[Shri Basappa]

go into this matter, and they will see to it that a *prima facie* case is made out whenever the conduct of any lawyer is brought into question.

Shri Braj Raj Singh: May I just put one question to the hon. Minister? He has said in his speech that at the last Law Ministers' conference, the Law Ministers had agreed that not more than Rs. 500 would be charged in all from the lawyers. Will the hon. Minister persuade them in the next Law Ministers' Conference that they should not charge any stamp duty and that they should limit the amount only to Rs. 200 or Rs. 250?

Shri A. K. Sen: I may not be the Law Minister here, when the next Law Ministers' Conference takes place. My hon. friend forgets that the next Law Ministers' Conference may take place in 1962. It is in the lap of God, as to who will be where.

Shri Sadhan Gupta: The hon. Minister may commit on behalf of his successor.

Shri A. K. Sen: I have really very few things to say. I entirely agree with my hon. friend Shri Narayanankutty Menon regarding what he has said concerning the profession.

Ours has been a great profession, as I still hold it to be, and I entirely agree with Shri Tyagi, and I think he has done a great service by reminding us of it, that the dissociation of the judges from the future Bar Councils will be a matter of regret for all of us, for the entire country and for the profession. It will be our duty also to convey the regret of Parliament to the Judges.

With these words I commend the Bill for the acceptance of the House.

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

15.46 hrs.

INCOME-TAX BILL, 1961

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

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

Sir, this Bill, the full text of which has already been circulated to the hon. Members constitutes a landmark in the history of income-tax legislation in India. May I crave the indulgence of the House while I survey this history in brief?

Income-tax has been with us for over a century. It was in 1860 that it was introduced for the first time. Between 1860 and 1886, as many as 23 Acts were passed. The details regarding the provisions in those days are not of much importance. However, hon. Members might be interested to know that as early as 1886 it had been observed that "owing to the perpetual changes, the people, never certain who was liable or what was the sum due,

were an easy prey for fraud and extortion; while the superior officials time after time found their labours thrown away and a fresh battle with guess work and deception had to be begun". So, even in those days, the administration of a very simple levy, as it then was, had given rise to difficult problems.

The year 1886 makes the next important change in the history of income-tax legislation. In the Act passed that year, incomes were divided into four classes. All incomes other than agricultural income were made taxable though specific exemptions were provided on items like incomes of charities. The rates of tax were low and the machinery was simple. The work was done by land revenue officers as a subsidiary activity. The Collector had power to compound the assessments with an assessee—whether an individual or a company—for a number of years.

The simple machinery set up by the 1886 Act worked well enough as long as the rates of tax were low. However, with the advent of World War I, the income-tax, like other taxes, had to be increased. With the stepping up of the rates, a radical change in procedure was also introduced. Further changes were made in 1916 and 1917 but these were found inadequate and a substantially changed Act came into existence in 1918. The system of compounding of taxes for a number of years by the Collector was abolished and new assessments were required to be made for each year at a time based on the income of that year. The Commissioner was vested with discretion to refer doubtful points of law to the High Court *suo moto* or at the instance of the assessee.

Then came the substantial revision in 1922. Provincial Committees were appointed for examining questions that had arisen in the course of the administration of the tax. After these committees had reported, an All-India Committee was appointed in 1921. The recommendations of this Committee formed the basis of the Act of 1922, the Act which is now being proposed to be replaced.

Though the present Act is called the Income-tax Act, 1922, it differs in very many important respects from the Act as it stood in 1922. Substantial amendments were made in 1939 on the basis of the recommendations of a Special Enquiry Committee composed of tax experts from England and India. The important changes associated with the 1939 amendment Act are the change-over from the 'step' to the 'slab' system of rates; the taxation of residents on their income accruing abroad whether remitted to India or not; the provision deeming the whole of the available profits to have been distributed by a company in which the public were not substantially interested if it did not distribute a minimum percentage of such profits; the provision for a longer time in which to keep assessments and claims for refunds open, and the creation of a separate cadre of Assistant Commissioners designated as Appellate Assistant Commissioners.

Between 1939 and now, some 35 Acts have been passed. In 1941, the Income-tax Appellate Tribunal was constituted. In 1944, the system of 'pay as you earn' for collecting advance tax was introduced as a complement to the system of collecting taxes at source from incomes like salary. Section 34 of the Income-Tax Act designed for reopening assessments was recast in 1949 as a result of the recommendation made by the Income-tax Investigation Commission. Certain new provisions were introduced with a view to providing incentives for accelerating the industrial development in the country, *e.g.*, the provision of initial depreciation, the five year tax-holiday for new concerns, the exemption of super-tax from dividends received by companies from new companies engaged in certain prescribed industries, etc.

In 1953, the Taxation Enquiry Commission submitted its report and some of the provisions of the Income-tax Act were changed on the basis of the

[Shri Morarji Desai]

recommendations contained in that report. Thus section 23A was recast. A penal super-tax was imposed on a company in which the public was not substantially interested if it did not distribute a prescribed percentage of its available profits. In order to encourage industrial undertakings to replace or to acquire new plant and machinery, a development rebate was provided, and at the same time, the provisions relating to initial depreciation were withdrawn. The latest changes relating to the taxation of the profits of the companies and the dividends paid by them are fresh in our minds and I need not dilate on them.

The Income-tax Investigation Commission to whom I referred a moment ago, was, as hon. Members are aware, appointed to deal with the cases of substantial tax evasion by war-time profiteers. An unforeseen development relating to the Income-tax Investigation Commission Act, 1947, was the striking down of some of its provisions as being *ultra vires* of the provisions of the Constitution relating to the avoidance of discrimination. This led to a further change in the provisions of the Income-tax Act in order to remove the element of discrimination in the provisions relating to reassessment, calling for information, etc. Later, having in view the numerous criticisms made about the unplanned growth of the provisions of the Income-tax Act, it was decided to re-examine the whole of the Income-tax Act with a view to its simplification and to its re-arrangement in order to make it more intelligible. This work was entrusted to the Law Commission in 1956 which sent its report in 1958. Copies of the Law Commission's report have already been laid on the Table of the House and the hon. Members are no doubt aware of the recommendations made thereon.

In the meanwhile, several new items of direct taxes had been introduced. The Estate Duty Act was passed in 1953. Wealth-tax, Expenditure Tax and Gift Tax were introduced during 1957-59. Capital Gains Tax which had been imposed in 1946 but revoked in 1948 was re-introduced in 1957. All these new taxes were required to be administered by the Income-Tax Department. After taking into consideration the growth and complexity of the laws to be administered, it was decided to appoint a Committee 'to advise Government on the administration, organisation and procedures necessary for implementing the integrated scheme of direct taxation with due regard to the need for eliminating tax evasion and avoiding inconvenience to the assessees. As hon. Members are aware, the Direct Taxation Administration Enquiry Committee, under the able guidance of its Chairman Shri Mahavir Tyagi, submitted their report by the end of 1959. Thereafter, the recommendations by that Committee were fully examined by the Government and their decisions on those recommendations have already been placed before the House.

