saying that he tried it and that he was successful or not successful. There, the avoidance of taxation has become quite an honourable thing. Conditions are so developing that the same thing is happening here. Generally, it is

those people who are paying an income-tax of Rs. 10,000 or more, who are in close association with such people in the West. Therefore, tax evasion is increasing year after year.

12.26 hrs.

[DR. SUSHILA NAYAR *in the Chair*]

Government should in its own interest consider these problems. Here is a simple class of people who would like to devote all their attention and all their energy to greater production and earning more money and not thinking or contemplating measures by which they can evade taxes. The department should try to help these people and keep them as simple-minded as they would like to be.

Many times we have come across some people who say: what can we do? If we were to show our correct situation, then the objection comes unnecessarily: we are harassed and we have to pay more. I will cite one instance. I come from Hyderabad and a certain gentleman there owned an oil mill there. In a particular year the recovery of the oil out of groundnut was a little more than the average. It was about two per cent more than the average recovery of oil for the whole of Hyderabad and he showed it in the accounts and paid the taxes accordingly. Next year the recovery was not so high. It was higher by less than one per cent than the average recovery in the area. But the income-tax people came and they said: you had last year 29 and odd per cent recovery but this year you say you have got only 28 per cent; we will assess our taxes according to the last year's recovery and you will have to pay the tax accordingly. That becomes a very big sum. After all, in oil it is rather a mere processing business; it is not a manufacturing industry. Anyway, at that time he happened to be a Member of Parliament and therefore, he himself represented and in a way that case was amicably settled. But in many cases, what happens is this.

When people go with all the facts, without hiding anything, with the real vouchers and they state the truth, they find that they are in difficulty. That is so in spite of the fact that they had put forth all the information. People who do not do so, who have hidden something and brought things in another way, would be in an advantageous position. This situation is there. While this situation remains, the battle between the tax evaders and the income-tax payers and the Government would continue. In this battle, I have no doubt that the Government will never win the case. We know what it is. The Governments are formed by us. There are many new persons in particular and specialised jobs. But these income-tax payers are very intelligent and clever people and they have got the whole backing of the legal luminaries who are charging fees and who are being paid well. At the outset, I would put this point. Unless this is borne in mind, I do not think that this Act or any other Act would achieve the real purpose. With a view to check tax evasion, we should have some section in which such assistance can be given.

In the short time at our disposal, we tried to study the Bill. We received copies of this Bill two days back. I am not making any complaint. The Rules themselves say, that copies should be given two days before the Bill is taken up or something like that. The Bill is so big that it was not possible to study it in just two days. However, I have been able to note down one or two points. Now, since I had the occasion to travel outside India, to the east and the west, luckily, I came into contact with the Indians in those countries. The overseas Indians always had a particular problem as to how to send their money back to India. It is really a strange thing : we are in need of foreign exchange and we want the money to come from outside. Money was of course coming in the shape of

tax, loan, or any other thing, but the hard-earned money of our nationals abroad could not be sent here. There were so many difficulties that that money was not coming forward, I am glad to note that one of the improvements made in the Bill is in regard to this aspect of the matter. I have no idea whether the improvement will meet the difficulty in full; whether the Indians abroad could send their money here in full quantum or whether there will still be some lacuna or interpretation given in such a way that again there will be some difficulty or other in that regard.

What happens is, the people who are in charge of the implementation or the execution of the provisions do not like to see to the spirit of the scheme. They just look to the letter and they think that it is better to err on the side which would create harassment to the trader or business man rather than help him. That attitude, they think, is a safe attitude and therefore they take that attitude and because of that, many times it so happens that the Indian nationals abroad are not able to send money here.

There is another point to be remembered in this connection. From the point view of economics, it is not a very important point, but from the social and even from the national point of view, it is a very important one. Our people abroad are mostly traders and businessmen and therefore, the monies that they have earned, if those monies come back to India, will industrialise the country. But if the money is not allowed to come here, then they will find out the ways as to how to send it here. We know what happens. So many people go out from here with paltry foreign exchange, such as Rs. 75 or Rs. 100 or Rs. 200; they go and live outside for a fortnight or a month. We know how this foreign exchange is spent. Of course, they do send some money, even now. But then that is not the proper way. What happens finally is that it becomes a waste. If the amount that is

[Shri Heda]

sent here is Rs. 10,000 or Rs. 25,000—a lumpsum amount—then it could be invested in industries, small or big, in India, and thereby industrialisation will increase.

Lastly, I would like to refer to clause 275. It is a very good clause, in that we have brought into the orbit of the law an abettor. An abettor has to be punished equally, in the same manner as the man who is guilty of evasion. But the point is this: what is the definition of an abettor? If we mean by a abettor even an ordinary accountant who is earning just Rs. 100 or Rs. 200 in a particular firm; and if he is also included in the term abettor, there is a difficulty. Unless he has shared in the evasion of the tax, I do not think he should be thought of as an abettor. Therefore, I am not very happy about this definition. I am very much afraid that it will bring even a poor accountant of a firm, and bring the auditors and also the income-tax practitioners and lawyers, into the picture. Of course the lawyers and the income-tax practitioners would take care of themselves. I do not think that it will be possible for anybody to bring the income-tax practitioners and lawyers into this picture. But, however, I am pleading that the Joint Committee should consider this aspect when they go into the details, and they should see that the poor accountants who are either people employed in any firm or are persons who pay income-tax and super-tax are not accepted as abettors unless they themselves have shared the amount saved from evasion or have done wrong accounting and indulged in wrong practices. If they have carried out certain instructions in the natural course of their work, I plead that they should not be accepted as abettors.

Again, I would say that in future, whenever such comprehensive Bills come, we should be given more time. Nothing is lost even if the Bill is introduced a little earlier—that is, there may be a period of a fortnight bet-

ween its introduction and the commencement of the general discussion on it, so that a good thought could be given to the Bill by hon. Members who take interest in this subject and a real debate could take place in this House.

With these words, I support the Bill.

Shri N. R. Muniswamy: Mr. Chairman, at the outset, I wish to congratulate the hon. Minister for having brought in this consolidated Bill with a view to simplify the procedure and plug the loopholes in regard to evasion of taxes. I shall not take much time of the House, because this Bill is voluminous and we have not been able to give proper thought to every aspect of the Bill. But I wish to take up three points and bring them to the notice of the hon. Minister so that he may give some thought to them; the Select Committee may also consider those points.

My first point is with regard to the avoidance of taxation on which the previous speaker has made very many good points. The second point is, for the first time, this Bill has brought changes in the charitable trusts. The third point is in regard to the reopening of assessments. I shall leave aside other points and elaborate these three points only.

As regards avoidance of tax, the previous speaker has said that as long as there is a legal avoidance of the payment of any tax, the men concerned shall not be punished. I quite appreciate that point. People who have got the business tactics, who have got the ability to earn money, can also save money legitimately. When there are loopholes in the Act and when they could exploit the loopholes, nothing could be done with them and they could not be found fault with. I quite appreciate the point.

But then there are certain avoidances of taxation which we must abhor at the outset. In England I am

told that the husband and wife give only a joint return of their income. But here in India different returns have to be submitted by them. In India, marriage is said to be indissoluble; nobody can divide the husband and wife because they are supposed to be one in the eyes of the law. But in England, it is a matter of convenience. They could get it reversed. For the purposes of income-tax, they submit only joint returns. So, why cannot we in India have the same system. By having two different returns to be submitted, it looks as though they have got every right to evade payment of tax.

I will give an illustration instead of speaking theoretically. There are certain firms or limited companies where the husband who is having large shares in the firm can sell the shares either to his wife or to the minor children when he can realise or visualise that huge profits could come through dividends. Supposing he is likely to get a lakh of rupees at the end of a year, instead of giving something by way of tax to the Government, what he does is, he transfers or sells his shares, early enough, either in the name of his wife or his minor children. Thereby, the liability to the payment of tax is lessened. What he would otherwise have to pay as tax on the income through dividends can be diluted by not paying anything to the exchequer. That is the reason why I am insisting that there should be some provision by which such loopholes could be avoided. These loopholes should not be allowed; even now they are being allowed. I only wish that the Select Committee should give some thought to it and see that if there is a return to be submitted by the husband and wife or minor children, they must all pool together their resources and be made to submit a Joint return so that they cannot escape from payment of legitimate tax to Government.

Then, this is the first time that charitable trusts have been brought in. All along, the charitable trusts have been carrying on business from out of

the income which they could otherwise utilise for the purposes of the charities for which the trust was created. The provision is good, since for so many years we have been seeing that the money has been accumulated and not spent for the purposes for which the trust was created, and no tax was paid. For the first time, this consolidated Bill has now thought of plugging that loophole also. Now, it is provided that whoever sets apart more than 25 per cent of the income is liable to pay tax. If they set apart more than 25 per cent, they have to pay. If it is less than 25 per cent, they are not liable to pay. This is a very good piece of legislation. A trust should see that they spend the money for the purpose for which the trust was created. This is a very welcome feature of the Bill, making charitable trusts also pay tax.

Coming to re-opening of assessment, there are three types of re-opening assessment. Re-opening assessments within a period of 4 years, 8 years and 16 years have been incorporated here. If a particular individual is not being properly taxed or after having been taxed, if they find subsequently that due to some wrong information, they have omitted to tax him properly, they can ask for a fresh assessment. They issue notice and a period of 8 years has been given. Within a period of 8 years, from the assessment period, if they find that a man has escaped assessment, they can re-open it and ask him to pay by giving him notice.

The other aspect is regarding 16 years, if the income is over Rs. 1 lakh in the aggregate for that year and for any other year or years—maybe four or five years put together—within that period, then he will be liable to pay by re-opening the assessment. One important feature now added is, if in a particular year the escaped assessment amounts to Rs. 50,000 or more, in that case only it can be re-opened, in the period between 8 years and 16 years. Originally, even if it was Rs. 10,000 or Rs. 5,000 in that year, if it comes to Rs. 1 lakh for four or

[Shri N. R. Muniswamy]

five years put together, then they could reopen it. Now, they have put a certain limit that in one year it must not be below Rs. 50,000. If it is above Rs. 50,000 in one year and if clubbed together for four or five years it exceeds Rs. 1 lakh, then it can be re-opened.

