

15.02 hrs.

**MOTION RE: REPORT OF DIRECT TAXES ADMINISTRATION ENQUIRY COMMITTEE**

**Shri S. M. Banerjee (Kanpur):** Sir, I beg to move:

"That this House takes note of the Report of the Direct Taxes Administration Enquiry Committee, 1958-59 and the memorandum of dissent, comments, and recommendations by Shri G. P. Kapadia on the Report, laid on the Table of the House on the 21st December, 1959 and the statement of the Finance Minister on the more important recommendations of the Enquiry Committee, laid on the Table of the House on the 9th September, 1960."

Mr. Deputy-Speaker, Sir, I have before me the report of the Direct Taxes Administration Enquiry Committee. We remember that this particular committee was appointed with a view to plug loopholes in our present system of collecting taxes and also to consider the various recommendations of the Taxation Inquiry Commission and also the observations made by Prof. Kaldor when he was here.

The Committee has made 367 recommendations; 205 have been accepted by Government and 59 are of a general nature. And, according to the observations made by the hon. Finance Minister they do not warrant any attention. And, it is also said that a comprehensive legislation is likely to be introduced in this House for plugging the loopholes in the present Act.

This is what the Committee says on page 288, under Evasion and Avoidance, that the quantum of tax evasion, though undoubtedly high, is not of the same magnitude indicated by Prof. Kaldor in his report. According to Prof. Kaldor the evasion was to the tune of nearly Rs. 200 crores. And, this particular committee has stated that the magnitude is not so much. But Prof. Kaldor had some

basis to make this statement. I want to know from the hon. Minister whether this Committee also tried to find out what was the actual or near-about amount of evasion. I would refer to some paragraphs from Prof. Kaldor's Report. I personally feel that these tax-dodgers who evade taxes also are safeguarded—their interests are safeguarded—by the ruling party. This has not been said so in so many plain words. But if you kindly refer to page 10 of *Indian Tax Reform, Report of a Survey*, by Nicholas Kaldor, you will find that it says:

"Neither in the case of countries like the United Kingdom or the United States of America, nor in the case of India is large-scale tax avoidance and evasion an ineluctable consequence of human or administrative imperfections or folly, or of the private enterprise system, or any other ineradicable feature of society. The factor which has so far prevented the establishment of an effective system of taxation on profits and capital in the Western Democracies or in India is the opposition of vested interests, not the 'technical' impossibility of devising an equitable and foolproof system."

Then, on page 11 it says:

"As Henry Simons said before the War the whole procedure smacks of a 'subtle kind of moral and intellectual dishonesty.' 'One senses here a grand scheme of deception whereby enormous surtaxes are voted in exchange for promises that they will not be made effective. Thus the politicians may point with pride to the rates, while quietly reminding their wealthy constituents of the loopholes.'"

So, Prof. Kaldor has made these observations. Whereas in this House we pass legislation and enact laws, the ruling party—it may be this ruling party or any other—also assures

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its constituents who are the assesseses that they may make apparently progressive legislation to establish their desire to have socialism, but they will leave some loopholes by which the assesseses can always avoid or evade taxation. So, this is a clear case where Government has to take a decision, and a firm decision, to plug the loopholes.

I would refer to some figures of effective arrears of income-tax. It will be difficult for me—or it will take more time of the House—if I read it State-wise. I definitely feel that some amount has been recovered. The effective arrears on the 31st March, 1959 was Rs. 152,36 lakhs; and now the effective arrears on 31st March, 1960 is Rs. 133,61 lakhs.

I put a question in this House today, which was answered in the written answer, that the total effective arrears of income-tax, sales tax and gift tax as on 1st October, 1960 in U.P. by the Finance Minister. It says that the total effective arrears are Rs. 566,73,000. I also wanted to know since how long this outstanding was there and the reply was that this information is being collected. I do not know what was being collected. When they could know this total amount, I could also have been told from which date they are outstanding. My information is that right from 1947 after independence, this amount or a good portion of it is outstanding. I would like to know the details of it and also what we are doing.

My attention was drawn to various Press comments. It was said that in our country names would be announced and people would be exposed. We welcome that amending Bill when it came before the House. But, what will be the punishment? Will any prosecution be there or not. I would quote from *Hindustan Times*, dated the 2nd December, 1959. It says:

“Though the existing law provides for prosecution and punish-

ment of tax evaders not one prosecution has been launched since independence. In the United Kingdom every year at least one or two big tax evaders are sent to jail and along with them auditors who abet such evasion. This acts as a deterrent.”

I would also quote for your information some cases from the book called *One Hundredth Report of the Commissioners of Her Majesty's Inland Revenue for the year ended 31st March, 1957*.

*Criminal Proceedings in 1956-57:—*

Class of case	Number of Persons	
	Prosecuted	Convicted
tax Frauds	15	14
False Claims	31	31
P.A.Y.E. frauds (1)	5	
(2)	3	3
Post-war credit frauds	1	1
Total	59	57

This is what happens in that country. When a man is prosecuted, when a tax-evader is prosecuted, he is also assured of conviction. But, here, there is no conviction. People know that they go on merrily like this. Since the 15th of August, 1947, how many tax-evaders and anti-social elements have been convicted because they defrauded the country by not paying the taxes due from them? Till the 1st of November, 1960 how many people have been convicted for this offence? The hon. Minister may enlighten us so that I may go out and say that it is incorrect to say that nobody has been convicted. Such people had been convicted.

I am happy that the Government enacted a progressive legislation that they would expose those who evaded taxes. There was terrible resistance from the capitalists and I shall read certain passages from *Commerce of*

4th June, 1960, when the amendment was introduced in this House.

"Bearing in mind the conditions prevailing in our country today, it is highly probable that house-breakers and burglars may apply for a taxpayer's assessment to find out the position regarding his income, jewellery and other forms of wealth".

The action of the Government was compared to burglary! Not only that. They wanted that impossible conditions should be imposed. They say:

"If, however, the Government is determined to enact this utterly useless and mischievous legislation, the following safeguards should be provided to an assessee against would-be blackmailers and financial peeping Toms:

1. The fee for the application should be very stiff and in no case should it be less than Rs. 1,000....

5. Every applicant should be required to give an undertaking that he shall not reveal to any other person the information obtained by him in pursuance of his application and a breach of this undertaking should be made penal—All rights reserved."

You can imagine the terrible pressure from the capitalists so that this Bill could not come before the House. They say further:

"In keeping with the general policy of the Congress Governments to pass legislation which may often result in giving maximum benefit to anti-social elements and at the same time cause maximum harassment to the law-abiding public, the Government is sponsoring the Taxation Laws (Amending) Bill, 1960, which provides, *inter alia*, for communication to any member of the public, on the payment of a speci-

fied fee, the amount of income, wealth, etc. declared by a person in his return. Apart from the fact that the provision violates the elementary principle in a democracy of the secrecy of the citizens' returns, there is not one sound reason for putting it on the statute book."

I must congratulate the hon. Minister for bringing that Bill. But again there is a provision for withholding the names in certain cases. When the Bill came before this House, I opposed it and I am still opposed to it. That particular provision should not have been brought in that Bill.

The Direct Taxes Administration Enquiry Committee report, which was accepted in principle, suggested certain measures for arousing the public conscience against tax evasion. It says:

"People should be educated with regard to the real object of the collection of direct taxes, through press, radio and films.

(ii) Steps should be taken to convince the taxpayers that the money collected through taxes is not spent wastefully but put to proper use.

(iii) No official patronage or recognition or awards should be given to persons who have been penalised for concealment or in whose case prosecution proceedings have been taken. Such a person should not be allowed to become a member of any Committee or Commission appointed by the Government."

There are recommendations which have been accepted by the Government in principle. What positive steps have been taken to implement the recommendations accepted by the Government in principle? Have they taken any steps to arouse social conscience and create public opinion against these anti-social elements? I

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am sorry to use the word 'anti-social' but I have to use this because these tax dodgers are doing something bad to the country. I am hopeful that some comprehensive legislation will come before this House.

Then, there was a rather non-controversial recommendation that the Government should take a policy decision so as to prevent the officers of the Department, who leave Government service prematurely for joining private employment. Unfortunately, the Government has not accepted this recommendation. While the other Bill was being discussed, my hon. friend Shri Prabhat Kar quoted instances where Commissioners and other responsible officers of the Income-tax Department retired, normally or prematurely, joined some private firms and with their influence in the department they were able to manage and do things which were not to the best interests of the country. I have also known certain cases where officers on the verge of retirement kept the case pending till they retired and they managed, after joining the concerned firm after their retirement, to get some favours from the department for that particular firm.

The powers of the income-tax department should be increased. There was another suggestion made by Prof. Kaldor which was not acceptable to the Tyagi Commission comprehensive returns. The Chairman of that Commission is here and I want to know why comprehensive returns are not possible in our country. Why was this recommendation rejected by them? I would like to know.

We should be able to get more income-tax. There is tax evasion. How else people who say that they are paying income-tax to the extent of 80, 85 or 90 per cent. are becoming millionaires and multi-millionaires? Today a question was asked here: how many crorepaths are there in India? Do they pay their taxes? I am not

so well versed in economics. I am neither a Professor nor a good student of economics. It confuses me as to how these people who pay their taxes so generously are becoming richer and richer. The juggleries of income-tax rules and Act puzzle even the Chairman of the Commission as he said when certain people appeared before him to tender evidence. My suggestion is that certain drastic action is necessary to plug the loophole. The comprehensive legislation should be brought as early as possible. The suggestions of Prof. Kaldor about comprehensive return and so on should be accepted. The cumbersome methods should be simplified so that people may know what is what.

I also request the hon. Minister to throw some light on those other recommendations which have not been accepted.

**Mr. Deputy-Speaker:** Motion moved:

"That this House takes note of the Report of the Direct Taxes Administration Enquiry Committee, 1958-59 and the memorandum of dissent, comments, and recommendations by Shri G. P. Kapadia on the Report, laid on the Table of the House on the 21st December, 1959 and the statement of the Finance Minister on the more important recommendations of the Enquiry Committee, laid on the Table of the House on the 9th September, 1960."

We had two hours allotted for this discussion out of which 20 minutes have already been taken. Can I know the approximate time that the hon. Minister would require for his reply?