Hon. Members will find in the new Bill that the basic structure of the existing Act is preserved and that care has been taken to retain, as far as possible, the expressions occurring in the existing Act. Simplification has been sought to be obtained by replacing obscure and ambiguous expressions by clear ones and by re-arranging the provisions of the Act so as to make them more easy of comprehension than they are at present. Of course, it would be idle to expect the provisions of a comprehensive enactment relating to income-tax to be so simple as to be understood without any effort. Many of those who have no income except salary are bewildered and vexed when they see the rather frightening forms in which they have to make their annual returns. However, the application of the law of income-tax is not confined to the salariat alone. It is required to be so far-reaching and pervasive as to reach the incomes emerging from all economic activities of a modern industrial community. Each of these activities has its own special characteristics calling for special treatment.

Again, there are several types of persons carrying on these activities—individuals, firms, companies, Hindu undivided families and so on—and they have to be separately dealt with. A law which has to cover a wide variety of incomes and of classes of persons deriving them cannot but be conditioned by the comprehensive and the complicated nature of its subject-matter. Hon. Members can, therefore, very well appreciate the observation of the Codification Committee in England quoted by the Law Commission that to expect "a codification of the law of income-tax which the layman could easily read and understand was a vain hope". Having said this, I hasten to add that the tax-payers are entitled to have a clear picture of their rights and liabilities under the Income-tax Act and in preparing the Bill this end has been kept in view.

I shall now touch briefly on some of the important changes in law proposed to be effected through this Bill. I shall deal with them under three categories: (i) those which aim at removing difficulties felt by assessees; (ii) those which are designed to provide a better procedure for the administration of the Act; and (iii) those which are designed to deal with the situations created by attempts at avoidance and evasion.

Taking up the first category, I may begin with a reference to the provisions relating to the taxation of monies remitted to India from abroad. Under the law, as it stands today, a resident is taxable, subject to certain concessional provisions, on the income remitted by him to India out of past foreign profits. The effect of the concessional provisions is such that remittances out of past foreign profits will not be taxed as such, if the taxes, if any, outstanding on the date of remittance are paid within three months of the remittance. In spite of these concessions, the mere existence of the provisions enabling the taxing of remittances in certain extraordinary circumstances has been stated to create apprehensions in the minds of those who wish to bring their foreign funds into India. In order to remove this apprehension, it is now proposed to delete altogether the provision relating to tax on remittances of past foreign profits.

I wish to refer next to the proposal which would be of interest to Indian traders abroad. The provision in the present law renders a person resident in any year for the purposes of the Income-tax Act if in the four preceding years he had been in India for a period of 365 days and in the relevant year was in India for any period, however short, on a visit which was not casual or occasional. A difficulty which has been encountered in applying this provision arises in deciding whether a particular visit of a small duration is casual or not. In order to avoid this difficulty, it is now proposed not to treat a person as resident under the relevant provisions if the period of his stay in India does not exceed 30 days in the year concerned.

The next proposal which, I hope, will be widely welcomed relates to the rationalisation of the provisions relating to levy of tax on capital gains. Under the existing law, any distribution of capital assets on the partition of a family or by way of gift or through a will or any transfer of capital assets by a parent company to its subsidiary under certain conditions, are not regarded as transfers for purposes of levy of capital gains tax. To this list of transactions, which are to be treated as transfers, the Bill adds distributions of capital assets on the liquidation of a company or the dissolution of a firm or the conveyance of such assets to an irrevocable trust. Shareholders receiving on the liquidation of a company, assets of value in excess of the cost of acquisition of the shares will, of course, be assessed to capital gains tax on such excess.

Another change in the provisions relating to capital gains tax provides a uniform procedure for computing the cost of acquisitions, where

[Shri Morarji Desai]

they are acquired by way of inheritance, gift, partition or from a dissolved firm. At present, the procedure for arriving at the cost of acquisition of assets in these cases is not uniform. For example, in all these cases an option is given to substitute the fair market value on 1st January, 1954 if the assets were acquired before that date but where the properties are received on partition or through a gift, a further factor depending upon whether the property is acquired before or after 1st April, 1956, is taken into account. These provisions have been causing inconvenience and it is, therefore, proposed to adopt a uniform procedure as recommended by the Law Commission, *viz.*, to give to all assessees a choice between the actual cost of acquisition or fair market value on 1st January, 1954, if the assets are acquired before that date.

16 hrs.

Hon. Members will be interested to note clause 241 of the Bill which relates to payment of interest by Government on refunds delayed by more than six months. As the hon. Members are aware, the Direct Taxes Administration Enquiry Committee has recommended that the Department should undertake to pay interest to assessees at 6 per cent per annum, if there was a delay of more than six months in granting the refunds unless the assessee himself was responsible for the delay. The Government has accepted the recommendation subject to the modification of the rate of interest from 6 per cent to 4 per cent, consistent with the rate of interest to be paid by the assessees if they are in default in payment of taxes.

Another provision which will be received with favour is the limitation now proposed in respect of the period within which assessment can be reopened for assessing escaped incomes. Hon. Members may recall that in 1956, we amended the Income-tax Act to provide that an assessment can be reopened for reassessing incomes which have deliberately been concealed within a period of 8 years in ordinary cases and without any limit of time where the aggregate concealment in one or more years falling beyond the eight year limit amounts to Rs. 1 lakh or more. The time-limit for completing the assessment in such cases was also removed by that amendment. It was necessary to have those drastic provisions at that time because we were faced with the problem of dealing with cases referred to the Income-tax Investigation Commission, the proceedings before which were declared invalid by the Supreme Court.

Now that these cases have been disposed of, it is no longer necessary to keep the provisions of this section in the same shape as they are to-day. Further, these provisions will be a source of harassment to small tax-payers in future because when years advance and consequently the number of years over which the sum of Rs. 1 lakh has to be spread over becomes larger, these provisions would apply even to cases where the suspected concealment is just a few thousands of rupees in each year. The Government has, therefore, accepted the Law Commission's recommendation that where the escapement is Rs. 1 lakh or more spread over more than one year, this provision should be limited in its operation for a period of 16 years and that the Department should be precluded from taking any action for any past year without limit of time unless the escapement is Rs. 50,000 for each such year. A time-limit has also been imposed for the completion of the re-assessments.