One difficulty is, who will preserve the document and accounts? There are various accounts, day book, ledgers, journals, etc. For a period of 16 years, to expect a particular firm or individual to keep them preserved will be creating a hardship on the assessee. Unless we have a provision in the Act itself that every assessee must preserve the accounts for a period of 20 years, we cannot compel him to do so. In the absence of a specific provision enjoining on the assessee a liability to preserve the documents, journals, accounts, etc. in respect of an assessment for any particular year, for a period of 20 years, we cannot press him or demand of him to bring all the documents. It is quite possible that he might have destroyed them. Even Government destroy the documents after a period of 12 or 15 years; they have got a category of destruction.

Shri V. P. Nayar: Does the hon. Member know that by certain decisions of the Supreme Court, even cases which have been settled by the Income-tax Investigation Commission have been taken away and there is no other chance except to give it retrospective effect, if you want to bring in more revenue? There are 1500 cases like that.

Shri N. R. Muniswamy: I appreciate the point. But unless we have a specific provision in the Act throwing a net that they must preserve the documents and accounts for 20 years without destruction, it will be creating a hardship to compel them to produce the documents. I only want it to be regularised. I do not disagree with my friend, Shri Nayar, but there must be a special provision. After all, you cannot go against a judgment

or verdict of the Supreme Court. I only want that that loophole has to be plugged and a provision made in the Act enjoining on the assessee to preserve the accounts for a period of 20 years or the period within which he can be brought to book.

If information is given to any officer that a particular individual has escaped assessment or that he has segregated some amount by not bringing it into account, one aspect has to be borne in mind. Any information that has been brought to the authorities with a view to re-open a particular assessment must be *bona fide* or it must be authentic. Otherwise, anybody can write an anonymous letter. I know that in several cases, somebody writes an anonymous letter and that gives good cause to the officer to harass the man. Therefore, they must examine it before issuing notice.

I know there may be provisions here that they must get the approval of the Assistant Commissioner before re-opening the assessment. With all that, the information must be authentic. In case after re-opening the assessment, they are not able to succeed, what is the penalty against the Government or the officer? The officer must be duty-bound to see that he is not causing any harassment to any assessee, while he is helping Government in getting more money for the exchequer. He must examine the information properly. I know for certain that the officer may get approval from the Board of Revenue or other high officers, but that does not remove his liability. He must examine it and see if it is a fit case for reopening. If he finds that there is no scope for reopening and what was originally assessed is right, there must be some penalty or something against the officer. Otherwise, there will be harassment. It should be both ways and not one way.

I know a penalty has been provided in case of evasion. If it is really found that there has been evasion,

not only penalty must be imposed, but there must be some other punishment also. For instance, if it is some business, the licence or recognition must be withdrawn, because he might possibly repeat the same offence in a different way to recoup the loss. These businessmen and entrepreneurs have got better brains than the administrators. Whatever methods you adopt to realise more money for the Government, with their better brains, they will try to evade the provisions. We are trying to plug that loophole. I submit that there must be reciprocity both on the officers and the assessee with regard to penalty.

Coming to abetment, 'abettor' has been very well defined in the Indian Penal Code and I suggest that the same definition should be adopted in this Act. To say that the clerk or the person who tabulates the accounts or submits the return must also be held responsible, I think, is too much. In that case, even the auditor who is helping not only the assessee, but the Government in presenting an honest and straight forward account might also be covered possibly, because it is with his knowledge and his consent that the accounts are being prepared. We know that many of the income-tax assesseees have got two or three accounts: one for themselves to know their real income, another account to be presented to the public and a third account to be presented to the Government. While presenting the accounts to the Government, the way in which they dexterously manage the presentation of accounting is superb. It is very difficult to know their technique. Only businessmen and those who lend money know how they manage the accounts.

I know the difficulties of the officers. They have so many cases in their files about evasions brought to their notice and with great difficulty, they are able to succeed. Sometimes they do not succeed, after

going through all the trouble. Therefore, an abettor must be taken to mean only what is defined in the Indian Penal Code itself.

One other salutary provision in the Act is with regard to the recovery of arrears. Originally they have been resorting to the Revenue Recovery Act with the help of the State Governments. I am happy to see that they have now got their own staff for recovery of arrears. I have not gone through the entire gamut of the provisions. So long as they depended on the State Governments, there are different Revenue Recovery Acts in different States and even in the same State, the recovery is done in different fashions.

So they have consolidated them in the Bill, and I am sure we can recover the entire money now.

My next point is about efficiency and honesty even in the administration and among the officers. They must not only be helpful to the assesseees, but they must also be helpful to the Government. Sometimes their helpful character changes from person to person. There are some persons who have got the knack of escaping assessment, who have got the knack of getting the upper hand over others. At the same time, there are certain communities, I know, who always present good accounts. There is no question of their being not genuine accounts. They are all genuine accounts. In such cases one can always believe their accounts. Sometimes they even pay more than what the Government expect them to pay. Such things we have seen with our own eyes. I feel that in such cases, where persons voluntarily pay extra money on the basis of their income which our people have not been able to find out, they must be given certificates of merit saying that they are honest persons.

My last point is about the practitioners. I only want that people who were originally in the depart-

[Shri N. R. Muniswamy]

ment should not be encouraged. I do not want that those who were in the department, those who have the knack of presenting the accounts and other things, should be debarred from practising.

With these words, Sir, I support the motion.

Shri Damani (Jalore): Mr. Chairman, after the Companies (Amendment) Act, this is a very important legislative measure which has been brought before the House. This Bill is based on the report of the Law Commission and on the report of the Tyagi Committee. I will be failing in my duty if I do not thank the members of the Law Commission and the Tyagi Committee for the hard work in presenting their respective reports.

The aim of this Bill is to simplify the language of the Act so that even an ordinary man can understand the clauses, and also to plug the loopholes with a view to tightening up the measure to avoid evasion of tax. As far as that aim is concerned, I can say that to a large extent the purpose is being served by this Bill. The language has been simplified. Many clauses have been modified so as to avoid evasion of tax and ensure speedy disposal of cases.

I would also like to say that in this Bill the interests of the Government and the assessee have also been kept in mind, and due care has been taken to ensure full justice to all the parties concerned. This Bill is now being forwarded to a Select Committee. The Select Committee will consider the provisions thoroughly and make suitable amendments, so that it becomes more simple and incorporates whatever more strict measures are in the interest of the public as well as in the interest of the Government.

I would like first to draw the attention of the House to certain

revolutionary changes made in regard to charitable trusts. According to the new provisions, there is a chance that many complications may arise as far as charitable trusts are concerned. There are many charitable trusts which are doing very good work and giving great benefit to the general public in the fields of education, maternity and child welfare, medical relief, relief to the poor etc. My feeling is that these should be amended in such a way that those trusts which are doing very good work for the benefit of the public should not be hard hit on account of the provisions contained in the Act. I would, therefore, request that proper care should be taken to see that when the loopholes for misuse of the clauses of the law are plugged the charitable trusts which are doing good service to the general public are not affected.

There is one important thing that I would like to say. It is a welcome feature that in the computation of salary any amount paid by the assessee in respect of tax on profession, trade, calling under state law would be allowed. But there is another provision whereby deduction for entertainment allowance shall only be allowed if it has been continuously received from the present employer from 1st April, 1955, up to the limit of one-fifth or Rs. 7500 whichever is less.

I want to seek a clarification. What about those officers or persons who are appointed after 1st April, 1955? As industry and trade are expanding in the country, more and more people are being appointed with the benefit of entertainment allowance. When people who were appointed before 1st April, 1955 are entitled to get the advantage, I would like to know the position of those persons who are appointed after 1st April 1955. I would like to know whether they would be entitled to deduction of the entertainment allowance or

not. I would be very grateful if the hon. Minister clarifies that point in his reply.

Now about the procedure for assessment. According to the new Bill as required under section 22(1) of the existing Act a general public notice is not required to be given. That is understandable. But the return is to be filed within four months of the end of the previous year or 30th June whichever is later. I want to submit that as far as the return of individuals is concerned, it can be filed within the time limit as mentioned in the Bill, but as far as companies in the corporate section are concerned it will be difficult to see that the returns are filed within four months as required under the Bill.

I would like to point out that in the Companies Act, 1956, nine months were provided for completion of audit and presentation of balance-sheet to the general meeting. Under the Companies (Amendment) Act, 1960, six months are provided. This Bill provides that within four months the returns should be submitted. The companies have to get their accounts audited by the auditors. Then they have to present their accounts to the annual general meeting. It is only after the general meeting has approved the accounts that they can file the returns. This is a long process. They have first to depend on the auditors to get their accounts audited, then they have to call a general meeting and place their accounts to the general meeting, and only after the general meeting has adopted their accounts they can file their return. I think four months will be a very short time and it will create difficulties. I understand that the officials can extend the time by two further months. But up to 1956 we were allowing nine months. Then it was reduced to six months. Now it is reduced further to four months. That will cause real hardship to the companies. Therefore, I suggest that this matter should be

looked into properly and sufficient time should be given so that they experience no difficulty. Of course, even now they can ask for further extension of time from the ITO. But that way; some time is wasted which can very well be avoided. Therefore, I would suggest that the time should be extended.

13 hrs.

Then I come to interest on delayed payment and refund. A new provision has been made whereby the assessee will be charged four per cent interest till the date of payment of tax. But, as far as refund is concerned, exemption has been given for a period of six months to the officials. I think that will not result in efficiency. Therefore either this period of six months for refund should be reduced, or interest should be allowed on the refund, say, after one or two months, so that both parties are placed on an equal footing. If there is any delay on the part of the officials in making refund, they should naturally give interest to the assessee, say, after two months. That is a matter for consideration by Select Committee.