**The Minister of Revenue and Civil Expenditure (Dr. B. Gopala Reddi):**  
About 30 minutes.

**Mr. Deputy-Speaker:** That means we have one hour left. There are about eight names already with me and perhaps there might be one or

two others also who would like to speak on this.

**Shri Naushir Bharucha** (East Khandesh): Sir, since this is an extremely important matter and the Committee has taken such enormous trouble of making recommendations on every aspect of the administration of direct taxes, may I request that the time should be extended? This is not a matter on which anybody can speak and conclude in ten minutes. In ten minutes one can hardly touch the fringe of an administrative problem. This is a matter on which the Government should have brought its own motion. May I, therefore, request that the time should be extended?

**Mr. Deputy-Speaker:** Even if I give ten minutes to each hon. Member I will not be able to accommodate all.

**Shri Tyagi** (Dehra Dun): Sir, with a view to have a fair discussion on the subject may I request you to ask the Government to put on the Table of the House a statement showing all the other recommendations that they have in the meantime accepted? There are certain recommendations which do not need any change of the law. They can be given effect to by Government orders. A statement showing that should also be made available so that this House will be in a position to know to what extent the Government have proceeded in the matter.

**Mr. Deputy-Speaker:** If it is available that might be done. I am now fixing the time. How can we extend it? Should we decide to sit later today?

**Shri Naushir Bharucha:** Certainly not. My submission is.....

**Mr. Deputy-Speaker:** There is no other remedy. Government business might have been put for the next day. How can I take away the time from other business. Because this is a private motion ordinarily we give two hours only.

**Shri Naushir Bharucha:** My submission is that the Government should accommodate and give some time for this. I think that can be done.

**Mr. Deputy-Speaker:** The only remedy that appears to me is that we might sit for more time today, sit late after 5. If the House agrees I have no objection.

**Shri Warrior** (Trichur): That would not help much. Even if we sit late we will get only one more hour. The whole difficulty is that the Government did not bring this motion themselves.

**Mr. Deputy-Speaker:** That is my difficulty also. If the Government had brought the motion there would have been longer time available.

**Shri Naushir Bharucha:** Let the hon. Minister say what he proposes to do.

**Dr. B. Gopala Reddi:** That is a matter for the Business Advisory Committee to decide, whether they want to give away some more time for this motion or not.

**Mr. Deputy-Speaker:** All right. Shri Bharucha may now speak on this and take as little time as possible.

**Shri Naushir Bharucha:** I submit, Sir, that at least 15 minutes may be given to each hon. Member.

**Mr. Deputy-Speaker:** All right, he might take 15 minutes.

**Shri Warrior:** If concessions begin in the beginning itself, in the end we will find ourselves in a difficult position.

**Mr. Deputy-Speaker:** Let us see what happens in the end. Let us start first—Shri Bharucha.

**Shri Naushir Bharucha:** Mr. Deputy-Speaker, Sir, a very voluminous report which deserves very careful consideration has been placed before the

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House for consideration. Though the terms of reference were restricted to the administrative organisation and procedure necessary for implementing the integrated scheme of direct taxation the Committee has made numerous recommendations which go a little beyond their terms of reference, if I may say so, and has on the whole given a lead in the right direction. Now it remains up to the Government to implement at an early date such of the recommendations as can be implemented without any alteration of the law.

However, I must confess that after going through the recommendations contained in this report an overall impression left on one's mind is that while it will definitely make for some improvement in the administration, I am afraid any spectacular improvement in the administration of direct taxes and its machinery has to be ruled out.

The Committee has touched upon a number of important aspects of the problem and I can only deal with perhaps, at best, four or five of these. One relates to simplification of tax calculation. I am not quite in agreement with the Committee's recommendation that simplification of tax calculation can be achieved if the basic grades of income-tax are incorporated in the statute itself and surcharges are varied through the Finance Act. I do not know how it will make for simpler calculations. I do like a couple of recommendations made in this connection by the Committee, namely, that whenever the Government desire to make alterations in the basic structure of any tax, particularly the rates, then they must introduce a separate Bill so that the Parliament can focus its attention on the particular problem and the principles underlying that particular Bill. I also agree with the view that the return forms require be very considerably simplified. Normally, I suppose, no other person than perhaps a lawyer or an extremely

good businessman would be able to understand the various details that are required to be filled in an income-tax form.

Sir, allied to this problem of simplification of tax calculation are other questions which the Committee has done well in looking into. It is conceivable that we cannot agree with all the conclusions reached by the Committee, but the Committee has applied its mind carefully to this subject. These include, first, the suggestion that the expression "income and expenditure" should be defined. They also relate to the method of calculating depreciation, the procedure for allowing development rebate, methods of calculation of speculation loss, taxation of charitable trusts etc., and I propose to examine a few of them.

I am of the view that, when the Committee has said that there is no need to give an all-embracing definition of the expression "income", it has been done in the case of other countries and perhaps if an all-comprehensive definition were attempted a great deal of misunderstanding attaching to this expression, which is a fundamental expression on which the entire Income-tax Act is based, might perhaps be eliminated and it might also make for a simpler administration of the Act. I am also aware of the fact that it is not possible in a similar manner to define "expenses". It would mean really defining expenses admissible for purposes of direct taxes. But it should not be presumed that expenditure which is admissible for purposes of a particular Act has not been defined. In the Electricity (Supply) Act of 1948 the admissible expenditure—that is, expenditure 'properly incurred'—has been defined by enumerating a number of items of expenditure pertaining to that particular industry. I am not, however, in favour of attempting to define "expenditure" for the simple reason that what could be done in

the case of one industry may not be possible in the case of numerous other industries. However, I do not agree with the recommendation of the Committee that no attempt be made to give an all-embracing definition to the expression "income".

Coming to the question of depreciation, the Committee has made certain recommendations which I think would make for simpler calculation of depreciation. The first recommendation is that the basic fact, namely, that written-down value of an asset should be taken as the basis for depreciation, should continue. I think that is a sound principle. Businessmen and various industrial organisations have been accustomed to this and it should be maintained. But the Committee suggests that the method of calculating depreciation should be that wherever an asset has been used for six months or more in the course of the year full depreciation should be allowed, if it has been used for a period between one month and six months then half the depreciation should be allowed and no depreciation should be allowed if it has been used for a period less than one month. I think some sort of such rough and ready adjustment should be made because it eliminates a very considerable amount of work on the part of the assessing officer calculating for how long a particular asset has been used and I think the Government will pay attention to this particular recommendation.

The Committee has also suggested that for depreciation under section 10(2) (vii) machinery, plant and other things are included but not furniture and that furniture should also be included in that category. This is a suggestion with which I fully agree.

The Committee has applied its mind to a very important aspect of depreciation, namely, depreciation so far as electricity supply companies are concerned. As the House is aware, the depreciation permissible under the Indian Income-tax Act is totally

different from depreciation permissible under the Electricity Supply Act, Schedule VI, clause 6. It is very necessary that the disadvantageous position in which the electricity supply industry is placed as a result of the differential type of depreciation allowed to it under the Act should be remedied, so that electricity supply companies will be enabled to provide appropriate reserves for purposes of depreciation. As the Act stands today, its expenditure being regulated, the electricity supply industry cannot set aside or create any reserve that it likes. So, I agree with the recommendation made by the committee that an amendment of Electricity (Supply) Act, 1948 is necessary, because it is extremely important that useful utilities should be placed on a sound footing. The best way of amending the Electricity (Supply) Act, is to enable the companies to create separate reserves for purposes of depreciation.

There are some useful recommendations made in connection with development rebate. It has been observed that a condition precedent to development rebate is that no sale of the assets should take place within 10 years. That limit should be reduced to 8 years. I am of the opinion that in these days of scientific advance where as a result of obsolescence some asset has depreciated rapidly, I think certain power should be left in the hands of either the Central Board of Revenue or any other authority to see that necessary adjustments in Development Rebate allowances are made in connection with that.

Coming to the taxation of charitable trusts, which has recently assumed great importance, since up till now tax was being evaded by creating certain so-called charitable trusts. Business was being carried on in the name of some charitable trust and those profits were not taxed. There was no careful scrutiny of the objects of the Trusts. Recently, since last year, the income-tax department has been put on alert in connection with

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that and now the affairs of charitable trusts are being examined.

I fully agree with the committee that exemption from tax under section 4(3)(1) should be restricted to those trusts which run business primarily for the purpose of furthering the object of the trust. For instance, I have in mind educational trusts. If they run a school or run a printing press for the purpose of printing books for educational purposes, in that case the profits of such enterprises should not be taxed. Barring such or similar cases, I am of the opinion that all the profits of the so-called charitable trusts should be taxed and I am completely at one with the committee on that, particularly when trusts are run outwardly in the name of charity, but inwardly intended for taking care of some families and relatives. I also fully agree with the recommendation that where a charitable trust has invested in shares in an enterprise in which the donor has a substantial interest, then also, barring a specified limit, the rest of the profits should be taxed.

Important recommendations have been made by the committee in connection with expediting the disposal of the assessment work. Some of the recommendations are really so good that I think the House should emphasise that the Government should carry out those recommendations. First recommendation is that the assessment should be completed in the same assessment year and at any rate within not more than 2 years. I fail to understand why there should be even 2 years' time. Why not within the same year? The clause regarding automatic filing of returns before 30th June requires to be carefully considered. I am of the opinion it should be done. I find in some cases when I ask for return forms to be sent to me, they are not sent for months together. Maybe the income-tax department is hard-pressed and does not bother about taxing a poor fry like me.

Then, returns of small income-groups should be normally accepted and checks should take place once in four years only. Sir, every year I make a pilgrimage to the income-tax office. For 25 years, the poor income-tax officer asks me one question; "Have you maintained accounts?" I produce a diary and he says, all right. Where is the necessity for this pilgrimage every year, particularly in the case of small income-groups? The committee is right in saying that normally they should be accepted, without the assessee being called upon to produce books of accounts. Very often he has very little to produce by way of books.

Another important recommendation is that assessment should be made within 30 days. Not only it should be made within 30 days, but if a refund is due, along with the assessment order, the refund cheque should be sent immediately. Why is it that the Government is so quick in collecting advance payment of taxes and why so lethargic in making payment of refund? The committee has said that in the matter of late payment of income-tax, 6 per cent should be charged. Make it 12 per cent; I will not be sorry, but also make it 12 per cent for Government's failure to pay the refund in time. Let both sides get equal justice.