A provision which will be of interest to persons engaged in the professions is that in clause 64. Under the existing law, if a husband and wife are partners in the same firm, the share income of the wife is clubbed with that of the husband, who has to pay tax on the income so aggregated. The Law Commission has expressed

itself against this provision as applied to partnerships between husband and wife engaged in professions as doctors, lawyers, etc. The Commission has recommended that such cases should be exempt from the operation of this provision. The Government has accepted this suggestion and the provision has been suitably modified.

Talking of partnership assessments, I invite attention to clause 91 of the Bill which seeks to provide relief from double taxation to non-resident partners of a resident registered firm. Under section 49D of the Income-tax Act, a resident assessee, who has been taxed on his foreign income in India as well as in a country with which no Double Taxation Avoidance Agreement exists, gets relief from the Indian tax payable by him on the foreign income, an amount equal to the Indian tax or the foreign tax on that income, whichever is lower. As this provision applies only to residents, a hardship of a peculiar nature arises in the case of non-resident partners of resident registered firm. As the firm is resident, its foreign income is included in its assessable income. As it is a registered firm, the partners are assessed on their share of income from the firm. If the partner happens to be a non-resident, he will thus be taxed on his share of the firm's foreign income in the two countries, in India on the ground that the share is received from a resident firm, in the foreign country on the ground that the income arises therein. Unilateral double income-tax relief will, however, not be available in India because he is a non-resident. In order to remove this hardship, it is now proposed to extend the benefit of unilateral relief to such cases.

More instances providing relief from hardship will be found in the Bill and I shall stop with mentioning only one more—the provisions for recognising gratuity funds. The existing Act contains provisions relating to recognised provident funds and approved superannuation funds. Any payment made to these funds by an employer is permitted to be deducted from his income. In recent years, however, a number of industries have started setting up gratuity funds with a view to making provision for payment of gratuity to employees. At present, there are no provisions for the recognition of these gratuity funds for the purpose of the income-tax Act. It is now proposed to make provisions for the approval of gratuity funds on lines similar to those applicable to superannuation funds. These are contained in Part C to the Fourth Schedule of the Bill.

I shall now turn to the second category of proposals, *viz.*, those which are connected with procedure. There are several of them, but I shall refer to only three.

As Hon. Members are aware, the Law Commission had recommended the abolition of the Appellate Tribunal and their draft was based on the assumption that there would be no Appellate Tribunal. However, Government have not accepted this recommendation of the Law Commission and the existing provisions relating to the filing of appeals to the Appellate Tribunal, and the statement of cases by the Tribunal to the High Court are to continue with an important addition. It is proposed that where there is a conflict in the decisions of High Courts in respect of any particular question of law required to be referred by the Appellate Tribunal to the High Court, it may, if it considers expedient that a reference should be made direct to the Supreme Court, do so through the President of the Tribunal.

The second important provision or set of provisions of the second category relates to the procedure for recovery of tax in cases where a certificate of recovery is issued by the Income-tax Officer. Under the existing law where an assessee is not in default recovery proceedings may be initiated by the Income-tax Officer sending a certificate to the local Coll-

[Shri Morarji Desai]

ector. The local Collector thereupon proceeds to recover the amount certified in accordance with the provisions of the Revenue Recovery Act in force in the State concerned. The procedure relating to recovery under the Revenue Recovery Acts differs from State to State and even in respect of each State sometimes there are more than one Revenue Act to be administered. This has given rise to difficulties and the Supreme Court has observed in a case which went before them that:

> "for the enforcement of the levy of a central tax, like, income-tax, there should be uniformity of procedure and identity of consequences of non-payment".

Further, the Direct Taxes Administration Enquiry Committee has recommended that the revenue collection should be taken over by the Central Government itself, under a self-contained Code. The Law Commission has drawn up such a self-contained Code in a comprehensive schedule. In this schedule the Commission has codified the provisions relating to the Revenue Recovery Acts prevailing in the various States as well as those available in the Civil Procedure Code. It is proposed in the Second Schedule of this Bill to adopt, with some modification, the provisions recommended in this connection by the Law Commission. The Schedule is drafted in such a way that at a future date, it will facilitate the taking over of the administration of the recovery by the Central Government officials as suggested by the Direct Taxes Administration Enquiry Committee.

The last proposal I wish to refer to under the second category of provisions is the one relating to the abolition of the class 'not ordinarily resident' applicable to individuals. This proposal does not wholly relate to procedure. However, the proposal is made in view of the procedural difficulties which the existing classification 'not ordinarily resident' has created in administering the law.

On the basis of certain tests laid down in the Income-tax Act, the assessees are categorised as (i) "resident", (ii) "non-resident" and (iii) "resident but not ordinarily resident". The last category "resident but not ordinarily resident" was introduced for the first time in 1939. It was then enacted that a person would be considered as 'not ordinarily resident' if even though 'resident' in the previous year, if he had been a 'non-resident' in any of the preceding nine years or had not been in India for more than two years in a period of seven preceding years. This category of assessees derived a double advantage. His foreign income was not taxed unless derived from a business controlled from or a profession set up in India or unless his foreign profits were brought into India. Further, the rate of tax applicable to him on his Indian income was determined on the basis of that income, whereas in the case of residents as well as non-residents, the world income forms the basis for arriving at the effective rate of tax. Thus, a person 'resident but not ordinarily resident' got a better treatment than both 'residents' as well as 'non-residents'. The question whether there was any justification for continuing this special treatment for a class of assessees was examined by the Income-tax Investigation Commission, Taxation Enquiry Commission and also the Law Commission. All the three Commissions have clearly declared against continuing this category of persons in the Income-tax Act. Having regard to the unanimous view of these three Commissions and also to the considerable difficulties experienced in determining whether a person is 'not ordinarily resident' or not in any year—a process which involves examination of events covering nearly fifteen previous years—it is now proposed to accept the recommendation of these three Commissions and delete this category.

I now come to the last category of proposals which I may describe as tightening up provisions. I may say at the outset that most of the proposals in this regard have been recommended by the Direct Taxes Administration Enquiry Committee, which worked, as I said, under the able chairmanship of Shri Mahavir Tyagi.

Shri Braj Raj Singh (Firozabad): You have stated that he was the able chairman. But his name did not find a place in the list of members of the Joint Committee.

Shri Morarji Desai: Probably the whip did not look into it.

This House has had an opportunity of discussing that Report on the 29th November 1960 in the course of a motion tabled by hon. Members. I shall not, therefore, take the time of the House discussing these provisions in detail, but I shall briefly mention some of the major items.

The first one is that which relates to the exemption now available in regard to income from charitable trusts. Under the present law, a charitable trust can earn exemption on its income even if it does not actually apply its income for charitable purposes but accumulates it for future application to the objects of the trust; further, a business run by a charity can earn exemption if it is run in the course of carrying out a primary object of the trust or the work relating to the business is carried on by the beneficiaries of the trust. These provisions are proposed to be altered as a result of the recommendations of the Direct Taxes Administration Enquiry Committee. It is now proposed in the Bill that any accumulation in excess of 25 per cent of the income of the trust in any year will be brought to tax and any business which is not carried on in carrying out a primary object of the trust will be disqualified for earning the exemption.