Then I come to the clauses dealing with assessment, reassessment and assessment of escaped income. When we are attempting to simplify the law, it would be appropriate if we look to the point of completion of the assessments too. A period of four years from the end of assessment year should be regarded as a long period. I feel that a period of three years should suffice. I also feel that assessment of income up to Rs. 10,000 should be completed within a period of two years. In the earlier enactment the period fixed was four years. As we want to simplify the procedure and improve efficiency by this Bill, I think the time should be reduced from four years to three years. This will result in quicker disposal of cases.

Coming to the assessment of firms, it is a fact that to a considerable ex-

[Shri Damani]

tent registration of firms etc. has been simplified. There are two kinds of firms, registered and unregistered. As far as filing of registration annually is concerned, that has been withdrawn. In its place, only a declaration of continuity of partnership alone is required. That would be very simple. But I do not understand why the distinction between registered and unregistered firms is still being maintained. That will continue to create many complications and legal difficulties. If all the firms are treated as registered firms then the matter would be very clear and so many legal difficulties could be avoided. Although Government may have to lose a little amount of revenue by this process, that will be compensated by quicker recoveries, less complication, less litigation. Therefore this also requires consideration.

Coming to private companies in liquidation the Bill suggests a revolutionary change that directors and shareholders will be called upon to pay for the taxes on the incomes of previous years during which they were directors and members. I do not think such extreme measures have been incorporated in any law in any part of the world. So, I want that to be reconsidered by the hon. Finance Minister.

Then, for the sake of better understanding, I would like to suggest that whatever clarification is made on the interpretation of the law by the department for the use of its officers that should also be supplied to the public. In that case, there will be less chance of difference of opinion and disposal of cases will be much quicker.

Lastly, Sir, the relations between the income-tax department and assessing public have been subject to a good deal of complaint and grievance. It is necessary to have an understanding between these two agencies and a proper sympathetic approach to the

problem should be made. It should lead to lesser harassment and difficulties of the assessee should be appreciated and lessened by the department. In short, human element is involved and, therefore, demands better treatment.

Sir, I would like to draw the attention of the House to the opinion of the Law Commission as well as the U.K. Royal Commission;

"There can be no real simplification of Income-tax Law without simplification of tax structure."

I hope in the next budget the tax structure would be simplified.

Mr. Chairman: Shri Nauchir Bharucha.

Shri Naushir Bharucha: May I request you that I should be permitted to speak on Monday?

Mr. Chairman: The hon. Member's name was put in this order by the hon. Speaker and that is why I called him. If he wants to speak on Monday, he can do so. Now Pandit K. C. Sharma,

Pandit K. C. Sharma (Hapur): This is a very difficult piece of law. It is a problem not in India alone, but it is a problem that the government faces all over the world. The root of the trouble is before the twentieth century the taxes were ranging from 5 to 10 per cent, and almost religious sanctity was attached to the payment of tax from 5 to 10 per cent. People were willing to pay it and they had certain idea of superstition that unless they pay it, nemesis will overtake them. In the twentieth century, with the high conception of welfare State, the taxes began to rise, and as taxes began to rise avoidance and evasion came in. Now, the avoidance is a very difficult process to be dealt with. For instance suppose a man has a car, uses it for private purposes and writes it down in the business account. Or his wife may be working as a

secretary; though there is no work for the secretary, she is employed as secretary and paid money. Though his boy goes to school, his name is entered as a peon in the office. It is a simple way of avoiding tax and it is very difficult for the authorities, however clever they may be, to go in detail and find out this subterfuge. Evasion of tax is, of course, an offence under the Indian Income-tax Act. But very clever minds are engaged to advise them on how taxes could be evaded. It is very difficult to meet this situation, because this process is going on all over the world. In this process one clever man surpasses another clever man, and the genius of persons for avoiding and evading taxes surpasses not only the ordinary intelligence, but even the mature experience of even super-administrators.

Shri Morarji Desai has done well in bringing forward this Bill and he has laboured hard to find a satisfactory solution to many of the problems. But it is too much to hope that the difficulties that we face would be met by the Bill as it has come before us. One social aspect, however, is very alarming and it is this. In the modern criminology a class of big criminals have cropped up. Formerly a man was given to committing crime under some pressing necessity and he had no social influence; he had no social prestige. Now it is this class of big criminals who do the most nasty things and still pass on as respectable people. Therefore, the whole fabric of society gets corrupted.

The whole process starts like this. A man is a law-abiding citizen, willing to help the police and the administration. Now with 25 or 30 per cent rise in taxation, he begins to find ways of evading taxes and in the process gets help from the cleverer section of the people. His disrespect for law begins from this. This man who is liable to pay heavy taxes passes as a respectable citizen in the society. He begins to disobey the law. Once he begins to disobey the law and begins

427 (A) LSD—5.

in terms of keeping back the money to himself, he does not stop here. Evasion of taxes and smuggling are the two factors now coming in in the field of criminology and are responsible for a big class of criminals. They do not stop with the evasion of taxes; nor do they stop with smuggling. Once the law is broken, more serious laws are broken. They ultimately end in murders. They would not commit murders themselves. They contrive to get gangs of people; they contrive to get children kidnapped. These are big set of criminals.

So my respectful submission is that tax-evasion simple as it is in the beginning, to start with, ends in murders and more heinous crimes. Therefore, it is time that the penalty clauses should not be looked upon as a simple preventive measure but should be treated as punitive measures. This has become a serious menace. Madam Chairman, if one were to look into crimes committed in big cities, he would find that they are not committed by ordinary citizens, not by the men who are pressed hard by the necessities of life, but by big criminals behind the curtain, employing means which no police can catch. So, this is a serious situation. I, therefore, beg to submit that from the social point of view, from the law and order point of view, the punitive sections should be harsher so that these may be put an end to.

This should not be merely treated as a revenue measure. It is a measure for the good of society; for the maintenance of the moral of society. With these words I once more congratulate the hon. the Finance Minister for bringing forward a very comprehensive Bill, and this being a problem found all over the world, I am sure the Select Committee would improve it to the best of its ability.

श्री राम कृष्ण गुप्त (महेन्द्रगढ़) :
सभापति महोदय, मैं इस बात के लिए बहुत खुश हूँ कि जो हमारा पुराना इनकम टैक्स एक्ट सन् १९२२ का था उसमें काम में जो

[श्री राम कृष्ण गुप्त]

प्रैक्टिकल डिफिकल्टीज आती थीं, उन डिफिकल्टीज को पूरा करने के लिए गवर्नमेंट आफ इंडिया ने कई दफा पहले भी कोशिश की, जो हमारा पुराना एक्ट था उस को २६ दफा अमेंड किया गया, लेकिन फिर भी कोई न कोई कमी रह जाती थी। उस मकसद को पूरा करने के लिए पहला कदम यह उठाया गया कि सन् १९५६ में ला कमिशन को यह मामला रिफर किया गया उस के बाद डाइरेक्ट टैक्सेशन ऐडमिनिस्ट्रेशन एम्बवायरी कमेटी मुकर्रर की गई। इस बिल को उन दोनों की रिपोर्टों की मौजूदगी में, दोनों की सिफारिशों के मुताबिक अमेंड किया जा रहा है।

जब हम इस बिल के एम्स एंड आब्जेक्ट्स को देखते हैं, तो उन को देखने से पता चलता है कि जो नया बिल तैयार किया जा रहा है उस का सब से बड़ा एम यह है कि असेसीज को कम से कम इनकन्वीनिएस हो और टैक्सेज के अन्दर जो इवेजन या चोरी होती है उस को रोका जाय। इस लिए अब हमारे सामने यह सवाल है कि इस बिल के पास होने से जो दिक्कतें हैं वह कहां तक दूर हो जायेंगी, इवेजन को कहां तक रोका जा सकेगा और ला को कितना सिम्पल बनाया जायेगा। इन बातों को सोचते हुए मैं ज्वार्येंट कमेटी के सामने चन्द तजवीजें रखना चाहता हूं और पूरा यकीन है कि उन पर जरूर विचार किया जायेगा।

सब से पहला सवाल जो मैं इस मौके पर लाना चाहता हूं वह यह है कि इनकम टैक्स का कलेक्शन कैसे किया जाय। इस का कुछ बेहतर और ठीक इन्तजाम होना चाहिये। मैं यह बात इस लिए कह रहा हूं कि अगर हम पिछले सालों की रिपोर्ट्स को देखें, खास तौर पर वार के बाद के पीरियड को, तो पायेंगे कि एरियर्स बढ़ते जा रहे हैं। इस बात का जिक्र जो डाइरेक्ट टैक्सेशन

ऐडमिनिस्ट्रेशन इन्क्वायरी कमेटी की रिपोर्ट है, उस में भी किया गया है। उस रिपोर्ट के सफा १०० पर कहा गया है :

“सन् १९५४-५५ में जब कि कुल एरियर्स २०५ करोड़ ७० लाख थे, सन् १९५७-५८ में वह २८१ करोड़ २८ लाख हो गये।”

इस रिपोर्ट में यह भी जाहिर किया गया है जो यह एरियर्स बढ़े उसके कारण क्या थे। जहां तक मैं ने उनको स्टडी किया, उस के दो, तीन कारण थे। सब से बड़ा कारण तो यह था कि वार के जमाने में स्टाक कम था जिस की वजह से या तो टैक्सेज को लगाया नहीं गया या ओवर एस्टिमेट किया गया। मैं यह दो बातें इम लिए कह रहा हूं कि हमारे सामने यह बड़ा अहम सवाल है कि अगर हम टैक्सेज के एरियर्स को वसूल करने में कामयाब हो जायें, अगर कलेक्शन ठीक हो तो हमारी काफी दिक्कतें और खामियां जो इस सिलसिले में हैं, वे दूर हो सकती हैं। इस के लिए जो इस बिल के अन्दर नया क्लज है मैं उस की तरफ हाउस का ध्यान दिलाना चाहता हूं। क्लज २, सब क्लज ४४ में कहा गया है :

“Tax Recovery Officer” means—

- (i) A Collector;
- (ii) an additional Collector or any other officer authorised to exercise the powers of a Collector under any law relating to land revenue for the time being in force in a State; or
- (iii) any officer of the Central or a State Government who may be authorised by the Central Government, etc., etc.”