There are numerous other recommendations regarding the disposal of refund applications on the very day of receipt. Only once in my lifetime I have got refund on the same day of application. I was surprised that in Calcutta and Ahmedabad this system is in force. Why not in Bombay? What has Bombay done? I think that is a sound recommendation which ought to be accepted. Also, there are minor instructions which are of a useful character, viz., currency of refund order should be for 3 months, because while we are out to strengthen the tax-gathering machinery, we should also be out to do some justice to the assessee.



With regard to the appellate structure, I must particularly emphasise that the recommendation made that the appellate assistant commissioner should be transferred from the Central Board of Revenue to the Ministry of Law is most important. The appellate commissioners must not be looking to the Central Board of Revenue for their promotion. There is a tendency rightly or wrongly, consciously or unconsciously for appellate commissioners always to look to their promotion. So, it is very necessary that the Law Ministry should have control over them.

Also, the suggestion that there should be 2 appellate commissioners under the Ministry of Law for exercising administrative control over the appellate assistant commissioners is a welcome suggestion and I wholeheartedly support it.

I also support the idea of appellate tribunals being strengthened. We will have to continue the appellate tribunals; there is no doubt about that. If a serving Judge of a High Court is made President and the tribunal is strengthened either by special benches or otherwise, I feel considerable useful work could be done. I approve of the recommendation of the committee that the tribunal must not merely pass orders, but it must give detailed orders giving the reasons, the findings on facts, stating the issues and the arguments involved and the conclusions reached.

With regard to the matter of expediting appeals, which is an important matter, I think without strengthening the assistant appellate commissioners and the appellate tribunals, by creating special benches for disposing of arrears of work, nothing substantial can be achieved in this direction.

There are various reasons for accumulation of arrears. I am going to give a suggestion which the Committee does not make. If you intro-

duce some sort of rebate or discount system as is done in the case of gift tax, you will recover income-tax dues very speedily. This is a matter to which Government must apply its mind. Giving an inducement of a rebate, even of 5 per cent of the total amount of the tax payable, if the tax is paid within 15 days of the notice will go a great way.

I wanted to speak on other aspects, but as there is no time, I hope other Members will take care of those aspects. I must certainly compliment the Committee on having done a very useful work in a thorough way. My only regret is that the terms of reference of the Committee were restricted. Had the terms been wider, perhaps we would have had a more comprehensive report.

**Mr. Deputy-Speaker:** I will first call all those who gave their names or who stood up. Then Shri Mathur did not rise.

**Shri Harish Chandra Mathur (Pali):** I also want to participate.

**Mr. Deputy-Speaker:** Shri Ram Krishan Gupta.

**श्री रामकृष्ण गुप्त (महेन्द्रगढ़) :**  
उपाध्यक्ष महोदय, जो रिपोर्ट आज पेश की गई है और जिस पर विचार हो रहा है उस के बारे में मेरा व्यू यह है कि हमारे देश में जो सन् १८६० का इनकम टैक्स लागू किया गया वह हमारी जिन्दगी का एक परमानेंट फीचर बन गया है। इसलिये जरूरी था कि इस तमाम सिस्टम पर विचार किया जाता और उस में जो डिफेक्ट्स हों आज कल की हालात में, उन डिफेक्ट्स को दूर कर के सुधारने की कोशिश की जाती। इस मकसद को मद्दे नजर रखते हुए डाइरेक्ट टैक्सेशन ऐडमिनिस्ट्रेशन कमेटी मुकर्रर की गई। गवर्नमेंट का यह एक काबिले तारीफ काम था। इस कमेटी ने जो रिपोर्ट पेश की है उस रिपोर्ट को देखने से इस बात का पता

[श्री राम कृष्ण गुप्त]

लगता है कि इस कमेटी ने इस मामले में बहुत डिटेल् में स्टडी किचा हिन्दुस्तान के मुस्लिफ हिस्सों में दौरा करके और एक एग्जहास्टिव रिपोर्ट पेश की, जिस पर आज विचार हो रहा है। इस में बहुत सी सिफारिशों का जिक्र किया गया है। बड़ी खुशी की बात है कि गवर्नमेंट ने बहुत सी सिफारिशों को तो मान लिया है, उन में से दो या तीन तो बहुत अहम हैं, लेकिन उन के अलावा बहुत सी रिकमेन्डेशन्स ऐसी हैं जिन पर अभी विचार हो रहा है। उन में से भी दो या चार को मैं बहुत अहम समझता हूँ, और मुझे पूरा विश्वास है कि उन पर विचार करने के बाद उन को जरूर मंजूर किया जायगा।

जहाँ तक सजेशन्स का सवाल है, जो सिफारिशों पेश की गई हैं उन की रोशनी में और जो गवर्नमेंट का नजरिया है, गवर्नमेंट ने जिन सिफारिशों को मानने का फैसला किया है, उन की रोशनी में, मैं चन्द तजवीजें हाउस के सामने रखना चाहता हूँ। मैं से पहला सवाल सिम्प्लिफिकेशन का है। मैं समझता हूँ कि यह बहुत अहम सवाल है क्योंकि जो हमारा मौजूदा ला है वह बड़ा काम्प्लिकेटेड है और आम आदमी उसे समझ नहीं सकता, और जो बड़े बड़े कैपिटलिस्ट हैं, जिन का जिक्र मुझमें पहले हाउस में किया गया, वे भी इस काम्प्लिकेटेड कानून का फायदा उठाने के लिये रिटायर्ड गवर्नमेंट आफिसर्स को एम्प्लाय करने हैं और टैक्स इवेजन्स के दूसरे तरीके इस्तेमाल कर के अपनी आमदनी का बहुत सा हिस्सा छिपाने में कामयाब हो जाते हैं। इसलिए मैं समझता हूँ कि दोनों प्वाइंट आफ व्यू से इस ला को सिम्प्लिफाई करना बहुत जरूरी है। एक तो इस से आम आदमियों को, जो गरीब आदमी हैं, जो कि इन बातों को अ स नी से समझ नहीं सकते, जो कि आफिसर्स का फायदा नहीं उठा सकते, उन को फायदा होगा और जैसा कि मैं ने कहा कि जो आफिसर्स की सर्विसेज

हासिल की जाती हैं और जिन से नाजायज फायदा उठने की कोशिश की जाती है, वह प्रैक्टिस भी इस से खत्म होगी।

इस के अलावा दूसरी बात जो इस कमेटी ने प्वाइंट आउट की है वह बहुत अहम है कि डिफरेंट डिपार्टमेंट्स में कोऑर्डिनेशन और कोऑपरेशन बहुत कम है। इस के साथ साथ सेंदुल और स्टेट गवर्नमेंट्स के दम्यान भी कोऑर्डिनेशन और कोऑपरेशन की जरूरत है। यह इसलिये जरूरी है कि जो इनकम टैक्स ऐसेस किया जाय वह ठीक ऐसेस हो और वह इवेड न हो सके। इस किस्म की बहुत सी मिसालें आप को मिलेंगी। एरियर्स की भी मैं समझता हूँ कि बहुत हद तक यही स्थिति है। मैं ने पिछली दफा इस हाउस के सामने यह बात रखी थी कि जो रकम वसूल नहीं हुई है, उस की वसूली में दिक्कत आती है। उस का एक कारण यह भी है कि वसूली के लिये जो इनकम टैक्स आफिसर्स हैं, वे ज्यादातर स्टेट्स के रेवेन्यू आफिसर्स पर डिपेन्ड करते हैं। उन रेवेन्यू आफिसर्स के सामने इनकम टैक्स की वसूली का सवाल इतना अहम नहीं होता जितना अहम सवाल उन के सामने दूसरे टैक्सेज की वसूली का होता है, जो कि डाइरेक्टली स्टेट्स से ताल्लुक रखते हैं। इसलिये मैं समझता हूँ कि इस बात पर भी विचार किया जाय और उन को इस किस्म के अख्तियार दिये जायें ताकि महकमा इनकम टैक्स के जो आफिसर्स हों वे कलेक्शन वगैरह के काम को तेजी से कर सकें।

इस के अलावा तीसरी बात जो मैं कहना चाहता हूँ वह असेसमेंट के बारे में है। इसका जिक्र इस रिपोर्ट के पेज ५ पर किया गया है। यह मामला इसलिये भी अहम है कि जो रकम ऐसेस की जाती है वह असेसमेंट बहुत से केसेज में एरियर्स में चला जाता है, और यही सब से बड़ा कारण है जिस से कि एरियर्स की रकम आये साल बढ़ती जा रही है। अगर कमेटी के विचार में हाउस के सामने

रखू तो यह बात बिल्कुल सही साबित हो जायेगी। रिपोर्ट के पेज ५ पर कहा गया है :

"From the statistics furnished to us by the Central Board of Revenue we find that a large number of arrear assessments are carried over from year to year. It is these arrear assessments which are responsible for the growing arrears of taxes and the consequent criticism of the department."

इस के अन्दर फिक्स् ऐंड फिगर्स भी दिये गये हैं लेकिन मैं उन को दाहराना नहीं चाहता। मेरे कहने का मतलब यह है कि इस बारे में कमेटी ने जो सिफारिशें की हैं वे बहुत अहम हैं और उन को मुकम्मिल तौर पर स्वीकार किया जाय ताकि यह जो असेसमेंट और एरियर्स की शिकायतें हैं वे कम हों।

15.46 hrs.