Another recommendation of the Direct Taxes Administration Enquiry Committee which has found place in the Bill is that which specifically imposes an obligation on every person having taxable income to furnish his return before a specified date—four months after closing accounts or 30th June of the financial year, whichever is later, in cases of business and 30th June in respect of other cases. The Committee has recommended that if any assessee fails to submit his return by that date, he should be made liable to pay interest at six per cent per annum until the date of filing the return or the date of assessment, whichever is earlier. In the Bill this recommendation has been implemented with a modification that a period of grace is allowed upto the end of September and interest will start accruing only from the first of October of the year. Talking of interest, I would invite hon. Members' attention to another provision in this Bill—clause 220(2)—which prescribes payment of interest at 4 per cent per annum by assessees who delay payment of their taxes beyond the dates specified in the demand notice. This is also pursuant to the recommendation of the Direct Taxes Administration Enquiry Committee—the rate adopted is 4 per cent as against the recommended rate of 6 per cent. This is in addition to any penality the assessee may incur for default in payment of tax. Interest is payable even if time is granted for paying the tax beyond the period specified in the demand notice.

The next proposal to which I would like to refer as falling in the category of tightening up provisions,. relates to private limited companies. The Direct Taxes Administration Enquiry Committee has recommended that in the case of companies known as the 23A companies in the income-tax parlance, if the tax levied on the company cannot be recovered from the company, the Directors and shareholders should be asked to make good the amount of tax remaining unrecovered. Some of the hon. Members of this House who had occasion to discuss this proposal in

[Shri Morarji Desai]

one of the meetings of the Informal Consultative Committee were of the opinion that this recommendation went a little too far and should not be accepted *in toto*. Accordingly, the proposal has been accepted in a modified form so as to make it applicable only to private companies as defined in the Companies Act. The liability for the payment of unrecovered tax will fall on all the Directors and on shareholders having substantial interest in the company, *i.e.*, those having shares carrying not less than 10 per cent of the voting power.

The Direct Taxes Administration Enquiry Committee has also pointed out that there have been many instances where persons who acquired companies which had substantial losses in an earlier year, carried on profitable business through them and were able to reduce their tax liabilities by setting off against the profits, the earlier losses of the company when the shares were held by different persons. It has, therefore, recommended that in the case of companies in which public are not substantially interested, such set-off of losses against subsequent profits should be allowed only if the shareholders in the year in which the income is earned are substantially the same as those for the years in which the losses were incurred. This recommendation has been accepted and provision has accordingly been made.

The provisions of the Act relating to levy of penalty and launching prosecutions for tax offences have now been tightened up so as to make them more deterrent. At present, there are no minima laid down for penalties to be awarded and this has enabled many a person to escape on appeal with a very light or even no penalty. In the Bill, accepting the Direct Taxes Administration Enquiry Committee recommendations, minimum penalities leviable are prescribed. Further the existing provision which prevents the Department from launching prosecution in respect of an offence for which penalty has been levied has been deleted. This will enable the Government to prosecute in appropriate cases assessees who are guilty of tax offences even after subjecting them to penalties under the Act. It is also now clarified that any false statement before an income-tax authority or in a return given to him is punishable under the appropriate provisions of the Indian Penal Code.

Another recommendation which aims at curbing tax evasion is that which makes abetment of tax evasion an offence punishable under the Act. It has now been provided that any person found guilty of aiding or abetting another person in concealing income will be liable to pay a penalty of not less than Rs. 500 and not exceeding Rs. 5,000. In order to safeguard that this power is not misused, it is proposed to vest the power of passing penalty orders in officers of the rank of Assistant Commissioners and above.

Sir, I have given only a broad review of the more important of the several provisions contained in this Bill. The Select Committee, to which I propose that the Bill be referred by the leave of the House, will have ample opportunity for examining all the provisions in detail.

Sir, I move that the Bill be referred to a Select Committee.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to consolidate and amend the law relating to income-tax and super-tax be referred to a Select Committee consisting of thirty members, namely, Shri K. R. Achar, Shri P. Subbiah Ambalam, Shri Amjad Ali, Shri Premji R. Assam, Shri Bahadur Singh, Shri Prafulla Chandra Borooch, Shri D. R. Chavan, Shri Shree Narayan Das, Shri Mulchand Dube, Shri M. L. Dwivedi, Shri D. A. Katti, Shri P. Kunhan, Shri Bhausaheb Raosaheb Mahagaonkar, Shri Mathew Mani-

yangadan, Shri M. R. Masani, Shri T. C. N. Menon, Shri Radheshyam Ramkumar Morarka, Shri Narendrabhai Nathwani, Shri C. D. Pande, Shri Naval Prabhakar, Shri Ram Shanker Lal, Shri Shivram Rango Rane, Shri Jaganatha Rao, Shri K. V. Ramakrishna Reddy, Shri A. K. Sen, Shri Laisram Achaw Singh, Dr. Ram Subhag Singh, Shrimati Tarkeshwari Sinha, Shri Radhelal Vyas, and Shri Morarji Desai".

with instructions to report by the last day of the first week of the next session.

Shri N. R. Muniswamy (Vallore): Sir, may I suggest that the Finance Minister's speech may be circulated to Members, because it is very important? Then every one will be able to focus his attention on it.

Mr. Deputy-Speaker: To be circulated to all Members? Members of the Select Committee shall have it for their benefit; and before it comes here again we will have that benefit also. I will see if it can be circulated.

Before calling upon any hon. Member to proceed with this discussion, I might inform the House that the Ministry of Parliamentary Affairs has recommended three hours for this motion.

Shri V. P. Nayar (Quilon): May I make a submission? This Bill is not an amendment but almost a new Bill and it has 298 clauses. The Bill has been shaped on two voluminous reports which run to more than a thousand pages of printed matter.

And, secondly, because we have passed certain Income-tax Amendment Bills in the past this House has been, should I say, slandered. Because, in the report of the Law Commission certain very disparaging words have been used about the way this House has been passing legislation regarding Income-tax. Therefore, it is absolutely essential that the House should defend its prestige in this debate. For these reasons I submit that instead of three hours which you have been pleased to suggest, the Bill may be discussed at least for ten hours. In the past . . .

Mr. Deputy-Speaker: After all, it is a motion for reference to Select Committee. The Select Committee shall have ample opportunities of discussing it for as long as they like. Then it will come back here for discussion. At that time the Business Advisory Committee would fix a time suitable for discussion of the Report of the Select Committee in all its details when it comes back from the Select Committee.