यह एक बहुत अच्छा इम्प्रूवमेंट है, इस बारे में मैं सिर्फ एक ही तजवीज रखना चाहता हूँ और मुझे आशा है कि ज्वार्येंट कमेटी उस पर विचार करेगी। इस रिपोर्ट को देखने से पता चलता है कि सब से बड़ी डिफिकल्टी टैक्स कलेक्ट करने में यह थी कि जो क्लेक्शन मैशिनरी थी वह स्टेटवाइज डिफरेंट थी। सेंट्रल गवर्नमेंट का उस पर कोई कंट्रोल नहीं था : इस लिए मेरी समझ में यह बहुत नहीं आयी। हम देखते हैं कि पहले यह डिफिकल्टी थी और अब डेफीनीशन में यह कहा जाता है :

“an additional Collector or any other officer authorised to exercise the powers of a Collector under any law relating to land revenue.”

मैं यह बात चाहता हूँ कि जो स्टेट्स के कलेक्टर हैं उनको यह काम बिल्कुल न दिया जाए वरना यह डिफिकल्टी बाद में फिर एराइज होगी और जो बिल ऐक्ट बनेगा उसको अमेंड करना पड़ेगा। कलेक्टर के पास अपना काफी काम रहता है और उसके अलावा वह ज्यादा ध्यान देगा रेवन्यू के वसूल करने में और इस की तरफ ज्यादा ध्यान नहीं दे पाएगा। इसलिए मैं चाहता हूँ कि इस के लिए अलग आफिसर मुकर्रर किया जाए जो सेंट्रल गवर्नमेंट के अन्डर हो और वह इस काम को पूरा करे। मुझे पूरा विश्वास कि ऐसा करने से टैक्स कलेक्ट करने में जो दिक्कतें आती हैं वे काफी हद तक दूर हो सकती हैं।

दूसरी तजवीज जो त्यागी कमेटी ने इस के बारे में की है वह है इंटरैस्ट का मुकर्रर किया जाना। मैं समझता हूँ कि यह एक बहुत अच्छी तजवीज है। इसके लगाने से भी काफी दिक्कतें दूर हो सकती हैं और एरियर्स ज्यादा नहीं होंगे। इसके बारे

में मैं थोड़ा सा क्लेरीफिकेशन चाहता हूँ। माननीय मंत्री जी ने भी कल अपनी स्पीच में इस बात की तरफ इशारा किया और कहा :

“This is in addition to any penalty the assessee may incur for default in payment of tax. Interest is payable even if time is granted for paying the tax beyond the period specified in the demand notice.”

मैं सिर्फ इतना ही जानना चाहता हूँ कि अगर इंस्टालमेंट के जरिए इनकम टैक्स वसूल किया जाए तो उस वक्त क्या प्रोसीज्योर होगा और जो हमारा पूरा एरियर्स है उसके मुताल्लिक क्या पोजीशन होगी। पिछले दिनों मैं ने हाउस में एक सवाल किया था और उस का जवाब देते हुए यह कहा गया था कि जो एरियर्स वसूल करने के लिए इंस्टालमेंट लगाए गए हैं उन पर इंटरैस्ट नहीं लगाया जाता। मैं चाहता हूँ कि यह चीज साफ की जाए कि जो पूरा एरियर्स बाकी है चाहे वह किसी पीरियड का हो, उसको वसूल करने के लिए भी इस बिल को इस ढंग से अमेंड किया जाय कि हम उस पर इंटरैस्ट वसूल कर सकें। वरना मुझे डर है कि वह रकम वसूल न हो सकेगी।

दूसरे इस बिल का जो क्लॉज २२० है उसके जरिए जो आफिसर्स को ताकत दी गयी है वह बहुत वाइड है। इसलिए भी मैं चाहता हूँ कि इस चीज को और ज्यादा डिफाइन किया जाए और साफ किया जाए। जैसा कि मैं ने आपसे अभी कहा, इसमें दिया गया है :

“220(3). Without prejudice to the provisions contained in subsection (2), on an application made by the assessee before the expiry of the due date under subsection (1), the Income-tax Officer may extend the time for payment or allow payment by instal-

[श्री राम कृष्ण गुप्त]

ments, subject to such conditions as he may think fit to impose..”

जहाँ तक य लफज इसमें आए हैं “subject to such condition as he may think fit to impose”

मैं जानना चाहता हूँ कि इनका क्या मतलब है। क्या उसको यह भी पावर हासिल है कि जो इंटरैस्ट लिया जाएगा उसको भी वह एग्जम्प्ट कर सकता है। अगर ऐसा है तो मैं समझता हूँ कि इस क्लॉज से कोई फायदा नहीं होगा।

दूसरे मुझे यह भी एतराज है कि जो रेट मुकर्रर किया गया है वह बहुत कम है। ला कमीशन ने १० पर सेंट मुकर्रर किया, त्यागी कमीशन ने ६ पर सेंट मुकर्रर किया लेकिन गवर्नमेंट ने इस बिल के अन्दर सिर्फ ४ पर सेंट मुकर्रर किया है। मैं चाहता हूँ कि इस रेट को बढ़ा कर अगर १० पर सेंट नहीं तो कम से कम ६ पर सेंट जरूर कर दिया जाए।

इसके बाद जो दूसरा सवाल है वह बहुत अहम है। वह सवाल टैक्स इवेजन का है। यह मामला हाउस में भी कई दफा आया। इसके बारे में, जैसा कि मैं ने अभी कहा, पहले हमारे सामने यह सवाल है कि हम यह मालूम करे कि टैक्सेज जो इवड होते हैं उनके कौन कौन से काज्ज हैं और उनको कैसे रिमूव किया जा सकता है। जहाँ तक मैं ने इस बात को समझाने की कोशिश की है, एक काज्ज तो कम्प्लीकेटड प्रोसीज्योर है। मुझे पूरा विश्वास है कि इस बिल के पास होने से और प्रोसीज्योर को सिम्पलीफाइड करने से टैक्सेज की चोरी कम हो सकती है। इसके अलावा मैं यह भी समझता हूँ कि एक्सपीरिएन्सड आफिसर्स की भी कमी है जो कि उन तमाम बारीकियों को समझ सकें कि किस तरीके से बड़े कैपिटलिस्ट टैक्स को इवड करने में कामयाब हो जाते हैं।

इस कठिनाई पर इसी तरह से काबू पाया जा सकता है कि स्टाफ को बाकायदा ट्रेन किया जाय। उनको इस काम की तमाम चीजें सिखलाई जाएं ताकि वह इस काम में कामयाब हों।

इसके बाद जहाँ तक पनिशमेंट का सवाल है, मुझ से पहले मेरे दोस्त ने भी इसका जिक्र किया। मैं समझता हूँ कि अगर आप चाहते हैं कि टैक्स इवेजन न हो तो उसके लिए आप को और सख्त सजाएं मुकर्रर करनी पड़ेंगी। अगर हम पिछले तजरबे को देखें तो मैं यह कहे बगैर नहीं रहूंगा कि इस बात के बावजूद कि पुराने एक्ट में यह प्रावीजन था कि जो जो टैक्स छिपाया जाए या इवड किया जाए उसकी वसूली के लिए १५० पर सेंट बतौर पैनाल्टी के मुकर्रर किया जा सकता था, क्या आप एक भी ऐसा केस बतला सकते हैं जिसमें १५० पर सेंट की पैनाल्टी मुकर्रर की गयी हो। यह ठीक है कि इसकी कुछ लिमिट मुकर्रर कर दी गयी है, लेकिन मैं समझता हूँ कि वह लिमिट बहुत कम है। इसके अलावा मैं यह भी समझता हूँ कि जब तक आप इम्प्रिजनमेंट के लिए इसके अन्दर कोई क्लॉज नहीं रखेंगे तब तक यह बीमारी दूर नहीं हो सकती और इस बीमारी को दूर करना सबसे ज्यादा जरूरी है क्योंकि इसका हमारी सोसाइटी पर बहुत बुरा असर पड़ रहा है, और इसको तभी रोका जा सकता है, जब उन लोगों को जुरमाने के अलावा सजाएं भी दी सकें और इम्प्रिजनमेंट की सजा दी जा सके। मुझे पूरा विश्वास है कि अगर इन दो तीन बातों पर विचार किया गया तो ये सारी दिक्कतें बड़ी हद तक दूर हो सकती हैं।

इसके अलावा मेरी यह राय भी है कि एक स्पेशलिस्ट्स का बोर्ड भी मुकर्रर किया जाए। त्यागी कमेटी ने भी इस बात की सिफारिश की है। जैसा मैं ने कहा,

इनकम टैक्स के इवेजन् के लिए बहुत से डबल हिसाब किताब रख जाते हैं, बैंकों में फिक्टीशस नामों से रकमें जमा की जाती हैं जिनका पता लगाना बड़ा मुश्किल है इसका पता लगाने के लिए आपको कोई न कोई खास तरीका अख्तियार करना होगा और यह तभी हो सकता है जब आप इसके लिए एक बोर्ड आफ स्पेशलिस्ट मुकर्रर क जो इन तमाम बातों पर विचार करे और इन चीजों को रोकने की कोशिश करे। इसके बारे में मैं यह भी चाहता हूँ कि जो इनकम इनवेस्टीगेशन कमीशन मुकर्रर किया गया उसकी तमाम डिटेल्ड रिपोर्ट्स हाउस के सामने रखी जाएं। मैं यह बात इसलिए कहता हूँ कि उन रिपोर्ट्स को देखने से आपको पता चलेगा कि क्या क्या तरीके टैक्स को इवेड करने के लिए इस्तमाल किए जाते हैं। मैंने उनमें से दो चार रिपोर्ट्स को गौर से पढ़ा है। मैं चाहता हूँ कि वे तमाम रिपोर्ट्स डिटेल् में हाउस के सामने रखी जाएं ताकि इन बातों के जो सीक्रेट हैं उनका पता चल सके और उनको रोकने के लिए कोशिश की जा सके।