[SHRI HEDA in the Chair]

इसके लिये मैं दो तीन बातें खास तौर पर कहना चाहता हूँ। कुछ बातें तो ऐसी हैं जिनको गवर्नमेंट ने मंजूर कर लिया है, लेकिन एक दो बातें ऐसी हैं जिनको जिस हद तक मंजूर किया जाना चाहिये था, उस हद तक उनको मंजूर नहीं किया गया। मिसाल के तौर पर इस कमेटी ने यह सिफारिश की है कि इंटरैस्ट वगैरह लागू किया जाय। आपको यह जानकर हैरानी होगी कि इनकम टैक्स का जो एक्ट है उसके अन्दर इंटरैस्ट के लिये कोई प्राविजन नहीं है। जैसा कि इस कमेटी की रिपोर्ट के सफा ११६ और ११७ में जिक्र किया गया है, पेनैलिटी का क्लार्ज जरूर है लेकिन पेनैलिटी के बारे में कमेटी ने जो राय दी है, जो एक्विटि कमेटी के सामने आई है, उससे पता चलता है कि इस क्लार्ज को भी एक्विटिवली एन्फोर्स नहीं किया गया, और मुझे से पहले मेरे साथक दोस्त

ने, जिन्होंने इस मोशन को पेश किया, जो कहा वह बिल्कुल बजा था कि अग्रस्त सन १९७ से लेकर आज तक हमें इस बात का पता चलना चाहिये था कि कितने लोगों को सजा दी गई और वे सजायें क्या क्या दी गई, अग्रर इसका पता चलता तो मालूम होता कि इस क्लार्ज को मुकम्मिल तौर पर प्रैक्टिकल तौर पर यज नहीं किया गया। इसके बारे में मैं ज्यादा नहीं कहना चाहता सिर्फ कमेटी के व्यज्र आपके सामने रखना चाहता हूँ।

"Statistics furnished to us show that out of the total arrears during the year the amount in respect of which penalty had been levied was negligible. Thus, while total arrears during 1958-59 stood at Rs. 271.60 crores, the amount in respect of which penalty had been levied was only Rs. 1.81 crores."

इसका यह मतलब है कि पेनैलिटी का काम तेजी से नहीं चलाया गया।

जहां तक इंटरैस्ट का सवाल है, उसके लिये एक्ट के अन्दर कोई प्राविजन नहीं। मुझे यह देख कर बड़ी खुशी होती है कि कमेटी ने इस बात की सिफारिश की। लेकिन गवर्नमेंट ने जून की बजाय इस इंटरैस्ट के प्राविजन को सितम्बर से मंजूर किया है। मेरा यह ख्याल है कि अगर जून से ही इसको एक्सेप्ट कर लिया जाता और कमेटी का जो ऑरिजिनल प्रपोजल था उसको मान लिया जाता तो ज्यादा अच्छा होता क्योंकि इस से एरियर्स की वसूली में दिक्कत नहीं आती। इसके साथ ही साथ मैं हाउस के सामने यह भी रखना चाहता हूँ कि पिछले दिनों में जो ड्यूज एरियर्स की रकम जमा हो गई है, उसकी तफ भी हमें ध्यान देना चाहिये। यह मामला कई दफा हाउस के सामने आया और यह रकम बहुत काफी मिकदार में मौजूद है, यह धायद ३०० करोड़ से भी ज्यादा हो गई हो।

[श्री रामकृष्ण गुप्त]

इसका कारण यह था कि सेकेन्ड वर्ल्ड वार में इनकम टैक्स का कोई अच्छा इन्तजाम नहीं था। सभी जगह लोगों ने नाजायज आमदनी पैदा की और उसको वे इनकम टैक्स से बचाने में कामयाब हो गये। मुझे पूरा विश्वास है कि इस तरह भी पूरा ध्यान दिया जायेगा।

इसके बाद मैं टैक्स इवेजन के बारे में भी कहना चाहता हूँ। इसके लिये भी कमेटी ने बहुत सी सिफारिशों की हैं। मैं समझता हूँ कि वह भी बहुत अहम हैं। उन पर भी पूरा अमल होना चाहिये। मैं इस मामले में सिर्फ एक ही बात का जिक्र करना चाहता हूँ। मैंने यह बात पहले भी कही थी। अगर आप वाकई टैक्स इवेजन को रोकना चाहते हैं तो आप को बैंक्स पर किसी न किसी तरीके से कंट्रोल करना पड़ेगा। जो यह बात मैंने कही है इसकी सिफारिश उन इनकम टैक्स इनवैस्टीगेशन कमीशन ने भी की है जो कि मुकर्रर किये गये हैं। उन्होंने भी इस बात की तरफ इशारा किया है और दुनिया के दूसरे मुल्कों, जैसे यू० ए० सस० ए० वगैरह की मिसालें देकर यह साबित किया है कि अगर इनकम टैक्स इवेजन को रोकना है तो इस चीज पर हमें ज़रूर काबू पाना होगा।

हम देखते हैं कि जिन लोगों से टैक्स वसूल करना है उन्हीं लोगों के हाथ में हिन्दुस्तान के बड़े बड़े बैंक हैं। वह अपनी नाजायज कमाई का काफी हिस्सा उन बैंकों में दूसरे नामों से और गलत तरीकों से छिपाने में कामयाब हो जाते हैं। बैंकों से आपको पूरी इनफारमेशन नहीं मिलती। तो इस बारे में मेरी यह अपील है कि हमें इस बात पर ध्यान देना चाहिये और बैंकों पर अगर हम मुकम्मल कंट्रोल न करना चाहें, तो कम से कम इतना कंट्रोल तो करना ही चाहिये कि जिन लोगों का उन में रुपया जमा होता है उसके बारे में सालाना हमें रिपोर्ट मिल

सके, ताकि वह लोग टैक्स को ज्यादा बचान सकें।

आखिर मैं मैं दो चैरिटेबिल अल्फाज ट्रस्ट्स के बारे में मैं कहना चाहता हूँ। मुझे यह देख कर बड़ी खुशी होती है कि कमेटी ने सेक्शन ४ में इस क्लाज को अमॉड करने की सिफारिश की है और गवर्नमेंट ने उसको मंजूर कर लिया है। मैं इस बारे में इतना ही कहना चाहता हूँ कि ऐक्ट को जल्दी से जल्दी अमॉड करके इस क्लाज को जल्दी एनफोर्स किया जाय ताकि जो ट्रस्टों के जरिए आमदनी को छिपाने की कोशिश की जाती है और उस रुपए को असील परपज के लिये खर्च नहीं किया जाता, इस चीज को रोका जा सके। टाइम की कमी है। मैं इस किस्म की एक नहीं हजारों मिसालें पेश कर सकता था कि किस तरीके से हिन्दुस्तान के बड़े बड़े कैपीटलिस्टों ने इनकमटैक्स से बचने के लिये यह ट्रस्ट बनाए हैं और चैरिटी का नाम लेकर किस तरीके से रुपया मिसयज होता है। मुझे पूरा विश्वास है कि अगर इस क्लाज पर सख्ती से अमल किया गया और इसको कड़ाई के साथ एनफोर्स किया गया और इस चीज को मौजूदा इनकम टैक्स ऐक्ट में इन-कारपोरेट किया गया तो इस पर हमारा काफी कंट्रोल हो जायेगा।

**Shri Harish Chandra Mathur:** Mr. Chairman, Sir, I believe I can say with some justification that we are almost celebrating the centenary of the Income-Tax Act. The original enactment was in 1860 and today in 1960 we are analysing its various provisions and are examining what further improvements can be made in it.

**Dr. B. Gopala Reddi:** This is a centenary monument?

**Shri Harish Chandra Mathur:** Yes, for which the credit goes to my hon. friend who sits here.

I would say without any hesitation that this Committee has done a very

thorough job and this House owes a debt of gratitude to the members of the Committee who have applied their mind to the problems which had been exercising our minds very considerably. By and large the Government's reaction and response to the various recommendations is also commendable. With certain exceptions the Government has with promptitude accepted most of the recommendations some of which are of a vital character and of far-reaching consequences. The Government definitely deserve to be congratulated for their reaction in the matter and for the prompt action that they have taken. It is very seldom that we get an opportunity to pay such a compliment to the committee as well as to the Government.

I think this House should have devoted a little more time to the various recommendations and given its reaction in the matter. But I do not very much press for more time because as a matter of fact we are mostly in agreement with the recommendations which have been made and as they have been accepted. I would not take the time of the House in reiterating those recommendations and saying that I am in agreement with them and that I am glad that the Government had done this. I have made a general statement in that regard.

What I appreciate the most is the human approach and a grip with the realities of the situation for which the Committee could be congratulated in particular. The human approach is there. What they definitely want is—I wish to emphasise this point because it needs the Government to take particular note of that—that there should be a change in the relationship between the administration and the assessee. At present all assesseees are considered as if they are evaders of taxes. They are treated not as honourable and respectable citizens of the country. The Committee has tried to bring about a different approach in the matter. They want that the officers should help the assesseees in correcting their

returns and should give them proper guidance. They have gone into a very vital matter and have asked the Government to accept the returns as they are submitted by a particular group, that is, the return of anybody whose income is less than Rs. 7,500 a year should be accepted as it is. There may be a test check in four years. I attach special importance to this because it indicates the mind of the Committee with which we are in full concurrence. We must bring about that approach. Every citizen should be made to feel that whatever he says will be accepted. We should inculcate a sense of responsibility in them.

Apart from that there is a realistic approach in this matter because it will very much lighten the burden of the department. I think more than half of their time which is unnecessarily lost in the harassment of these smaller men will be saved to be devoted to assesseees who really matter and who, because of certain background, have been avoiding the payment of taxes by certain evasive methods and so many other things. So I wish that this sort of approach and attitude should be inculcated in the services. This is only an indication of the spirit in which we want the department to function and work. I wish this sort of approach and attitude should be inculcated by various other methods, through training and other methods, in the minds of the revenue administration. As a matter of fact, I wish to feel proud when I pay a tax that I am helping my country and that I should earn a little more so that I should be able to pay a little more tax to the Government. That sort of thing should be developed in the minds of the assesseees.

Another recommendation to which a reference was made by my hon. friend, Shri Bharucha was about the appellate commissioners. As a matter of fact, I should not have participated in the discussion except for two or three points which I wanted to make. I feel very strongly.

[Shri Harish Chandra Mathur]

that these appellate commissioners should not be under the Revenue Board. It is not for the first time, I believe, that this recommendation has been made. Such a recommendation had been made much earlier by various other committees. The Taxation Enquiry Committee and other committees have also gone into this matter and they have made this recommendation. Here is a question of principle involved. Here is a question of the reaction which you create in the mind of the person which is involved. What sort of reaction do you produce in their mind, what confidence they must have and how independently these officers should function? I do not know for what reasons the Government have for not accepting this very vital recommendation. They have accepted other recommendations, but they have rejected this recommendation. I can see no ground. As a matter of fact, we had all the time been feeling and the Congress Government which is in power has always wanted, as a matter of fact, the separation of the judiciary from the executive. I think this also falls almost in that line. We want that this should be transferred to another Ministry, the Law Ministry, on the same principle on which we want a separation of the judiciary from the executive.