Shri V. P. Nayar: You will also find, Sir, that although the Finance Minister claimed at first that he was only moving a very simple Bill, he has taken forty-five minutes and made many new points not referred to in the Statement of Objects and Reasons to the Bill.

Mr. Deputy-Speaker: If he had not done that the complaint would have been that he did not explain it.

Shri C. K. Bhattacharya (West Dinajpur): May I make a few submissions? I will take only three or four minutes.

Mr. Deputy-Speaker: If he takes three or four minutes and if I allow about a dozen Members like that, it will take away one hour.

Shri C. K. Bhattacharya: I am always for economising time and breath!

I have given notice of a Bill to amend the Income-tax Act (Amendment of section 2). That Bill has received sanction from the President and it is pending consideration by this honourable House. I request the Fin-

[Shri C. K. Bhattacharya]

ance Minister to take up my Bill along with his Bill before the Select Committee so that the two may be considered together. What I have suggested is this. In fact, I have spoken on this matter elaborately.

Mr. Deputy-Speaker: Do I understand that what he has suggested has now been proposed here and is contained in this Bill, or is it a different thing?

Shri C. K. Bhattacharya: I have suggested an amendment of section 2 to define the Hindu undivided family which has remained undefined in the existing Act and has created difficulties. In the present Bill also that position is maintained . . .

Mr. Deputy-Speaker: I think we are trespassing on our time. I suggest that the hon. Member might find other ways of appearing before the Select Committee and pressing his point of view. Perhaps the Select Committee might see its way to have some amendments made according to the liking of the hon. Member, if he can persuade the Committee.

Shri C. K. Bhattacharya: I am not in the Select Committee.

Mr. Deputy-Speaker: But he can appear there as a witness also.

Shri Ram Krishan Gupta: My Bill is also pending.

Dr. M. S. Aney (Nagpur): It is a question of principle, and the Select Committee may not allow that matter to be considered unless it is settled here by the House itself.

Mr. Deputy-Speaker: I do not know in what form it would take it up. I cannot say that just at present, whether it would be relevant or not.

Shri Tyagi (Dehra Dun): It cannot be irrelevant because the whole income-tax law is being entrusted to the Select Committee. So, this can fit in as an amendment anywhere.

Mr. Deputy-Speaker: That is all right. I am only talking now about the time that has to be taken for this motion.

Shri V. P. Nayar: The time may be extended later.

Mr. Deputy-Speaker: Three hours have been suggested . . .

Shri Braj Raj Singh: At least ten hours should be given.

Shri Ram Krishan Gupta: Six hours may be given.

Shri N. R. Muniswamy (Vallore): Six hours may be given.

Mr. Deputy-Speaker: I think ten hours are too much. I think five hours would be sufficient. We have more than an hour today, and we shall have five hours tomorrow, that means, the whole of tomorrow. I think that would suffice.

An Hon. Member: But, tomorrow, there is also non-official business. Let us have six hours for this.

Mr. Deputy-Speaker: Whatever it is, we shall have six hours in all.

Shri V. P. Nayar (Quilon): Mr. Deputy Speaker, Sir, after hearing the hon. Minister, I think it is very necessary to make some preliminary observations before I come to some important principles of the Bill.

In the Statement of Objects and Reasons you will find that what was intended was only a simplification, the basic structure of the Act remaining unchanged. But, as I heard him, I was inclined to think that that was not going to be the case. I want to submit at this juncture that the Finance Minister who has based his Bill on two reports which were in his hands, the latter of them by November, 1959, has not taken proper steps to introduce this mammoth Bill in the right time.

You know, Sir, that the Bill first appeared in our dak only last Saturday, and the Bill itself was introduced in the House only this Monday. We have been given hardly three days to digest all this and also all these voluminous reports, and therefore, it is necessary for me to protest against the attitude of the Finance Minister, it was not at all proper on his part, while bringing forward such an important legislation and on a matter in which we have betn accused of having been tinkering with the legislation in the past, to have delayed the submission of the draft Bill to the House as he has done.

I find also that he has not given this House all the information which was available with him. I know that the Law Commission's report as also the report of the Direct Taxes Administration Enquiry Committee, which I shall hereafter call as the Tyagi Report for brevity, have been circulated. But in the second paragraph of the Statement of Objects and Reasons, I find it is stated thus:

> "The recommendations of the Law Commission and the Direct Taxes Administration Enquiry Committee were examined in the Central Board of Revenue by a special committee of senior officers in consultation with the Ministry of Law. This committee also had to take into account suggestions for amendments received by Government from time to time from members of the public, Chambers of Commerce and other persons interested."

I ask this simple question of the hon. Minister, who I see is going away from the House just now— why it was not possible for him to give us the material on which, from his speech it appears, the Government were forced to make certain changes.

It is absolutely necessary that while a Bill of this kind is being moved in the House, hon. Members should get an opportunity to go into all the records which are before Government, and these have been, according to me, held away from us for some specific purpose. I find, for example, that some few persons who are characterised as persons interested have also sent their reports. Therefore, it is my request that that even if this House has not been given all those records and all those statements, at least the Select Committee may please be given all the materials on the basis of which this Bill has been modified in its present form.

Then Sir, I would like to take up another important question. The hon. Minister mentioned about several commissions and reports, the Law Commission's report, the Income-tax Investigation Commission's report and the Tyagi report. But he did not give us an idea of what the exact position of income-tax in this country is at present. I am afraid that it will take some time for me to explain why this Bill is not enough to meet the purposes, and why the principles which are now seen in this Bill have necessarily to be changed, but I shall come to that point later.

Now, I must submit that the report of the Law Commission to which I made a reference clearly gives us an indication of what the position of income-tax law in this country is although I am sorry to say—for probably, it was not in the terms of reference—that it does not give us any idea of the situation as regards income-tax. This was a commission consisting of some of India's best men from the legal profession, and men who had considerable experience in the income-tax law. It was a very high-powered commission with the Attorney-General and three or four Advocates-General in it.

The first sentence in the introduction says:

> "There is hardly any Act on the Indian Statute Book which is so complicated, so illogical in its arrangement, and in some respects

,,[Shri V. P. Nayar]

so obscure as the Indian Income-tax Act, 1922."

The report proceeds: z

"Provisions dealing with the same topic or subject-matter are scattered through the various Chapters of the Act, and only a thorough knowledge of the whole Act would enable any one to find out all the provisions bearing on a certain point. Added to the illogicality of the arrangement are two other defects, inaccuracy in the use of language and a degree of obscurity which make it difficult to have a glimpse of the real intention of the legislature."

Then, some sentences below they say:

"The hopeless confusion into which the Income-tax law has fallen is mainly due to precipitate and continuous tinkering with the Act by the legislature."