मैं इस बात के लिए भी जोर देता हूँ क्योंकि इस बिल में इसके लिए कोई प्रावीजन नहीं है, हालांकि त्यागी कमेटी ने इस बात की भी सिफारिश की थी compulsory audit of accounts of incomes exceeding certain limits। मैं यह नहीं चाहता कि जिन लोगों की थोड़ी आमदनी है उनके एकाउंट को आडिट करने के लिए कोई क्लज रखी जाए, लेकिन जिन लोगों की आमदनी एक लाख या इससे ज्यादा है, उनका आडिट कम्पलसरी होना चाहिए, और जब तक आप ऐसा नहीं करेंगे यह बीमारी दूर नहीं हो सकती।

इसके लिए मैं यह भी चाहता हूँ कि बैंकों पर हमारा कंट्रोल होना चाहिए। त्यागी कमेटी ने भी इस बारे में सुफ़हा १६०

पर अपनी राय जाहिर की थी, लेकिन बाद में कुछ चेम्बर आफ कर्मर्स का डेपूटेशन उनसे मिला, और मैं नहीं समझता कि इस मामले में क्यों नहीं ज्यादा जोर दिया गया। उस रिपोर्ट में यह कहा गया है :

“We appreciate the difficulties pointed out, but we feel that a change should be made in one direction, and that is that banks and other credit institutions should be required to give the names and addresses of their constituents the sum total of whose deposits or withdrawals exceeds Rs. 1 lakh a year.”

यह बात मैंने इस लिये कही है और जो इनवेस्टीगेशन कमीशन की रिपोर्ट है उसको मैं आप के सामने रखूँ तो आप इस बात को महसूस करेंगे। सन् १९५० की रिपोर्ट में यह कहा गया है :—

“Unfortunately, some of the banks appear to be under the control of the very persons whose financial activities seem to require scrutiny.”

मेरे कहने का मतलब यह है कि जब तक आप बैंकों पर पूरा कंट्रोल नहीं करेंगे तब तक यह कस इवेजन् रुक नहीं सकता क्योंकि जो लोग टैक्सेज की चोरी करते हैं उन्हीं के हाथों में बैंक का तमाम इंतजाम है। इस सेक्शन १३६ (६) के द्वारा जो आप को लिमिटेड पावर प्राप्त है उससे आप का काम नहीं चल सकता है। आप सिर्फ एसेसी का एकाउन्ट बैंक से मालूम कर सकते हैं जिसका कि कोई झगड़ा या डिस्प्यूट हो और मुस्तलिफ़ ५, ६ नाम से फिक्टीशियस नाम से उस बैंक में रकमा रखे तो मैं आप से पूछता हूँ कि उसको मालूम करने के लिये आप क्या कोशिश करेंगे? इस लिये मेरी यह अपील है कि इस बारे में भी कमेटी विचार करे और त्यागी कमेटी ने जो ठगूँ रखा है उसको ऐक्सेण्ट

[श्री राम कृष्ण गुप्त]

कर लिया जाये और मुझे पूरा विश्वास है कि ऐसा करने से टैक्स इवेजन में और टैक्सेज की चीजों में बहुत कमी हो जायेगी।

थोड़ा सा मैं डिस्कलोजर आफ इनफार्मेशन के बारे में भी कहना चाहता हूँ। इसके लिये मैंने पिछले दिनों हाउस में एक बिल पेश किया था और मैं समझता हूँ कि गवर्नमेंट को इस बात को मान लेना चाहिये था। सब से आसान तरीका यह था कि मौजूदा इनकम टैक्स में जो सेक्शन ५४ है उसको डिलीट कर दिया जाता। मैं यह बात इस लिये कहता हूँ कि आप जानते हैं कि यह जो टैक्सेज की चीज होती है उसको बंद करने के दो ही तरीके हो सकते हैं, या तो लोगों का मोरेल स्टैंडर्ड ऊँचा हो या फिर उनको इस बात का डर हो और वह यह महसूस करें कि यह अच्छा काम नहीं है। उनको दूसरा खतरा या डर सोसाइटी का हो सकता है लेकिन जब आप सोसाइटी से और पब्लिक से तमाम प्रोसीडिंग्स खुफिया रखेंगे, उन्हें किसी बात का पता नहीं लगता तब आप ही मुझे बतलायें कि सोसाइटी से उसको क्या डर हो सकता है? और उनकी प्रेस्टिज पर क्या असर पड़ सकता है? जो लिमिटेड पावर नये सेक्शन १३८ के द्वारा दी गई है मैं समझता हूँ कि वह इतनी कम्लिकेटेड है कि उसको प्रैक्टिस में लाना बड़ा मुश्किल है। अब किसी को क्या गरज पड़ी है कि किसी शख्स को यह बात मालूम करने के लिये वह कोशिश करे, कौपी हासिल करे और रुपया खर्च करे कि उसकी तरफ टैक्स का कितना रुपया बकाया रहता था? और उसके लिये क्या कोशिश की गई? इसके लिये सब से बहुतरीन और आसान तरीका यह था कि इस सेक्शन को बिल्कुल डिलीट कर दिया जाता और मुझे पूरा विश्वास है कि अगर इस बात को ऐक्सेप्ट कर लिया गया तो टैक्सेज के इवेजन में कमी हो सकेगी और यह चीज कम हो सकती है।

आखिर में मैं केवल दो, तीन जनरल बा कह करतें अपनी बात खत्म करता हूँ।

जहाँ तक ट्रस्ट्स और चैरिटेबुल इंस्टीच्यूट्स का ताल्लुक है, मेरे से पहले के माननीय दोस्त ने उनका जिक्र किया और यह जाहिर करने की कोशिश की कि जहाँ तक ट्रस्ट्स और चैरिटेबुल इंस्टीच्यूट्स का ताल्लुक है वह ज्यादातर अच्छा काम करते हैं, मैं उसमें उनका साथ नहीं दे सकता और मेरा व्यू इसके बिल्कुल खिलाफ है। मैं तो यह समझता हूँ कि ट्रस्ट और चैरिटेबुल इंस्टीच्यूट ज्यादातर इस लिये बनाए जाते हैं कि टैक्सेज को इवेड किया जाये और उनसे बचने की कोशिश की जाये। अगर मेरे पास समय होता तो मैं मिसाल देकर इस बात को साबित कर सकता था। मैं तो यह चाहता हूँ कि इन पर जो पाबन्दी अभी रखी है उसको और भी ज्यादा सख्त किया जाये। इस बिल के अन्दर कोई ऐसी क्लॉज नहीं है जिससे कि आप उन ट्रस्ट्स और चैरिटेबुल इंस्टीच्यूट्स का बाकायदा हिसाब-किताब ले सकें और उनकी जांच पड़ताल कर सकें। इस लिये मैं चाहता हूँ कि जिस जिस ट्रस्ट्स या चैरिटेबुल इंस्टीच्यूट को ऐंजम्प्ट किया जाये उसके लिये यह लाजिमी हो कि वह हर साल अपनी अमदनी और खर्च का हिसाब बाकायदा आडिट करवा कर पेश करे।

इसके बाद आखिर में मेरी तजवीज यह है और मैं समझता हूँ कि वह बहुत जरूरी है। इस ऐक्ट के क्लॉज १९ के अन्दर भी यह कहा गया है कि प्रिवी पर्सेज से जो इनकम होगी उस पर कोई टैक्स नहीं लगेगा। अब जहाँ तक मेरा अपना पर्सनल सवाल है मैं तो उन प्रिवी पर्सेज के हक में ही नहीं हूँ और आजकल के जमाने में जब कि हमारा मकसद इस देश के अन्दर एक सोशल-लिस्टिक निजाम कायम करने का है तो यह प्रिवी पर्सेज का अभी तक चलते रहना कुछ

ठीक नहीं जंचता है। अब अगर सरकार उन प्रिवी पर्सज को बंद नहीं कर सकती डिस्कंटिन्यू नहीं कर सकती तो कम से कम इतना तो किया जाये कि वह रकम इनकम-टैक्स से एग्जम्पट न की जाये।

Shri Tangamani (Madurai): Many hon. Members who preceded me pointed out that this was a very important and a very big Bill, and we should have been given more time to go through this Bill. One hon. Member remarked that if this Bill had been circulated at least fifteen days in advance, Members would have had the opportunity of making some pointed reference to some of the provisions of this Bill. In any case, the Bill is before us, and we trust that the thirty Members from this House who will be on the Select Committee will go through this Bill in greater detail, and when they do so, they will also have the benefit of the Law Commission's report, the Tyagi Committee's report and also the various reports on the working of the Income-tax Investigation Commission. I dare say that many a memorandum will also be submitted and details will be made available to them.

While moving the motion, the hon. Minister was pleased to make certain references to certain provisions of the Bill, and he also gave reasons why he was not accepting some of the recommendations of the Law Commission, I make bold to say that if we deviate from some considered recommendations of the Law Commission, it will not be a proper thing at all.

I shall straightway mention the case of the abolition of the appellate tribunals. If I remember aright, the Law Commission wanted these appellate tribunals more in the nature of judicial bodies. Several representations have been made that these appellate tribunals are more in the nature of executive tribunals. I take it that that matter will be considered

in detail, when it is taken up by the Select Committee.

There was another matter to which exception was taken by some of the Members. I cannot explain it better than the note by Dr. N. C. Sen Gupta, appended to the Law Commission's report. This is what he says:

"It is true that the assessee has got to be safeguarded against oppression and at the same time, it should be seen that the tax is not evaded by rich parties. For this purpose, I am afraid, the procedure in the present Income Tax Act is not adequate. The draft report attempts to make several efforts to remedy this defect. But I do not quite agree with its treatment to the question of evasion. The amendment suggested in section 34 seems to me to be generous to the assessee. But we have got to see whether it does not become so too generous to a wily evader at the cost of the honest tax-payers who have to bear additional burden. I agree that there ought to be a limit to the period for which the proceedings for taxation could be re-opened.