16 hrs.

**Dr. B. Gopala Reddi:** The judiciary is under the Home Ministry, not under the Law Ministry.

**Shri Harish Chandra Mathur:** My hon. friend possibly does not know that I have all the time in this House and in the other House pleading and pleading very strongly.....

**Dr. B. Gopala Reddi:** With what effect?

**Shri Harish Chandra Mathur:** With the same effect as this report has created on your mind. It is against that attitude of your Ministry and the attitude of the Home Ministry we

are offering our criticisms. That is an unfortunate attitude which you together with the Home Ministry adopt in this matter. As a matter of fact, it is not only I, every one, every right-thinking man feels that and we have given various grounds, various reasons. If I were only to go into that matter, I hope I will carry the entire House with me except for the obstinate attitude of the Government because of a certain fear complex which they have that, if we give up this executive power, possibly these officers will work in an independent manner and will possibly jeopardise the functioning of the Revenue administration. I think this is simply a fear complex which is in their mind. I think they should have a little more confidence in these officers who work in these appellate authorities. Why should they think that they will not bear in mind what the Government feels?

I shall refer to one or two other recommendations. There is the question of arrears. At present, as it happens, these arrears are collected by the various State administrations. The District magistrate or the Collector is possibly the agency. They have got various rules and regulations differing from one State to another. The Committee has made a very healthy recommendation that we must have a certain Central code which will be uniform and which will guide, which should be made really effective for the collection of these arrears. I wish the hon. Minister realised that these arrears which stand at a colossal figure create a very wrong impression in the mind of the entire population. We feel that there are about Rs. 200 crores which swell into 300 crores. We are now told that though we are showing the figure as Rs. 300 crores, a major part of it is not realisable. I wish proper attention is paid to this matter.

Even today, you will remember there was a question which was ask-

ed, how many millionaires, and multi-millionaires, we have got in this country and my hon. friend the Minister felt shy even in telling that.

**Dr. B. Gopala Reddi:** The number, I have given.

**Shri Harish Chandra Mathur:** Break of the States: their names will be known. What is wrong about their names?

**Dr. B. Gopala Reddi:** State break up, break up by sex, religion, are not contemplated: how many Hindus, how many Parsis.

**Shri Harish Chandra Mathur:** If the Minister looks at the Census report, he will find there is a very thorough break up given. He wants males and females: I do not know for what purpose.

**Dr. B. Gopala Reddi:** There can be women multi-millionaires.

**Shri Harish Chandra Mathur:** What harm is there, I do not see. I do not know how this tendency was generated in the mind of this Government. I think it is a hang-over which my amiable friend wants to stick to. I do not see why he is in love with such a spirit of secrecy about this thing. I say we want the names to be given. After all, if I say that I am a multi-millionaire, what is wrong? Is it a crime? If they feel shy, do you think that a very great secret has been given out? I felt that it was only about crimes that they were feeling shy that we should not tell, here is a tax evader. This Committee has made a recommendation that their names should be published. I feel that they feel shy even to tell us that a particular person is a multi-millionaire. They feel shy to say that in a particular state, a particular man is a multi-millionaire. I cannot appreciate this attitude at all.

I shall refer to one point and then finish. This House has very strongly advocated very strong action against

those people who evade taxes. Perfectly correct. But this Committee has very wisely and very shrewdly made the recommendation and I wish to draw the pointed attention of the House and the Government. I refer to this because most of the friends here who will be speaking will be lawyers, possibly. The greatest abettors in tax evasion are the Chartered accountants and lawyers. This Committee has made a specific recommendation that the standards about code and conduct and responsibility that apply to Chartered accountants and lawyers in the United Kingdom should apply to the Chartered accountants and lawyers in India. They are saying nothing very revolutionary or fantastic. The only point is that the same responsibilities which are attached to the conduct of the lawyers and Chartered accountants in the U.K. should be attached here. I do not know what is the reaction of my friend. If an officer has acted in a malafide manner, he should be responsible for it and he should also be subjected to criminal prosecution. I think it is a good thing that they have suggested in the matter of interest. If the Government is keeping money, they must also pay interest. If a man is holding back payment, he must pay interest. That is a very equitable thing. It is very equitable that officers and the Chartered accountants and lawyers should be made liable to criminal prosecution if their malafides are proved.

**Mr. Chairman:** I must remind the hon. Member that the time is up.

**Shri Harish Chandra Mathur:** That is all: thank you.

**Shri N. R. Muniswamy (Vellore):** Mr. Chairman, I should be very grateful to you for giving me this opportunity to speak, as we are hard up for time. At the very outset, I have to congratulate the Enquiry Committee because it is headed by one of our colleagues who is not a lawyer, but a man with abundant common sense. In one aspect, we have to view the entire report, whether it is

[Shri N. R. Muniswamy]

according to canons of jurisprudence, or according to the canons of commonsense, because it is headed by one who always speaks from his own experience which he has gained as a common man and we have to view it with a certain amount of caution.

At one time, some Members in the Committee seem to have taken objection that they should not be confined only to the terms of reference. The terms only dealt with, according to the majority of the members, the streamlining of the administration to see that no evasion takes place and the people who evade paying taxes are severely punished. It is only from that angle of vision that they have been looking at it. The terms of reference read as follows:

“To advise the Government on the administrative organisation, and procedures necessary for implementing an integrated scheme of direct taxation with due regard to the need for eliminating tax evasion and avoiding inconvenience to the assesseees”.

It looks as though the majority of the members thought that they must confine themselves to the administrative procedure to be adopted to see that taxes were not evaded, but their recommendations appear to show that they have gone beyond the terms of reference. They have not gone into the concept, structure and administration of the various direct taxes, nor suggested how the law should be amended to see that the taxes are not evaded. They appear to think the ends can be achieved by issuing administrative directions or executive orders cannot be as effective as making a provision under the relevant Act itself. I find that at the time of assessing, the officers do not look into the directions etc. because they are so voluminous.

As the previous speaker has pointed out, we are going to revise income-

tax law after about a century, and in the course of this long period so many orders have been issued, superseding and overlapping each other. I therefore suggest that the rules, regulations, directions and orders that are in force should be bound in one volume and given for the guidance of the officers by the CBR, as otherwise it is difficult for the officers to find out which orders have been superseded and which orders are actually in force.

It is not a happy relationship that exists between the assesseees and the administration at present. Every assessee is viewed with suspicion, and it is thought his accounts are not genuine, but it has to be remembered that there are people who always give correct accounts, though, no doubt, there are also others who maintain double or even triple accounts for different purposes. I therefore suggest that we streamline the administration so as to create a sense of trust and confidence in the mind of the public, so that the administration may not appear to them to be prosecutors intent on harassing them and causing them inconvenience.

There are certain small things which can be ignored also. There are cases of small assesseees being teased so much that sometimes they do not have enough time to attend to their own families. The administration should not go after the small fry, who may be causing a loss of only a few rupees to the Government.

One of the recommendations of the committee is having an appellate assistant commissioner under the Ministry of Law. Government in its wisdom has not accepted this recommendation, I do not know why. If this recommendation is not accepted, the orders issued in respect of an assessment will have to be appealed against to another officer of the same department, who will simply confirm the earlier order. So, there is much to say in favour of the separation of the



judiciary from the executive. Every one knows how even in criminal cases the judiciary has been separated from the executive. Similarly, people who levy the assessment must be a separate wing, and those to whom an appeal is made must be in a different category; otherwise, it would be said that the prosecutor and the judge are from the same set of people.

Therefore, I would request that the decision taken by Government should be revised, and the recommendation made by the committee should be approved.

In regard to double taxation, I have a few suggestions to make. This question has been agitating the minds of the people for a very long time, and even as early as 1938, when an amendment was moved in this behalf, this question was brought to the lime-light by several people, and they gave their reactions and their view-points. But I find that no change has been made. The Law Commission also have given their verdict that there should be no double taxation, and that must be eliminated. For example, when the Indians living in other countries send remittances here, they get some exemptions, but when there is a certain declaration of a national dividend, it is deemed to be part of the income of the shareholders, and this causes some inconvenience to the people.

Therefore, I would request that in the light of the Law Commission's recommendation, the aspect of double taxation has to be reviewed and it should be seen that there is no double taxation.

Now, I come to the question of the simplification of statutes. The form that has to be filled by the assessee contains various types of columns. Very often, the people do not understand the significance of many of these columns, and, therefore, they make mistakes, and a mountain is made out of those mistakes, and trouble is given

to the assessee. I would suggest that the form must be made simpler so that even the ordinary man may be able to understand it.

Very often, I find that the assesseees are obliged to seek the assistance of experts, either income-tax practitioners or lawyers, or old accountants and so on. Very often, I find that most of the retired officers of the Income-tax Department start practising, and they teach the assesseees how to get over the difficulties. There must be some rule that persons who have worked in the Income-tax Department should be debarred from practising, because they know where the loopholes are, and where the assesseees could exploit the ignorance or otherwise of the staff, and thus, they help the assesseees a lot. They can help either in the continuance of the evasion of the tax or in the elimination of the evasion of tax. I only wish that the officers who retire from service, and the auditors who are there should see that this country prospers, by collecting the legitimate dues to Government and by putting a stop to evasion.

Therefore, I wish that something is done to see that the officers who retire from the service are not allowed to practice or even to give any guidance or help to the assesseees, unless it be for the purpose of making the collections due to Government.

**Shri Warrior:** I join my other hon. friends who congratulated the Tyagi Committee . . .

**Dr. B. Gopala Reddi:** The hon. Member may speak a little more loudly or come near one of the mikes.

**An Hon. Member:** His name is 'Warrior'.

**Shri Warrior:** I can speak loudly, but I did not want to speak very

[Shri Warrior]

loudly, because there are only a few Members present here.