You know income-tax is a Central subject. When the Law Commission referred to the legislature it could only refer to this House and the Rajya Sabha because it is not open to any of the State legislatures to bring forward an amendment of the Indian Income-tax Act. I do not for a moment critcise the Law Commission and I feel that in saying so they were justified to some extent. What I want to submit is this. We want to avoid in future, comments like this.

The Law Commission has said:

"Stability is most essential to the proper administration of a taxing statute; and if the tax structure of this country is to be put on a sound footing; it is essential that a halt should be called to the making of ill-digested amendments in a frenzy of hurry which hs characterised the history of income-tax law of the last few years."

In the last few years our friends opposite were in power. We were here also. The Law Commission does not refer to the progress of the amendments from the year 1860. The Law Commission definitely says that ill-digested amendments have been brought in a frenzy of hurry and it has characterised the history of the income-tax amending laws in the last few years. This is precisely, Mr. Deputy-Speaker, what I want to avoid. I want a thorough discussion on this. I do not want another Commission, later on; to say that in a frenzy of hurry this Bill was considered, in a frenzy of hurry this Bill was ill-digested and sent out as an Act. Therefore it was at the beginning when you enquired about the time which is required I submitted that it will require 10 hours. Because when something is said about the House each and every Member has to feel that it is about him also.

In the past when the Income-tax Bills like this were before this House we have tried our utmost to warn the Government of any tinkering with legislation in haste. We have used the same words. What was the result? The hon. Minister mentioned about the Investigation Commission but he did not give the facts. He only stated that the Supreme Court struck down as *ultra vires* one of the provisions we had passed. And it is something more than that. Therefore, I submit that we have to go into the details before we apply our minds to the principles of this Bill. (*Interruption*). Not only section 34; there are many sections.

What I was submitting was that having regard to the volume or the number of provisions in this Bill, the principles which the hon. Minister was pleased to explain today and also the utter chaos and confusion as regards the administration of income-tax in this country, it is imperative that we should have a thorough discussion.

Now, Sir, I would like to take up the position of income-tax as we have at present. Unfortunately, it is not possible for me to refer to the original documents because that will take more time. Therefore I may be permitted

to read figures from my notes. I have figures here collected—of course as usual, from Government publications and more especially of the Finance Ministry,—which will give us an indication of where we stand in regard to income-tax. Despite the claims of increase in production after the commencement of the First Five Year Plan, we find that the collection of income-tax is going from bad to worse and the Income-tax Act is responsible for all that happens in regard to the income-tax of this country. Thus we find that in 1950-51, the year before the First Plan was launched, the income-tax collections stood at Rs. 132.73 crores. Ten years later in 1960-61 the income-tax collected has come down to Rs. 127.50 crores. I am quoting these figures from the various Budgets. While the national income is said to have received a great boost, let us find out how the income-tax collection has been affected. The collection of income-tax has gradually come down from 1951 to this amount in 1961. As our country requires more and more of funds for planned development. When there are certain resources in our own country, our Finance Minister has no shame to go out to foreign countries with a beggar's bowl. Our public debt today stands at Rs. 5500 crores; it is no joke and our loans at the end of this year will amount to nothing less than Rs. 1200 crores. But here is a very potential source and we are not tapping it......

Mr. Deputy-Speaker: The hon. Member should not use such severe expressions which are not warranted. He meant to say that the Finance Minister had been going out without shame and so on. He went on behalf of the country.

Shri Narasimhan (Krishnagiri): When a similar expression was used before, he got up and protested against the use of such a language.

Shri V. P. Nayar: Then why does not the Finance Minister remain here? I shall use very temperate language.

Mr. Deputy-Speaker: There should be some restraint in expressions.

Shri V. P. Nayar: We cannot always control our emotions when our country is being committed to a greater and greater debt.

Mr. Deputy-Speaker: I have to exercise that control and that is my duty; I will exercise it.

Shri V. P. Nayar: I am making out a case that during the First and the Second Plans, the management of the affairs of the income-tax had been such that from the first year of the Plan to the last year, there has been a continuous decline. I would ask the hon. Minister to refute me with figures.

Ch. Ranbir Singh (Rohtak): What about the corporation tax?

Shri V. P. Nayar: I am coming to it; I will give you separate figures and so you need not worry. I will give you the percentage also. The income-tax collected in 1951-52, the first year of the Plan was Rs. 146.19 crores plus a corporation tax—Ch. Ranbir Singh may note—of Rs. 41.41 crores.

16.37 hrs.

[MR. SPEAKER *in the Chair*]

The corresponding figures for 1955-56 were Rs. 131.36 crores and 37.04 crores. That is to say against income-tax and corporation tax which amounted to a total of Rs. 187.60 crores in 1951-52, the total is only Rs. 168.50 crores in 1955-56. There is thus definitely a decline. The same pattern is found in the Second Plan subject to this change, that in the corporation tax there has been a slight increase which is very negligible, not at all in proportion to the increase claimed in production or in the national economy.

In the first year of the Second Plan the income-tax collected amounted to Rs. 151.74 crores and in the last year it came down to Rs. 127.50 crores. It is not a small decline. If you take the income-tax and the corporation tax together, there has been an increase of some Rs. 35 or Rs. 38 crores. Let us not forget that during this period—and Ch. Ranbir Singh might very well know—the net of income-tax was cast

[Shri V. P. Nayar]

very wide; the slab was reduced and therefore, naturally more people were made to pay. Let us consider another side of the picture which is even more suggestive. In 1951-52 out of a total assessment made of Rs. 195.88 crores, the tax collected amounted to Rs. 146.19 crores which expressed in terms of percentage was 74.6 per cent and the amount of arrears in that year was Rs. 49.69 crores.

Now the latest printed statistics of collection of income-tax are as old as 1955.56. But from the cyclostyled information which is available, I find that in 1958-59—the latest year for which I had the information in Parliament Library—the assessment was for Rs. 254.01 crores and the collection was Rs. 172 crores. This represents as against 74.6 per cent, only a percentage of 67.7, and the arrears stood at Rs. 82.09 crores. Government, and especially the Finance Minister in the meanwhile; have been telling us repeatedly that in the Plan, the monopolists have not at all been encouraged. I want to pose this question; it is a simpe question. Why is it that when production has increased, when the profits have increased—I have no time; otherwise I would have given the figures regarding these items also—the income-tax collection alone goes down? I find from the explanatory memorandum that the expenditure for the tax collection has increased from Rs. 2.5 crores to Rs. 5 crores or even more: It has increased by about two and a half times. Why is it that from 1950 to 1959 we find that there is an accumulation of arrears, if the department is efficient? I am specifically referring to this because there is a whole chapter on regulating appointments and recruitment to the Income-tax Department

Let us now take the case of the assessees. The hon. Minister, while replying to the budget discussion; made a case that they are not encouraging the monopolists. But what is the pattern of the tax? In 1951-52, the number of assessees on income of Rs. 5,000 to Rs. 10,000—probably in those days it was the smallest number —was about 2.25 lakhs. Certainly a man with an income of Rs. 5,000 to Rs. 10,000 cannot be considered to be a very rich person, He is a middle class person. In the year 1958-59, their number rose to 6:10 lakhs. Meantime, those in the highest income bracket....