"Whatever limits are fixed"—
this is what I want to emphasise—

"there ought to be a general principle laid down that if escape from assessment or under-assessment has been shown to be due to any dishonest or fraudulent practice of the assessee, there ought to be no limitation to re-open the proceedings. On the other hand, the limitation in ordinary cases ought not to exceed what is now prescribed under the Act".

This makes the intention of the new legislation clear. We take that in a large majority of cases it is due to evasion, and it is very easy to prove fraud. So in such cases, the benefits that are given to the ordinary citizen should not be extended to these

[Shri Tangamani]
evaders. This is a point I want to emphasise in the beginning itself.

There was another question of payment of interest when refunds are made belatedly. There are several clauses in the Bill in this connection. I will merely refer to clauses 214 and 243 which provide for payment of interest on the refund. Now, it is nobody's case that the payment has been excessive. It is nobody's case that they were over-generous in the payment. When a certain amount has been paid, it is not very much in excess and it is not proper to call upon Government to pay interest to those people who have made this advance. This reminds me of the practice which was prevalent during the British period where excess profits tax was collected and the entire excess profits tax was refunded.

If we go into the question of the history of the collection of taxes, a certain revealing phenomenon presents itself. From the figures I could gather, the cost of collection of income tax for the year 1950-51 was Rs. 1,88,47,835. The cost of collection of income tax—I am not including the corporation tax—for the year 1959-60 is Rs. 4,54,95,214. The amount has gone up by almost 3 times. But yesterday Shri V. P. Nayar gave figures to show that the direct taxes have not increased. Although direct taxes plus corporation taxes might have shown a certain increase, it is not proportionate to the increase in the cost of collection. When that is the position, why should we add another burden to the exchequer by way of paying interest where a *bona fide* payment was made by the assessee?

Another point which is similar to these but on a different plane is contained in clause 220 where if the assessee after the due date has not paid and if there is delay in payment, 4 per cent interest will have to be charged. I believe it was the Tyagi Committee which suggested a levy of

6 per cent interest. I find in this Bill greater consideration shown to those who are defaulters. Now in the case of default, this 6 per cent. must be imposed. I distinctly remember—I am not mentioning the name—a very clever, big man who was evading taxes or, may be, avoiding payment of taxes in due time. He was always relying upon this fact that if the tax is not paid on due date and if several years lapsed, he saved by way of interest. This has been noted by the Tyagi Committee and they have suggested the figure of 6 per cent. I do not think there is any reason why this 6 per cent should be reduced to 4 per cent.

Another beneficial provision is in clause 275 where the offence is now extended to the abettors. The question arises as to who the abettors are. Here I would only commend a book written by one of the officials of the income tax department. He has written two or three books dealing with how the department itself is functioning. There are certain references to individuals which may not be good taste. But the practice and procedure followed has been made abundantly clear. The title of the book I am quoting from is *the Ills that beset the Income Tax* and the name of the author is Shri Nandi. I commend this book to the Select Committee for whatever it is worth. Here is a book written by a man who has been in the department for a number of years. He has gained experience in this; the sort of circulars and directives issued have been noted by him and he is able to point out the defects in each of the circulars. Here is a very interesting paragraph,

"Hurried assessments without due scrutiny or with no scrutiny at all, and last minute rush for preventing assessments from being time-barred have become a permanent feature."

I do not know whether this has been changed, because I find even in the

Law Commission's Report they say that their terms of reference have been very much restricted. They have to adopt the existing Income Tax Act and procedural matters and make certain changes. Of course, the Law Commission have attempted to make changes. At the same time, they say:

"As our terms of reference implied the restriction that the tax structure should not be altered, no major change affecting the substance of the law has been made in the substantive provisions".

Later on in paragraph 10, they also say;

"We wish the Indian legislature would simplify the tax structure of this country on the lines adopted by some other progressive countries".

So this is still an open question. Until and unless we are able to make a break in the tax structure, however much we codify the income tax law, the procedure is not going to be simplified.

In this connection, I can also mention certain points though in doing so I will be repeating certain points made by my hon. friend, Shri V. P. Nayar. He said that during 1951-52 assessees with an income of Rs 5,000—Rs. 10,000 numbered a little over 2.25 lakhs while in 1958-59 it was 6.10 lakhs. The number of those with incomes in the highest slab, of over Rs. 2,00,000 rose only from 2,123 to 2,693. The proportion of the payments to the total income tax paid by the assessee remains almost the same. Those who were drawing Rs. 20,000 per annum contributed about 10 per cent and those with income of Rs. 1,00,000 accounted for 66.65 per cent. With marginal variations during these ten years, the pattern of tax realisation remains unchanged. With the pattern of realisation and the pattern of taxation structure remaining the same, much change or improvement is not possible.

Shri Nandi says in his book:

"In so far as revenue is concerned, this has proved to be a double-edged dagger. While heavy loss of revenue is resulting from under-assessment in any number of cases, too heavy assessments are proving ruinous to many others. Owing to undue delay in handling matters—delay spreading over 4 or 5 years or even more years—the volume of arrear demands and that of irrecoverable demands are assuming tremendous proportions".

We have been told repeatedly that there are what are called effective arrears. What are these effective arrears? Of course, I did not want to interrupt the hon. Finance Minister when he said that there is a demand for Rs. 240 crores and the effective arrears will probably be Rs. 140 crores. So we make a demand for Rs. 240 crores and the effective arrears will be only Rs. 140 crores. Here is a case where the author says that because of this inefficiency in the collection, because there is no rationale in the taxation structure and because the system of administration leaves very much to be desired, tax evasion is going on on a large scale.

Taking all these things into consideration, what we find is that the effective arrears have been actually increasing. This is the strange position that arises. I do request the hon. Minister and the hon. Deputy Minister to go into this matter and see whether there is not substance in the argument I am now advancing.

One of the hon. Members who spoke before me simplified this matter because he has quoted certain passages from the report of the working of the Income-tax Investigation Commission during 1950. They make certain observations on pages 3 and 4. They also give the practice that is followed in the United States and in the United Kingdom. In the United States they have mentioned that the most common thing is the deviation of cash transactions.

[Shri Tangamani]

"The device of Cash transactions was the most common among the methods employed by tax evaders. They kept large amounts in cash outside the books of accounts and financed their black-market operations through those funds. Such transactions did not find a place in any books whatsoever."

This is the practice prevalent now; and it was prevalent in the past also. Then they say:

"Tax evasion in U.S.A.

"To arrest black markets and tax evasion, the U.S. Treasury has asked all banks and other financial institutions to keep a record of and report on all cash deposits and withdrawals, which, in their judgement, are beyond customers' ordinary business needs. Unknown to the public, banks have been keeping private records for some time of the movement of large denomination bills."

Later on, they say how these banks will help the Government by supplying them with certain materials, certain details which will be very useful for detecting these evasions, the power which, according to our law, is only available where investigation has started and where the prosecution is contemplated and not otherwise. Supposing we suspect that there has been a case of tax evasion and we approach the bank, the bank is not willing to supply us with the necessary materials.

13-52 hrs.

[Mr. DEPUTY-SPEAKER in the Chair]

Again, later on, they say, what is the point in trying to get at the evaders because those that control the banks are the very people who are the evaders. That is later on mentioned in the Commission's report itself. We find that even certain powers which the courts had for finding out how much hidden reserves are there in the banks are sought to be taken

away. We have only passed legislation giving more and more protections to these banks. So, we must move in a direction which will compel these banks to supply Government with materials which will help us to tighten up the system and to plug the loopholes so that these evaders do not escape.

There is another instance which they give about the practice which is being adopted in the United States. I am just quoting.

"It is understood at the instigation of the Inland Revenue, members of the British Bankers' Association have instituted restrictions upon the use of cheques with the object of obstructing tax evasion as much as possible."

They say that from a particular date—

"No member bank of the Association will cash or exchange any cheque, payable order or draft, without entry in the banking account of the presenter unless; (i) it is uncrossed and drawn on the branch of the drawer; (ii) it is presented by the drawer or his known agent; or (iii) it is payable under a credit established on behalf of the drawer; (iv) it is drawn for a sum not exceeding £10 in which case, at the discretion of the manager it may be encashed or exchanged on exceptional and isolated occasions."

Then it goes on to say that another common method adopted is to—

"draw cheques for fictitious payments and obtain the money over the counter with a view to make large debits for outgoings which are not really incurred. By this means the cost and purchase figures are inflated so as to decrease the total profits at the end of the year."

Several instances have been given in the official reports which we have

been given. I have referred to the book and that book gives one instance.

"A party began to earn enormous profits since 1943 or so. In spite of the fact that they had a prominent position in the locality, and that their name was borne on the Telephone Guide, no attempt was made by the Department to bring them under assessment. Fear of penal provisions of the Income-tax Act made the party panicky. They fraudulently changed the name of the business, and pursued a wait-and-see policy for some years. Once or twice an unwelcome visitor called. He was silenced by tips. At long last, not from civic sense, but from fear of the law, they made a voluntary return disclosing only a portion of their income. The Department took no action on the return for years. In the tenth or eleventh year of the existence of this flourishing business, one assessment was made on them accepting their false partnership, and adding back some disallowable items, without making any local enquiry or going into the real background of the case—a super-tax case."

I am mentioning this to show that this book contains several instances. That may be looked into because he also gives a reference to what was then happening. Some of them may be exaggerated, I do conceive. The instances give us the method by which evasion is taking place—by big business or by big people in this country.

Therefore, I would like to make certain suggestions. If I had the time I would have gone through the Bill itself and said which amendment should come in which particular clause. I would like to mention half a dozen methods by which the amendments carrying the spirit which will help in plugging these loopholes may be made.