**An. Hon. Member:** He is not a field warrior.

**Shri Warrior:** I join my hon. friends in congratulating the Tyagi Committee especially its chairman, Shri Tyagi, who is sitting here, on two accounts, firstly because he has placed before us a very voluminous report, which has tackled a very complicated problem, and secondly because unlike most other reports, this report has at least had a sympathetic consideration at the hands of the Government, because they have accepted many of the recommendations.

**Shri Tyagi:** It is a surprise indeed.

**Shri Harish Chandra Mathur:** So, you congratulate the Government or the committee?

**Shri Warrior:** I congratulate Shri Tyagi.

**Shri Tyagi:** It is a very great surprise.

**Shri Warrior:** But, I cannot congratulate the Government, as Shri Harish Chandra Mathur has done, because most of the recommendations which were acceptable to Government were such that they would not make matters any the better. So the Government were in a position to accept it. If it had been something otherwise, Government would not have accepted it. So the congratulations to Government should be reserved for some other time.

The whole Report has exhaustively dealt with the administrative structure. But is the malady in the administrative structure itself or somewhere else? In that respect, the Committee should have had a wider scope to go into the malady deeper and excavate the problem. The administration should have been attuned to the cure of the malady. That was not

done, and that was not possible within the terms of reference given to them.

The Committee have reported somewhere—I cannot exactly quote it now—that evasion more than avoidance of tax is not so prevalent and not so much resorted to in post-war days especially after independence as in pre-war days, because in those days there were certain circumstances which enabled the tax evaders to operate more effectively. Those circumstances are not present today. Also the psychological atmosphere has changed. Our people are more nationalist and are reforming themselves so that they are co-operating with Government in paying their dues by way of tax. But Mr. Kaldor has reported something different. His estimate might be over-rated, but he has said that tax evasion and tax avoidance might together be somewhere between Rs. 200—Rs. 300 crores per year. If it is so, it is a huge amount and a big thing. Our official report is that it is not anywhere above Rs. 30—Rs. 40 crores. But actually, when the voluntary disclosure scheme was started, about Rs. 70—Rs 80 crores were declared. So the official assessment is an under-assessment if Mr. Kalor's estimate is an over assessment.

Anyway, evasion is much more than avoidance. Avoidance cannot be relied upon much. Avoidance can be relied upon only within the law. Evasion is an illegal thing. There are certain circumstances, especially in the context of a developing economy of ours, under which there is more scope for evasion than for avoidance. If we do not go deeper into the problem I do not think that all the loopholes can, as far as possible, be plugged and amounts due to Government realised, however much we reform the administrative structure. However much we make the procedure more simplified and however much harassment is eradicated.

The Committee have made certain recommendations. They can be implemented. But I might refer to certain things which have come to my notice and which, I think, will be helpful to the House and to Government in particular. I had asked a question as to how much under-valuation is resorted to by licence-holders importing goods, especially capital goods, from abroad.

**Shri Tyagi:** That is their trick.

**Shri Warior:** The answer was that six cases were detected; out of them, in only three punishment was given or some action taken; the others are under investigation. But to my knowledge, there are people in this country—I do not know how they should be named—especially in the big cities of Bombay and Calcutta who have large bank balances in foreign countries. I will cite a typical instance. Suppose a student has to go for education in U.K. The Government will not allow any foreign exchange for that. But if you pay 10-15 per cent premium to a Bombay broker, he will give you any amount you want in U.K. in pounds sterling. The only condition is that the money should be given in Bombay. I know of certain instances. I have even personal knowledge of them.

**Dr. B. Gopala Reddi:** Kindly write to us about the names of such people.

**Shri Warior:** That is the difficulty there. I do not want to quote a proverb. Whenever we give a thing the penalty will be coming more upon us than upon those people who are resorting to these nefarious methods. Anyway I will try to help the Government as far as possible.

Then, there is the manipulation of invoice, going on on a very large scale. If Government is not going to do anything in the matter, however much we attune the machinery, it will not be possible to plug these things. There are imports also. I know certain instances where the people themselves

have reported to me how they manipulate the import licences. I will give a clue to the hon. Finance Minister that there are so many licences for which a premium of more than 100 per cent can be had in the Bombay market, especially automobiles and others. If he can get anything out of it let him; that is all I can say.

**Dr. B. Gopala Reddi:** We want the names.

**Shri Warior:** There is the question of floating companies, new companies with foreign collaboration. This foreign collaboration has become something very valuable for the investors. Supposing today a company is floated for manufacture of cowdung with German collaboration, within 2 hours in the Bombay market or the Calcutta market, I mean the Stock Exchange, the shares will be sold and over-subscribed.

There was an instance of a company floated in Bombay where the capital was over-subscribed to such an extent that they got a few lakhs out of interest alone. The company was floated with a paid up capital of only Rs. 5 crores but the subscription was for Rs. 15 crores. They got all the Rs. 15 crores; they kept the money for six months and the interest alone worked out to a few lakhs.

**Dr. B. Gopala Reddi:** Rs. 8 lakhs.

**Shri Warior:** The Government have taken action also. I thank the Government for that. Once detected they may do that. But it goes on undetected.

**Shri C. R. Pattabhi Raman (Kumbakonam):** Could they keep them secret? They will have to put it somewhere.

**Shri Warior:** I can give the whole story; but I have not the time for it. The money was repaid to those who had applied for shares. But the interest was taken by the company. How that interest was utilised is another

[Shri Warrior]

question. I will come to it when we discuss black-market business and the manipulation of accounts that is going on. This company has got a goodwill of its own because it has got foreign collaboration. If there was not that collaboration this cheating of the public would not have been resorted to.

**Mr. Chairman:** The hon. Member must conclude now.

**Shri Warrior:** I will not give any more instance. How is this money hidden? There are certain methods of hiding this money. Most of the money is hidden in foreign banks or in cash or in precious metals such as gold and silver or pearls and the like.

Then, there is building construction. I am very sorry that the L.I.C. has given a very bad lead in this matter by constructing a fourteen-storey building in Madras. This has given the lead to smaller institutions like banks and others. I know of an instance where a bank is constructing huge buildings. Where they spend Rs. 1 lakh, they will show in the accounts Rs. 2 lakhs. Thereby Rs. 1 lakh is hidden. We cannot detect that in the ordinary course. Only if a scrutiny is made will we be able to detect it; how much of material has been used; how much the labour has been paid and all that. But it is not within the competence of the income-tax department to do that.

In my State, Kerala, which is noted for mushroom banks, big deposits are not made with the Scheduled Banks. If the Minister looks into it he will see that there are so many small banks in the lanes and by-lanes with big sign-boards. But the bigger deposits are made in these back lane banks and not in the front line banks because once a person is in the list of income-tax assessee, he always remains on the list. Even if an assessee becomes a pauper, annual returns will be asked for from him but new fellows come in and they are never detected and

these new institutions are relied upon to hide black-market money.

The third thing is about this 'trustification'. I will give an instance which probably Dr. Gopala Reddi may know. A philanthropist in the South donated Rs. 3 lakhs for an engineering college and he was a big textile magnate. The trustees of the college have had to run the textile mills and when the Government of India made some enquiries it was found that about Rs. 30 lakhs had been swindled. There is a voluminous report in the vaults of the Government but it will not come out. This method has been resorted to as a means of hiding the actual funds. There are other instances of creating trusts in which huge amounts are sunk and these people have a controlling authority but they evade all sorts of taxes. They go as philanthropists; they are publicised, photographed and what not!

I will also refer to the extravagant spending of money. A census may be taken with profit of how much money has been spent by the managing directors and managers in the Asoka Hotel. I know an instance of a gentleman who flies to Delhi from Bombay every two months and stays in the Hotel and throws out dinners which all are supposed to cost him Rs. 30,000. Again, the oil companies in India resort to such methods and we find that between 1951 and 1959 they have doubled their expenditure for the same volume of trade; they say they have increased their staff, emoluments, etc. The cost accountant of the Government of India who wanted to check the accounts and verify these things was denied all information and nothing could be detected.

There are many other methods in which things are done and one has to be accustomed to the market if one has to know them. These things will not be put down unless there are some radical changes. They cannot be stopped by tackling with the surface or euphemeral questions. The Commerce and Industry Ministry must take up this matter of licensing. The Government should also think about bank

nationalisation. I have gone into the report and although it does not disclose many things, it discloses some things. Many things could not be done without the co-operation of the banks but the banks are reluctant to give information and the commercial associations are reluctant to allow banks to be nationalised. It is true that all transactions can be detected but very grave transactions can be detected and banks would be very useful in that way. These two questions are very vital in our present day economy and unless we tackle them, I do not think that the deeper malady can be eradicated.

In the end, I will congratulate Shri Tyagi again for suggesting methods of simplification. There are many things to be simplified and those can be attended to only if the main things are done. If we attend to questions that are on the surface, the deeper maladies will remain there.

**Dr. B. Gopala Reddi:** Sir, there were no controversial matters raised during the course of the discussion. Everybody began to congratulate the Committee for the great effort they have put in and the great many recommendations they have made to eliminate tax evasion and to avoid inconvenience to the assesseees. Sir, the Government have already paid their compliment to the Chairman and members of the Committee even when the report was presented to the House, and I also once again join the other hon. Members of the House in paying my own tribute to the Chairman and members of the Committee for the great many recommendations that they have made.

The Government did not come forward with any motion that the report may be discussed because we knew that the whole House was with the Committee and there were no controversial matters, no new points which could be raised on the floor of the House which were not discussed amply by the Committee. Therefore, the Government was not anxious to have a debate on the matter. But my hon. friend Shri Banerjee and others

thought it necessary that we must have a discussion on this matter and we readily agreed to that discussion. So, Sir, the Government, on that source, need not be blamed for not bringing forward a motion for discussion on this Committee's report.

Sir, the Committee had two approaches in this matter. They wanted the human approach. Shri Mathur referred to it. The human approach was there, and they wanted to remove any semblance of harassment from the officers to the assesseees. They also bestowed a good deal of thought for the revenue approach also. They did not overlook the revenue approach. After all, they were mainly entrusted with the task of looking into tax evasion. Therefore, the human approach and the revenue approach had to be coupled, and I think they have done ample justice to both the approaches.