Mr. Speaker: The hon. Member will remember that we are not discussing the Finance Bill here. I think clause (iv) of Section 4 of the Income-tax Act says that the income-tax will be levied according to the rates prescribed from year to year and so on. How far the incidence falls on the rich man or the poor man ought not to be the subject-matter of discussion now. This Bill relates to the procedure of levying, collecting, regulating and so on. The hon. Member may confine his remarks to that aspect.

Shri V. P. Nayar: That is not the point. The point is this. You, Sir, were not here when I read a quotation from the report of the Law Commission. Of course, we do not very much desire to read that quotation! The Law Commission has said as follows:

> "....that it is essential that a halt should be called to the making of ill-digested amendments in a frenzy of hurry which has characterised the history of income-tax law in the last few years."

Therefore, I say that we must also digest and we must also find out the circumstances under which this law is to be brought forward.

Mr. Speaker: There is no quarrel about the law now—any law for the matter of that. We are not going into the incidence of taxation now. The hon. Member referred to the reply of the hon. Finance Minister to the budget, and observed that the Finance Minister had said that he is not trying to create monopolists, that he is trying to distribute the burden and so on. That is not relevant here.

Shri V. P. Nayar: I will come later on to the particular point—why even according to the new provision the pattern will not change, because the net is being cast very wide.

Mr. Speaker: We are not concerned with the pattern. The Income-tax Act does not regulate the rate and so on.

Shri V. P. Nayar: I am not referring to the rates, but there are chapters which give certain specific reliefs to the highest income slab—the industrialists, the businessmen.

Mr. Speaker: In the Bill?

Shri V. P. Nayar: In the Bill. There are certain rebates to certain industries, and certain industries in which they have holding interests and so on. I am submitting that specific provisions have been embodied in this Bill in regard to those who have the largest income and who control those industries like shipping, banking, etc.

Mr. Speaker: Very well.

Shri V. P. Nayar: I hope you will agree that it is not the landed aristocracy of India which pays the highest income-tax. It is the industrial class, the industrial leaders or the leaders of industries who come in the highest brackets. No professional man, not even the Attorney-General, I think, will come within the highest bracket. So, their number is remaining constant, and their proportion also is not very much different. Now that you have given me your indication, I shall not go into detailed figures. But I find that the lowest slab has increased three times in number, while the highest slab has not increased by 10 per cent even. Therefore, whatever the law, we find that the arrangement is not at all disturbed. As I submitted earlier, the arrears are mounting and the income-tax collection is declining.

Shri V. P. Nayar: It is in that concerned, I do not take any exception. Hon. Member may suggest ways and means of tightening up.

Shri V. P. Nayar: It is in that context that we must consider the provisions of this Bill. I will not refer to specific provisions, because it is for Select Committee to go into them. But you will find that in several cases, rebate is allowed to the industries. Taking the shipping industry, for example, I am sorry Shri Raghunath Singh is not here, there is a definite provision in this that the shipping industry will get a rebate on 40 per cent of the income. Do you know that the shipping industry has recorded the highest profit for any industry in India? I do say we have not got enough shipping. I also agree that shipping has to be developed. But we find that they are given a rebate of 40 per cent on the income. Here is a Government report on the corporate sector of India from which I find that the index of profits, after tax, in respect of the shipping industry stood at 2337 in 1957, taking the base figure as 100 for 1950. Yet, a rebate is given. We know that while all that has been given, still we have not been able to move in our own ships even 10 per cent of the PL 480 wheat. Still we are giving such concessions.

I am not referring to specific provisions. The rebate of 25 per cent which was given to industries has been reduced to 20 per cent. So far as it is done, it is good. But what do we find? The Minister himself said that industries which have a tax holiday for 5 years are walking away with concessions after concessions. Firstly, you are giving a definite percentage of rebate in several industries. They have been listed also. You know that some of the industrialists in our country who own several industrial establishments spread their tentacles and start new industries for claiming some rebate. Why do they claim rebate? We know in the matter of a new industry, Government first encourage them by giving licence for the import of raw materials. The raw material so imported is not consumed wholly in the industry, but sold in the blackmarket at exorbitant profit.

[Shri V. P. Nayar]

Foreign exchange for capital equipment is sanctioned. If I had the time, I could have convinced the House that while foreign exchange is sanctioned for the import of new plants and equipment to establish a new unit of production, the invoices of foreign makers are deliberately inflated, and a portion of it is kept in a private account in the foreign country. There is one big industrialist whom our people had caught the other day. Then, there is a third benefit. Apart from the question of giving licences for import of raw materials which are sold in the black-market, they are given tariff protection, the moment they start production. There is also this incentive. If they export their production, Government subsidises the exports.

Added to all this, in sttting up a new industry, if you import raw material, which is not available in this country, the industry is bound to make more profits. That is the structure of our industry today. Take for example titanium dioxide. We have a factory run by world specialists—British Titans—in Kerala, and we have to pay more money for titanium dioxide manufactured in Kerala than for the titanium dioxide for which raw material is taken from India to England and the finished product shipped from U.K. That is the position of the industry. The moment you import raw material, even for the goods, there is greater demand, especially in chemicals and some other industries. That is a distinct advantage which is given. So, concessions after concessions are given to the industrialists who are in the highest income bracket. And what do they do? One man may be an expert in five industries or six industries. But, a new industry is started by the industrialist which has never been touched by him with a pair of tongs. They are started because the money can be withdrawn from the other industrial units and ploughed into new industries. I am asking the Finance Minister: is it for encouraging the monopolies to grow and spread tentacles into other fields of industrial activities that this rebate is given? I do not find any other reason. Industrial profits have registered an increase which is unmanageable. And when the profits, as a whole, have registered an increase, far more than rate of increase or the national income, we find that the tax is in arrears. The arrears are growing and the assessment for tax is also increasing commensurate with the increase in the nnational income. Therefore, that has to be looked into and I would request the Select Committee to go into the details and also get the information as to how the various industrialists have acquired new licences, how much has been ploughed into the new industrial units from other industries and what is the incidence of such relief by way of rebate.