Remodel the administrative machinery and see that the officials do not adopt an attitude of, 'none of my concern', or 'go slow' or 'take no notice when the matter has not been settled for even 4 or 5 years'. This is the first point, because the administrative machinery also comes in.

The next thing is when such matters have been brought to the notice and if tax evaders have been brought to book, such officer may be mentioned and it is those persons who should be eligible for any kind of honours—from the highest—in the country.

I remember in the early thirties one Income-tax officer in Madras—the place is Karaikudi—made a revealing statement. He said that the richest man in South India was going scot free. This particular big businessman had interests in Malaya, Burma, Ceylon and he was also doing a lot of business in Madras State. Then, he had his bank accounts in the old Princely States. Although the transactions were in millions—if an ordinary person had to pay Rs. 100 or Rs. 1,000 this man would have to pay or would have to be assessed at several hundred thousands—he was going scot free. He detected that; and he rose to a very high position and he has now retired. In this way, if a particular official is able to detect, by prompt action, such evader or such a manner of evasion, he should be honoured.

I remember—although it was meant for children—Swift said that if a man was found to be an honest man, he was taken round the streets and the public told that he was an honest man. This happened in Lilliput. So, here also, in addition to making an example of those people who are evaders—and rightly so—those officers who are able to bring to book without fear or favour such evaders must also be honoured in this country.

The existing penalties, the penalties which are provided, are not only not

[Shri Tangamani]

adequate but those penalties are not being utilised properly. There is the question of jail going. I think Tyagi Committee Report also said that there must be deterrent punishments. In this book also he has suggested that abettors should be punished. Abettors do not mean ordinary clerks and others. There are other people who abet these things. They should also be brought to book. I find that my time is almost over and I shall finish my speech soon. The hon. Minister has stated how the Act in its present form came into existence in the year 1922. Since 1939, we have had several amendments; I think their number is 40 or 43. The Law Commission has also made some pertinent remarks and even though there is a repetition I want to say this. Some hon. Members who have studied the report of the Law Commission as well as the reports of Income-tax Investigation Commission and the Direct Taxes Enquiry Committee have referred to this; they could have even suggested certain modifications to the various clauses in the Bill.

14 hrs.

Though this Bill is welcome in its present form with all its defects, what is required is some drastic change in the taxation structure. The Law Commission has stated:

"We would like to say at the outset that there could be no real simplification of income-tax law without simplification of the tax structure. As this was beyond the purview of our work, our task of simplification has been greatly hampered."

All that we ask for is this. The Bill is there. Go through it clause by clause and if you think that a modification is necessary, it should be modified. The Law Commission could have modified it but its terms of reference were so narrow that they could not do it; they have by implication said that the time has come

when the tax structure must be altered. They say that in many of the progressive countries tax structure has been altered. Unless that is done, it will be of not much avail.

Another suggestion has also been made by Shri Sen Gupta—I do not want to quote as my time is up—to the effect that the assessment must be by one agency where different taxes are imposed. When we go into the accounts of a person and go through the rigmarole, let it be gone through once thoroughly by one agency, so much so there must not be repetition. It will also then be easy to find out the way in which a particular person is keeping the accounts and is avoiding the payment of tax. My friend here says that the same officer does it. Although the same officer does it, I would like to know if the procedure has not been simplified. The procedure may be simplified because a member of the Law Commission has taken pains to say that the matter should be considered and improvements should be made both for helping the assessee and also for helping the Ex chequer.

Shri Balasaheb Patil (Miraj): Mr. Deputy Speaker, just now it was stated and also supported by quotations that we should simplify the law and also simplify the structure of the taxation. The Bill is before us. Though there are certain modifications, they do not go to the root of the tax structure. Just now my hon. friend has said that the time has come when we have to revise this type of structure. It is an old system which has continued through all these years and we are taxing in some proportions the incomes and profits and gains that are kept by the individuals, firms and companies. Due to the two World Wars and many changes in economic affairs, the ways of earning money have changed. A straight and honest worker is not earning now-a-days a big income. But the persons who do blackmarketing and adopt other means for avoiding taxation are

earning money and they are becoming richer.

An Hon. Member: They alone can become rich.

Shri Balasaheb Patil: People in the Government do not suggest some ways to abolish this bad system of getting money. The Government should now seriously think about the tax structure and of ways and means of checking the evasion of tax so that we can use the money for the good of the people..

The intention of the Government was to simplify the existing law. The existing Income-tax Act is difficult to understand even for a legal practitioner. The sections are long and complicated. There is no system of arrangement of chapters. Therefore, it has become the monopoly of certain income-tax practitioners who practise in that branch of law. The income-tax practitioners, with the help of other persons and especially persons who were administering the income-tax law, used to give advice to the assesseees to evade and avoid the taxes. That is the experience of the past years. Even though the Law Commission and the drafters of this Bill have tried to simplify it, there are certain defective clauses here. To start with, the very definition of agricultural income is no definition at all. It is some sort of a description brought together and therefore the Select Committee must try to simplify the law so that laymen can understand the provisions and they need not go to the legal practitioners in that branch of law.

The most important thing in the administration of this law is that there are certain forms. For instance, firstly, there is the form of return to be filled by the assesseees. There are certain applications to be made by firms and companies and societies. All these forms, applications and certificates are not simple. There are so many columns and an ordinary person does not understand all the implications of these columns. The income-tax authorities view the matter so technically that even

though there is some small mistake here or there, they will penalise the person, without looking to the spirit of the Act, nor do they look to the convenience of the assessee or take into consideration the ignorance of the people who are going to fill it. They will find some fault for nothing. There are many such instances quoted in the report of the Law Commission. Where an application is given by a firm for a registration certificate, that application is rejected for some formal defect. It has also been suggested by the Law Commission that this sort of mental outlook should not be there with the administering authorities; they should look to the spirit of the law and help the persons. They should help the persons who want to fill all the forms so that they can get whatever information is necessary in order to get the tax.

Furthermore, the principle of the tax is also to be considered. So far as the principle of the tax is concerned, there are some provisions which were referred to by my learned friend Shri Ram Krishan Gupta to the effect that no tax has been levied on privy purses. This principle is not good at all. The first thing is, nearly more than Rs. 5 crores are paid to the princes. Even though we want to give sanctity to the agreements that were concluded between the princes and the Government of India in 1947 or thereabouts, at the same time, this system of paying the privy purses is not a good thing. Yet, at the same time, if it is to be continued, income-tax must be charged on them. There is no need or valid reason why this should be exempt from income-tax. Especially when this is unearned money, no exemption is needed for it. It is the history and tradition that give sanctity to it. But there is no reason why, though history and tradition have given sanctity to it, it should be income-tax free. Therefore, the Joint Committee should think over this matter and see that income-tax is levied on privy purses.

The next thing is about the income earned by trusts and charitable insti-

[Shri Balasahib Patil]

tutions by running some business. Though there are some restrictions now placed by this Act, one thing may be considered by the Joint Committee. Whenever any institution, maybe a charitable or a public trust, runs a business or carries on a profession, and if it gets a profit out of that, by the very principle underlying this measure, it should be taxed to the last pie. I know some of the institutions which are trusts in name only. They have big houses and they lease them out and get large amounts. The amounts go on increasing and they are used for a particular community or section of the community or some other persons who have created those trusts. If this thing is to be continued, it would not benefit the society at large but would benefit only a small section and that would be free of tax. The Joint Committee should also think over this and find out a way in which stricter and more stringent provisions may be applied in the case of income that is earned by trusts by following some profession.

Then there were many remarks made about tax evasion or avoidance of tax and that tax is not collected by the Government. At one end, there are persons who carry on business, and they are very clever persons. At the other end, there is the income-tax department or the recovery department. Then there are the lowest officers and on top are the appellate tribunal and the Central Board of Revenue. In between these two there is the legal practitioner. These three together find out a way to evade tax, and so there can be evasion. The traders and other intellectual heads find out a way that the income should not be disclosed! The third thing is, the income-tax department or the recovery department itself does not take necessary steps either to assess promptly or to collect the tax promptly or to recover it very diligently.

I know some cases. There was a big company which went into liquidation. After all the assets were sold

by public auction, there came a notice from the income-tax department that so much money by way of tax was due and ought to be recovered from that company. Everything was sold and at the last stage, after a few years, the income-tax department was alert and came forward and sent the certificate to the collector. If this type of thing is going on, naturally the intelligent persons who are engaged in big professions and in big business, big merchants and others, persons employed in big companies, shareholders and managing directors, can get advantage of such things and they can find out a way to avoid payment of taxes.

There is some suggestion in the report of the Direct Taxes Administration Enquiry Committee in regard to the psychological aspect—that the people should be trained not to evade paying of taxes, and so on. There is a further suggestion made by this Committee to the effect that education must be imparted to the people in order to make them realise that it is their duty to the nation to pay the taxes. I can understand that much. But the people who are now evading taxes are not the people who can be educated. A man who is asleep can be awakened, but a person who pretends to sleep cannot be awakened. There are persons who know fully well that they are earning huge amounts of money and at the same time they want to evade taxes. This situation cannot be remedied by a psychological or educational effort. Therefore, some drastic steps must be taken in this regard.

The income-tax department as well as the Government, with their huge machinery of so many departments, know who gets or earns money and who builds new buildings, who builds new business empires, etc. The Government knows at the same time—especially the party in power—that some things are done with a view to or with same aim, to get money

at the time of the election, and they are not taking care to check all these things and get at least whatever is due under the Income-tax Act. It is no use making a stringent law of punishment. If a thief is caught and brought before the court, only when his guilt is proved he is punished. But if he steals and escapes, he is not caught and not brought before the court. Even if he is brought before the court, no evidence is forthcoming and so he cannot be convicted. Even though the law is very stringent, and even though the man who has stolen must go to the prison, the guilt must be proved. Therefore, while we make the law and prescribe heavy punishments for evaders and tax-avoiders, at the same time, the Government must take full and adequate steps to bring before the court evidence of cases in which the really guilty persons are punished. That is the first and foremost duty of the Government, and the Government is failing in that duty. It should take every care to find out all cases and to see that the guilty persons are punished.