Therefore, Sir, the Government also did not find it difficult to accept most of the recommendations. We hope that a consolidated Bill might be introduced in the next session—in the next Budget Session. It has but necessarily to be referred to a Select Committee, and perhaps in the July-August Session, though of course we will all be on the eve of the next general elections and things like that, this Bill might be taken up finally for passing. It will be really epoch-making event in the history of income-tax. Shri Mathur referred to the centenary of income-tax. Certainly, at the end of 100 years we are looking back and taking stock of the entire situation so that we may get the real revenue that is due to the Government from the administration of income-tax.

Sir, we have placed on the Table of the House a consolidated report on all the recommendations we have accepted, those recommendations which we could not accept and those recommendations which are still under consideration. Shri Tyagi and also other hon. Members wanted a consolidated report up-to-date showing what decisions have been considered fully and

[Dr. B. Gopala Reddi]

what recommendations have been accepted or rejected so that the House might know how the mind of the Government is working in this matter. I promise the Members that we will very soon place on the Table of the House an up-to-date list with regard to all the recommendations.

As far as I can see there is no difference of opinion at all between Shri Banerjee or Shri Tyagi or myself. There seems to be no difference of opinion at all between the Government Benches, the Congress Benches or the Opposition Benches. Nobody wants any harassment. Everybody wants that every pie that is due to us from the people, industrialists or anybody else should be collected with promptitude. Therefore, in this matter it is not a political issue at all and the entire House is more or less behind the Committee and the Government in this matter. We are all anxious that in the matter of income-tax there should not be any harassment and proper administration of the department should be there.

Shri Banerjee has raised the usual points which are raised when income-tax matters come up, viz., tax-evasion, loopholes to be plugged, recovery of arrears, launching of prosecutions very vigorously; there is no need to withhold any names for any reason; whenever there is a penalty, the name must be given out and things like that. He also said officers after retirement should not be allowed to practice or join firms. These are the main points he has raised and I shall try to answer them briefly.

With regard to tax-evasion, the committee also has bestowed a good deal of thought with regard to that. All possible steps are being taken to see that there is no evasion at all, but to assume there will be no evasion at any time is asking for the impossible. Even in advanced countries like U.K. and U.S.A., where there is so much of literacy and so much wealth and opulence, the ten-

dency for tax-evasion is there I shall only refer to a paragraph:

"As early as 1920, the Royal Commission on Income-tax in the United Kingdom drew attention to the existence of tax-evasion in that country and expressed its view on it as under:

"That evasion of income-tax exists at the present time is beyond question. The citizen who is deficient in public spirit has always aimed at paying less than his fair share of the nation's expenses and it is safe to assume that he will always continue to do so. That may be said of every tax, but it is specially true of the income-tax."

I think from 1920 to 1960, the same thing must be continuing in the U.K. and that is our latest report also. The impression left on some of our candidates who go there for training, etc. is that even in U.K. there is a lot of tax-evasion.

With regard to the United States:

"The Joint Committee on tax evasion and avoidance set up in 1956 found that attempts at avoidance and evasion were widespread and amazing, both in their boldness and in their ingenuity."

So, boldness and ingenuity are not peculiar to India; they are there all over the world; wherever there is direct taxation the tendency to evade tax is there. I am not justifying evasion at all. We are taking all necessary steps possible to see that all the loopholes are plugged and the revenue due to Government is got. But there is a sort of boldness and ingenuity in whatever they do and so it is very difficult to trace the track of the bold people. Anyway, our officers are being told repeatedly that they must look into the accounts properly, more especially of

the bigger assesses and see that no scope for evasion is there.

We reopen many cases after 7 or 8 years. We say, such and such amount is not counted and so we are going to reopen the case and things like that. It is not done once in a way; it is done almost every time. If there is any chance of reopening a case, it is being done. So, it cannot be said that we are not taking all the steps necessary.

With regard to arrears, we have repeatedly answered this question. This is a hangover of the war-time. Most of the assessments were, I suppose, immediately after independence or before independence during the war-time. Many commissions have gone into this matter. Some judgments have also come in the way. Therefore, the whole thing has been done *de novo*. We are not anxious to keep the arrears in our ledger books. It does no credit to the administration. We are anxious to see that whatever is realisable is realised quickly and if it is not realisable at all, to write it off. There is no use going about all the time and telling Parliament and the world there is so much arrears they are yet to be collected and perhaps, they will be available for the Third Plan and all that. We do not want the world to be under a false impression. Wherever it is realisable we try to realise it as quickly as possible and if it is not realisable it is better, I think, we write it off.

There is a complaint that there is a lot of difference between the gross arrears and the effective arrears. The gross arrears, I repeat is Rs. 257 crores but the effective arrears is Rs. 133.61 crores. That has been there for over a decade. Amount pending settlement by way of Double Income Tax Relief is Rs. 7.57 crores. The Relief to be given is Rs. 6.05 crores and balance for recovery is only Rs. 1.52 crores. Amounts due from persons who have left India is Rs. 11.07 crores. What shall we do with that? They have left India and 1410(Ai)LS.—8.

they have not left behind any assets. They have gone to Pakistan or elsewhere and we are still having those amounts in our account books. Amount due from companies under liquidation is Rs. 5.84 crores and irrecoverable demand is Rs. 5.26 crores. Amounts under protective assessment are 6.07 crores and amounts pending disposal of appeals are 18.18 crores. Amounts covered by certificates under section 46(2) are Rs. 112.35 crores out of the amounts covered by certificates, irrecoverable demand is Rs. 34.07 crores and effective arrears Rs. 78.28 crores. That way, all possible steps are being taken to bring down the arrears and the effective arrears are being collected. Regarding the irrecoverable demand of Rs. 123.79 crores, perhaps, any amount of efforts will not bring us any money and we will be only wasting our time and money on those amounts which we cannot realise. Therefore, here again I do not think the department or the Government are to be blamed for not collecting all the arrears. We are trying our very best.

That prosecution<sub>s</sub> are not launched is another usual subject on which my hon. freinds from those benches are very eloquent. It is true that in recent years there were not many prosecutions but I may say that we had launched some prosecutions. I have got figures from 1944-45 to 1957-58. For instance, in 1948-49 we launched 13 prosecutions and only one was successful. In 1949-50 four were launched and none was successful. In 1950-51 one was launched and it was not successful. In 1952-53 five cases were launched and none was successful.

**Shri Braj Raj Singh** (Firozabad): Whose fault? Yours.

**Dr. B. Gopala Reddi:** Why do you think it is our fault? We were unable to give all the proof that is necessary for a conviction. It is the magistrate or the court that wants a lot of evidence. The difficulty in sending a case for prosecution is that the degree

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of proof required to convince a magistrate regarding the evidence under sections 52 and 52 of the Income-tax Act are beyond the capacity of the department to produce. All the while you have to prove *mala fides* and see that there are no loopholes. Otherwise, the magistrate gives the benefit of doubt to the accused. In that case, the whole expenditure becomes a wasteful expenditure. We have to engage lawyers and counsels and things like that.

**Shri Braj Raj Singh:** I am sorry, I have to point out that prosecutions are launched by other departments also. For example, the law and order machinery, the police, they see to it that the prosecution is successful. Why don't you see that in your case also prosecutions are successful and you take up only those cases which will result in conviction?

15.48 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

**Shri Jaganatha Rao** (Koraput):  
Lacuna in the Act.

**Shri Braj Raj Singh:** Get the lacuna removed.

**Dr. B. Gopala Reddi:** After all, it is not easy to get a conviction in a case of tax evasion. Where you have impinged the law and order, where you have killed a man or indulged in riotous behaviour it is very easy for the police to launch a prosecution while in a tax evasion case you have to give all the proof that is necessary to convince a magistrate that there is some *mala fide*. Because, the court is always inclined to give the benefit of doubt to the accused. Because, after all, nobody is injured here, no life is lost and nobody's limb has been injured; only evasion of tax has taken place. Therefore, the court has to get a lot of proof before it can convict a person in a case like this.

The Committee has suggested certain measures to strengthen the machinery and in the working of the cases of prosecution so that the risk of failure before courts of law may be minimised. These proposals are under the consideration of the Government at the present moment. But here again it is not as though we are unwilling to launch a prosecution. We know of a case where it is dragging on for five years and we have spent Rs. 11 lakhs to Rs. 12 lakhs, all because we have launched a prosecution. After all, it is a very expensive business even for the Government. While we are willing to do it, the time taken and the amount spent sometimes is not commensurate with the offence.

There is compounding also. Penalties are levied. In the case of penalties we have given some figures. We resort to penalties. While, of course, in very rare cases 150 per cent penalty is levied, ordinarily it is 50, 60 or 70 per cent. We have collected quite a big sum under the penalty section. Therefore prosecution also is not always very easy. It must be commensurate with the offence involved and it must be a sort of a deterrent thing. Wherever it is felt necessary, certainly we have no objection to launch a prosecution.

Withholding of names is again a matter which has been objected to. Last time we had ample discussion about this matter both in this House and in the other House. For what reason can we withhold the name is given in the Act itself. In the interest of revenue sometimes we have to withhold the name even though he has been penalised. If he is to give some other information or if he is going to give up all his claims and right of appeal to the other courts or if he is willing to pay the entire amount immediately and things like that, we have to withhold the name. But it is not our desire to withhold the names and protect any tax-offending person at all. In very rare cases we have given that power to the Commissioner



or to the Central Board of Revenue or perhaps to the Government. But that would not be the ordinary way of dealing with such cases. Wherever there is a penalty, sometimes it is automatically published in the Gazette. Sometimes it is done on the payment of a small fee. The tax amount and not the penalty is published. Therefore, here again we do not want to shield anybody. We are also anxious, along with other hon. Members, to see that all the tax offenders must be brought to book. They must be made to feel the shame of it and the community's conscience also must be roused to see that they do not repeat that mistake.

About the question that officers on retirement should not be allowed to join firms, I may say that the matter is engaging the attention of the Government. It is a question of the amendment of the Government Servants Conduct Rules. If we do that it may become *ultra vires* of this order. Therefore, we are examining it. We are certainly in sympathy with the demand made by certain hon. Members here that ordinarily officers on retirement should not join firms, even when they apply within two years. Every time they apply to the Government we examine whether he has had any dealings with that firm in the last two or three years. If he had any dealings with that firm or if he was serving in that State, we generally do not give permission. But suppose a man has retired from Bombay and is going to join a firm in Calcutta. In that case we see no reason to deny that opportunity to him because he has never dealt with that firm's case. Because he is an experienced man the company in Calcutta wants his services. Perhaps we may give the permission to him. But if we have the least suspicion that he had anything to do with that firm during his commissionership, we do not give the permission. They themselves do not ask for it and it is also not given by the Government.