So far as the administrative matters in relation to the income-tax department is concerned, the Law Commission has made some fine suggestions. There is a suggestion that the Central Board of Revenue should be vested with judicial powers. The Law Commission says in that respect that not only justice should be done but justice should appear to be done, and the head of the department which administers or which has in its hands so many authorities who assess the income-tax should not be given the judicial powers. In this respect I may suggest that, at the bottom, as soon as the income-tax officer assesses the income-tax, his duty finishes, and there must be a separate machinery to render justice as between the income-tax officer and the assessee. The appellate body and the tribunal must be scrapped and some other sort of court must be opened so that the grievances of the assessee may be brought forward to that court and justice done by that court. Even

though the Law Commission has made some suggestions to take away the appellate tribunal, it has given very fine reasons for that. Especially on Page 48, the Law Commission have stated:

“We are constrained to observe that men of the requisite calibre and independence are not being recruited for discharging so heavy a responsibility as that of final fact-finding authority under the new pattern of taxation. There are many complaints that the disposal of appeals by the Appellate Tribunal is very unsatisfactory for a variety of reasons. Often, the judicial and independent approach which is necessary in the final fact-finding authority, is not displayed by the Tribunal. In several cases the determination of complicated questions of fact and law is done in a very perfunctory manner. Very often, the Tribunal does not clearly record its findings of fact or its reasons for arriving at its findings.”

Furthermore, the Law Commission have also cited passages after passages from so many High Court cases in which the High Court has come to the conclusion that even though this appellate tribunal is the final fact-finding authority, at the same time, it has failed in its duty. So many cases are remanded.

The Law Commission have also given a chart of how many cases have been decided, what expenditure has been incurred by the appellate tribunal and they have finally suggested that this matter, which is settled by the appellate tribunal, should be given to the High Courts and some more High Court Judges may be appointed in that respect. The Law Commission have also given the financial burden that will fall upon the Government and how it has to be met out of the fees that are to be recovered from the appeals that are pending before these tribunals.

[Shri Balasahib Patil]

When the hon. Finance Minister was speaking yesterday, I was hearing him patiently, expecting that he would give some explanation as to why he has kept the appellate tribunal, but there was no explanation whatsoever. Therefore, I suggest that the Select Committee may go into this question of keeping the appellate tribunal as it is or scrapping it and conferring those powers on the High Courts, because that is very necessary in the interests of justice.

One further point about justice is this. If the tax is not paid within a time, then the authority would penalise the person up to the amount of the tax which was payable. But we find that in so many cases, if the lower authority charges large amounts, the appellate authority charges a nominal amount. It is all discretionary. Therefore, in order to get out of this, there is a suggestion by the committee that in this respect instead of levying a penalty on the defaulters, some sort of interest may be charged on the money that was payable to the Government earlier. That suggestion may be embodied in this Bill.

श्री सुनसुनवाला (भागलपुर) :

उपाध्यक्ष महोदय, यह बिल इतना बड़ा है कि इसको अच्छे तरीके से तैयार करने के लिये सरकार की तरफ से समय नहीं मिला है अतएव सब बातों के ऊपर पूरी तौर से पढ़ करके कहना जरा मुश्किल है तो भी जिस प्रकार का यह बिल लाया गया है और यह विश्वास होता है कि जरूर इससे लोगों को सुभीता होगा और वह जान सकेंगे कि इनकम टैक्स ला किस प्रकार का है और किस तरीके से हमको टैक्स दे करना चाहिये। जो पहिले ला था उसे लोग पूरे तरीके से समझ नहीं पाते थे और अभी भी यह पूर्ण रूप से ठीक नहीं है। ला कमीशन ने यह कहा है कि इनकम-टैक्स का ला बड़े आसान तरीके से कोडिफाई नहीं हो

सकता है और जब तक टैक्स स्ट्रक्चर को भी हम दृष्टिकोण में नहीं रखें और उसके ऊपर भी हम राय न दे सकें, केवल ला को कोडिफाई करना जरा मुश्किल है। लेकिन यह चीज हम लोगों को रफर नहीं की गई है इस लिये जो हमारे सामने कानून हैं उसमें बिना टैक्स स्ट्रक्चर को सामने रख कर जो कुछ संशोधन हो सकता है जितना यह आसान बन सकता है, सिम्पल बन सकता है, बनाने के लिये हम योग अपना सुझाव देंगे और इसी दृष्टि से मैंने कुछ सुझाव दिये हैं। उसके बाद श्री महावीर त्यागी की डा रेक्ट टैक्सेशन इनक्वायरी कमेटी के ऊपर जो रिपोर्ट हुई उसको भी सरकार ने ध्यान में रख कर यह बिल बनाया है।

अब मैं टैक्स स्ट्रक्चर के बारे में बतलाना चाहता हूँ कि जहाँ तक २५ हजार पये की इनकम का सवाल है, आमदनी का सवाल है उनको टैक्स इतना अधिक नहीं देना पड़ता है, ससे मेरा यह मतलब नहीं है कि आप उस टैक्स को बढ़ा दें, मगर मेरा कहने का यह मतलब है कि उनको आमदनी इतनी है और उस पर टैक्स इतना है कि यदि वह इमानदारी से टैक्स देवें तो उनको बेइमानी नहीं करनी चाहिये। यदि वह टैक्स देना चाहे तो उनको अपना खर्च चलाने के लिये बेइमानी करने की आवश्यकता नहीं है। उसके ऊपर जो १ लाख तक का टैक्स स्ट्रक्चर है वह मुश्किल है। वहाँ पर जितने लोगों की आमदनी है और जिस प्रकार का खर्चा उन लोगों का है और जिस प्रकार के खर्च के वह धादी हो गये हैं तो वहाँ पर कुछ उनकी टैक्स ऐंवायडस की वृत्ति हो जाती है। इस लिये सब से पहले जो आवश्यक चीज करने की है वह यह है कि सरकार को टैक्स स्ट्रक्चर इस दृष्टि से बनाना चाहिये कि जो आमदनी टैक्स देता है उसका खर्चा जितनी उसकी आमदनी है उससे वह ठीक चल सकता है या नहीं। यदि चल सकता है तो ठीक है और यदि नहीं चल सकता है

तो उसके टैक्स स्ट्रक्चर में परिवर्तन करना चाहिये ।

है । हमारे वित्त मंत्री ने एक बार अपनी स्पीच में कहा कि

इसके अलावा लोगों के टैक्स के बारे में जो उनका दृष्टिकोण अब तक रहा है उसमें भी परिवर्तन लाने की आवश्यकता है । जब तक लोगों के दृष्टिकोण में यह परिवर्तन नहीं होता कि हमें सरकार को तमाम वाजिब टैक्स देने हैं और यह टैक्स हमारे लाभ के लिये हैं और उनसे हमको ही प्रागे चल कर लाभ मिलेगा, जब तक लोगों की यह वृत्ति नहीं होगी तब तक हम कितने ही कानून चाहे क्यों न बनायें, यह जो हमारे देशवासियों के अन्दर टैक्सों की चोरी करने और बेईमानी करने की वृत्ति हो जाती है, वह दूर नहीं होगी । अब कोई बहुत मुश्किल में पड़ करके टैक्स बचाने की चंष्टा करता है तो वह तो इस बिल में आयेंगा नहीं परन्तु वित्त मंत्री महोदय का मेरा मुझव यह है कि सरकार को यह देखना चाहिये कि जिनका खर्चा है जिनकी आमदनी है, उस आमदनी में उसका खर्चा चल सकता है या नहीं ताकि वह बिना मुश्किल के जो टैक्स उस पर वाजिब आये उसको वह दे सके । अब इनकमटैक्स जैसा कि मैंने आप को बतलाया २५ हजार पया तक की आमदनी पर कोई ८-५ हजार पया टैक्स का देना पड़ता है । हमारा टैक्स स्ट्रक्चर ऐसा है कि उस के बाद, अर्थात् २५ हजार से एक लाख तक के लोगों को बड़ी मुश्किल होती है । अमेसी लोगों से मेरी बात होती है और वे बताते हैं कि हमारा इतना खर्चा होता है और हम लोगों को बड़ी मुश्किल का सामना करना पड़ता है । २५ हजार तक वालों को मुश्किल नहीं होनी चाहिये, क्यों कि अपेक्षतया उनका खर्च कम है । कुछ लोग बहुत बड़े हैं और मेरी समझ में नहीं आता कि उन को किसी हालत में मुश्किल होनी चाहिये । एक बार यहाँ से आलोचना हुई कि ऊपर वालों में, जिनकी बहुत इनकम है, टैक्स का एवायडंस और इवजन बहुत होता

उपाध्यक्ष महोदय : क्या माननीय सदस्य आज ही तीन चार मिनट में खत्म कर देंगे या अगले दिन-मनडे- को जारी रखना चाहेंगे ?

श्री सुनसुन वाला : मैं अगले दिन जारी रखना चाहूँगा ।

14-31 hrs.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

EIGHTY-FOURTH REPORT

Shri Balasaheb Patil: I beg to move:

"That this House agrees with the Eighty-fourth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 26th April, 1961".

Mr. Deputy-Speaker: The question is:

"That this House agrees with the Eighty-fourth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 26th April, 1961."

The motion was adopted.

RESOLUTION RE: BUDDHIST CONVERTS—contd.

Mr. Deputy-Speaker: The House will now resume further discussion on the Resolution moved by Shri D. A. Katti on the 14th April, 1961 regarding Buddhist converts. Out of 2 hours allotted for the discussion on this Resolution, 1 hour and 15 minutes have already been taken. Shri Shree Narayan Das may continue his speech.

Shri B. K. Gaikwad (Nasik): Sir, before we start the discussion on this Resolution, may I request that as the Resolution is an important one, the time may kindly be extended?