The question whether they can have private practice or not is another ques-

tion which, apart from the question of their joining firms immediately after retirement, is under consideration. One can become a private practitioner and anybody can engage him. That also requires modification of the Government Servants' Conduct Rules. These matters are being looked into and we are also anxious that there should not be any abuse of the powers of retiring officers. I do not think that in the last 2 or 3 years any officer prematurely retired to join any firm. I do not know of any case. After retiring, they may have joined after taking prior permission of the Government. We have always examined whether he had any dealings with that firm

**Shri Warrior:** They are more practising as private practitioners and they are helping.

**Dr. B. Gopala Reddi:** It is not a matter of joining a firm. As a private practitioner, anybody can engage him as a lawyer or a Chartered accountant. That sort of abuse will also be minimised if not eliminated altogether.

As far as Shri S. M. Banerjee's points are concerned, I think I have covered them to the extent possible. Interest on refunds is being paid by the Government. Shri Naushir Bharrucha wanted that the Government must pay interest. When we collect it from the people who are defaulting or delaying it, Government is also anxious to pay wherever there is undue delay in refunding the amount. The Government will be willing to pay interests at 4 per cent.

**Some Hon. Members:** What is undue delay?

**Dr. B. Gopala Reddi:** Undue means anything in excess of 6 months or 9 months or 12 months, whatever it is. It cannot be simultaneous. There may be a small delay. After all, 10 days, 1 month or two months or three months, you cannot call undue delay. Beyond that, if an officer was negligent

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about it or lethargic about it, certainly, it is undue delay. He must be made to give an explanation and the Government must also be prepared to pay some interest.

We are also strengthening the cadre of Appellate Assistant Commissioners. Shri Naushir Bharucha referred to the question that they are unable to cope with the pending cases. We have recently taken a decision to add 24 Appellate Assistant Commissioners to the present number of 91. Another 24 will be added to look into all the appeals that are pending. There are other matters that were incidentally brought into the picture; control on banks. It was said that the Commerce and Industry Ministry must look into this at the time of giving licences. Perhaps, it is also in the report. These are all matters on which we cannot take a hasty decision. They have to be considered very carefully.

The only other point about which there has been a little controversy is only about where the Appellate Assistant Commissioners should be placed, whether under the Law Ministry or under the Board of Revenue.

**Shri Naushir Bharucha:** It is not a small point.

**Dr. B. Gopala Reddi:** I am coming to that. Six Members have spoken today on this matter. Three have referred to it and three have not deliberately referred to it. Shri S. M. Banerjee is not interested where the Appellate Commissioners are going to be placed. Shri Ram Krishan Gupta is not interested where they are going to be placed. Perhaps they want that the Central Board of Revenue should have control. Shri Naushir Bharucha, Shri Harish Chandra Mathur and the hon. Member from Tamil Nad are interested in where they are going to be placed. It is not as if the Income-tax officer is an executive officer. He is not a magistrate. He is not a punishing man. He is not a law and order man.

He has to apply a quasi judicial mind to the work and make an assessment, allow the expenses and apply the provisions. He is a sort of a quasi judicial man looking into the assessments. It is not as though the Appellate Assistant Commissioner is going to be a judicial officer and the Income Tax Officer is a magistrate convicting the man on the side of revenue. It is not so. We do not want him to be a revenue-minded man. He must apply his judicial mind to the matter, examine all the contentions of the assessee and be as fair as possible, after all, without losing the revenue that is due to the Government. We want to avoid tax evasion on the one side. To say that there must be separation of the judiciary and the executive, the I.T.O. is an executive and the Appellate Assistant Commissioner a judicial man and there must be separation, that he cannot be the prosecutor and the judge, all these are out of court today. We expect the I.T.O. to be a quasi judicial man. He is a junior officer compared to the Appellate Assistant Commissioner, who is a senior man. In every department, when an order is passed, the assessee or the party has the right to go to the higher authority. He can say some injustice has been done to him, and therefore the higher authority should look into the matter. If we do not have that apparatus and simply ask the man to go to the court or tribunal, it is not fair. A senior and more experienced man, who has put in ten years of service in the department becomes the appellate assistant commissioner, and he sees whether the I.T.O. has gone, wrong. After that, certainly you have all the avenues available to you, the tribunal, the high Court, the Supreme Court etc.

17 hrs.

**Shri Morarka (Jhunjhunu):** May I ask him a question? Committee after committee has been appointed to go into this matter, and every committee has made the recommendation that this appellate authority must be taken away from the purview of this department and put under some other autho-

rity, and why every time it has been rejected.

**Dr. B. Gopala Reddi:** Government have a responsibility in the matter. We want a senior officer to take a second look into the matter to see whether any gross injustice has been done by the I.T.O., and after that, of course, as I said, the other avenues are open, and so many cases are going to the courts.

Take the sales tax in any State today. Is the immediately higher man a judicial man? We have the commercial tax officer, then the Deputy Commissioner, the Commissioner etc., and only at a later stage they go before the tribunal. When a Tahsildar passes an order, you go to the Deputy-Collector or the Collector who is not a judicial man. You do not straight-away go to the District Judge.

The I.T.O. is not, I repeat, an executive or law and order officer. He is only a revenue man, applying the Act with a quasi-judicial mind and temperament. Then we want a senior officer to have a second look into the matter. Therefore, we cannot accept the contention of the three hon. Members that if the appellate assistant commissioner is put under the Law Ministry, the whole face of the incom-tax department will be uplifted and present a new appearance.

After all, the Law Ministry is the Law Ministry. They do not have administrative responsibilities like other departments. The Law Ministry is mainly there for giving you the drafts and things like that, giving legal opinion. I maintain it is not an administrative Ministry. The administrative apparatus must be under a different department.

**Shri C. R. Pattabhi Raman:** I am glad the Law Minister is not here.

**Dr. B. Gopala Reddi:** Does he claim it is an administrative Ministry? I do not think. We know the Legal Remembrancer and all those things in every State, we know the limitations and responsibilities of the legal depart-

ment, and we do not want to saddle them with responsibilities of revenue collection and things like that. Then the legal department will lose all its savour and become an administrative department like any other department. And we do not want it to be subject to any criticism on the floor of the House. Once it becomes an administrative department, naturally it will be subject to such criticism. We want to save that department from that responsibility, and we want the appellate assistant commissioner to be under the Central Board of Revenue.

It may be that there is an impression that they are being instructed by some commissioners, some member of the Board of Revenue is giving them instructions; you better do this in this particular case. I can tell you categorically that we have no instance of a commissioner or a Board member or anybody giving directions to the appellate assistant commissioners. They are treated with all the sacredness or sanctity attaching to a sessions judge. I do not think any appellate assistant commissioner, a commissioner or a member of the Board of Revenue, is interested this way or that way. We know cases where the commissioner is not satisfied with the assessment, and he immediately goes to the tribunal. That is the straightforward course. The commissioner need not necessarily accept the report of the I.T.O. If he feels that something has gone wrong or that the I.T.O. has given too many concessions and things like that, the commissioner goes to the appellate tribunal. Everybody says that there is an impression that they are under the control of the Central Board of Revenue. But, after all, in these matters, it is not merely impressions but it is the facts that count, and the facts are that their independence is never interfered with by the commissioner or the Central Board of Revenue. Therefore, in this matter, we are unable to accept the recommendation of the Tyagi Committee, and we think that it is better that we continue the present system.

**Shri Morarka:** Kindly reconsider.

**Dr. B. Gopala Reddi:** No.

We have had a very useful discussion. The subject-matter was before the country and the House for a long time, and that was why Government did not think it necessary to have a debate on this matter. Anyhow, we have had a two-hour discussion, and all the main points pertaining to the Income-tax Department have been thrashed out today, and Members have given expression to their views and opinions.

All the other matters that were mentioned by Shri Naushir Bharucha and others will certainly be considered when we bring forward the consolidated Bill before the House, which will be referred to a Select Committee also. Therefore, Shri Naushir Bharucha and others need not think that all the matters that were raised here have not been answered. They will certainly be looked into at the time of preparing the consolidated Bill, and we shall certainly bestow our thought on them and we shall see what can be done.

With regard to the depreciation allowance also, it is being given now. Under the amended rules, we have already accepted the sort of depreciation allowance which Shri Naushir Bharucha has suggested, and it is being given.

I am thankful to Shri S. M. Banerjee and others who have brought this matter up before the House.

**Shri Tyagi:** With your permission I want to take this opportunity of thanking the House, with all the humility at my command, for the compliments that they have showered on the work of this committee and my colleagues. I feel really flattered when I read through the paper which the hon. Minister has laid on the Table of the House. I have never seen any report, controversial as it was, being so generously looked into and examined by the Department, as this report has

been examined. I must thank the Government and congratulate them on their having accepted the numerous recommendations which were of a salient nature.

My colleagues have written to me asking me to express their gratitude also to Government for having accepted our report in such a generous way that practically all the important recommendations have been accepted. I have yet to see any other report which has been so liberally treated. I think Government for this.

**Shri S. M. Banerjee:** I only wish to thank the hon. Minister for the assurance that he has given. I thank also Shri Tyagi.

**Shri T. B. Vittal Rao:** (Khammam): Congratulate Shri Tyagi.

**Mr. Deputy-Speaker:** I have also to thank every side of the House.

**Shri Braj Raj Singh:** It is thanksgiving ceremony now.

**Mr. Deputy-Speaker:** The question is:

"That this House takes note of the Report of the Direct Taxes Administration Enquiry Committee, 1958-59 and the memorandum of dissent, comments and recommendations by Shri G. P. Kapadia on the Report, laid on the Table of the House on the 21st December, 1959 and the statement of the Finance Minister on the more important recommendations of the Enquiry Committee, laid on the Table of the House on the 9th September, 1960."

*The motion was adopted.*

17.09 hrs

*The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, November 30, 1960/Agrahayana 9, 1882 (Saka).*