Then, Sir, I come to the question of appointment of officers. How is it that when we are spending three times more on tax-collection than what we spent in 1951-52, the arrears are on the increase? There must be something basically wrong with the machinery which administers the Income-tax Act. I do not think the Public Service Commission selects all these officers. If from our ten years' experience we cannot reduce at least the arrears, then what is our function?

I want to give one or two quotations from the report on the working of the Income-tax Investigation Commission for the period 1954 to 1958, because there is a chapter in the Bill on the steps which have to be taken on the avoidance of evasion. The Income-tax Investigation Commission has given us very revealing reports. And do you know that over a thousand cases which were being investigated by the Income-tax Investigation Commission, and a few hundreds of them had been finally settled were rendered null and void by certain decisions of the Supreme Court? The Income-tax Investigation Commission, in their Report for the period 1954—

58, have these observations to make which we have to consider now because there is a whole chapter on the avoidance of evasion. They say:

> "This is because the Commission was rendered practically ineffective when the operative provisions of the Taxation on Income (Investigation Commission) Act were struck down as *ultra vires* of the Constitution by three successive judgments of the Supreme Court".

Here, again was the amending Bill which we passed and the provisions had no retrospective effect. But the Supreme Court did not worry about us and it struck them down as *ultra vires* and the effect of this Supreme Court decision is also given in the Investigation Commission's Report which was referred to by the hon. Minister when he was moving the Bill. It is stated:

> "The first of these judgments delivered on 28th May, 1954, in the case of Surajmal Mohta, a case referred under Section 5(4) and pending with the Commission, held that Section 5(4) and the procedure prescribed by the Investigation Commission Act in so far as it affected the persons referred under that section were *ultra vires* of Article 14 of the Constitution, and, therefore, void and unenforceable."

What was the effect? It is stated that 335 cases, including 194 cases which were being completed by the 26th January, 1950, had to be given up.

Then, there is another judgment of the Supreme Court.

> "The second judgment of the Supreme Court was delivered in October, 1954, in the case of Shri Meenakshi Mills Ltd., Vs. A. V. Viswanatha Sastri. This judgment struck down section 5(1) of the Commission Act as void and inoperative with effect from 17th July, 1954, the date on which Section 34 (IA) of the Indian Income-tax Act was enacted."

When the Supreme Court struck down section 5(1), the hon. Minister who was in-charge of Finance at that time came and made an amendment to section 34(1). Later, the Supreme Court held that that was also *ultra vires*, and the result was that 470 cases which had been referred to the Investigation Commission—by that time section 5(1) had to be abandoned—these 470 cases had been taktn up, by the Income-tax Department for being pursued under section 34 of the Indian Income-tax Act. Sir, I want to know what has happened to these cases. We know millions of rupees were involved on each case. Then even worse follows. The Report continues:

> "The third judgment came in December, 1955, when one of the assessees whose case was referred under Section 5(1) and disposed of prior to 17th July, 1954 but after 26th January, 1950, challenged the validity of Section 5(1) with effect from the date of the Constitution. The Supreme Court accepted the assessee's contention and declared Section 5(1) also as **invalid** with effect from 26th January, 1950. Seven hundred and fifty-two cases completed by the Commission on or after 26th January, 1950, under this sub-section had thus been affected by the third judgment."

So, I submit, several hundreds of cases which have been settled by the Investigation Commission were taken away from the purview of further action by the Income-tax Investigation Commission This is the situation we find. And what does my hon. friend, Shri Tyagi, say in his report? That is also an equally revealing report and because the hon. Finance Minister has paid a tribute to him, I do not want to do it, but I want to pay a better compliment to him by reading his report. He says in the chapter on "Causes of Evasion" under the heading "absence of deterrent punishment":

> "One important reason for the prevalence of evasion is stated to be that in actual practice no

[Shri V. P. Nayar]

deterrent punishment like imprisonment is being meted out to tax evaders when they are caught. Though the direct taxes Acts provide for prosecution and imprisonment in cases of concealment and false statements in declarations, the Department has not, during the last 10 years, got even a single person convicted for evasion".

Now we are changing the Law. I ask the hon. Finance Minister or his deputy: what is the purpose of having a law with more stringent provisions, if for ten years it has not been possible to prosecute even one single tax-evader or tax-dodger, who goes about with absolute immunity in our country, posing himself as a patriot? You have not been able to touch even a single tax-dodger and take him to a court of law and prosecute him although these provisions existed all these ten years. Then the Report says:

> "It is seen that prior to 1939, prosecutions were being freely resorted to in suitable cases."

Even what the British did, we could not do with a national Government. The report further says:

> "We feel that unless it is brought home to the potential tax-evader that attempts at concealment will not only not pay but also actually land him in jail, there could be no effective check against evasion. At present a tax evader even if caught has only to pay the tax sought to be evaded and a percentage thereof as penalty."

Very little change has been made there. Then the most important suggestion comes:

> "Though the maximum penalty leviable is 150 per cent of the tax sought to be evaded, such a high penalty is rarely levied. Even the moderate penalties levied by the assessing officers are reduced to nominal sums by appellate authorities. Both these factors, the non-resort to prosecution and the non-levy of deterrent penalties have, no doubt, encouraged the growth of evasion."

I submit that tax evasion is increasing, as evidenced by the figures I have given. It is our experience from 1950 to 1960 that not a single person has been prosecuted although there was a provision for doing that. What is the use of the hon. Minister telling us now that they are going to make the provisions more stringent? I would submit with all respect that the Select Committee should seriously think of imposing the penalty of public flogging on these tax-evaders and tax-dodgers who are a discredit to our nation, though they may pose as patriots. It is to the shame of the Government that from the year 1950 to 1960 they have not been able to catch even one tax-dodger and prosecute him under the penal provisions and impose the maximum penalty permissible under the law. The history of the income-tax department is a keenly contested race between the tax-dodgers and tax-evaders, ably assisted by their advisers on the one hand and the income-tax officials on the other, and this race will continue till eternity. The only remedy is to take some more stringent steps. Therefore, I submit in all sincerity that these provisions will have to be changed by the Select Committee. The Select Committee must go into all the details and see that no possible chance is given, no avenue is left for any tax-dodger to escape, by whatever techniques he may try. I also find that several provisions, as they exist now, require drastic revision if we want to plug all the loopholes. I feel that Government have made no serious attempt at all to plug those loopholes. Despite what my hon. friend, Shri Tyagi, has categorically stated in his Report, despite what the Investigation Commission have stated —they have even described the *modus operandi*—I want all of us to consider how the tax has been evaded by some of India's top businessmen and how they can be effectively dealt with.

16.57 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

I also submit that there must be a provision for advertising the names of those people who commit tax evasion. I say that the All India Radio should be used once a week for publicising the names of the tax-evaders. Let them know that their names are going to be made public. There should be no mercy to the tax-evaders. When all of us are asked to tighten our belt so that the Plans can be worked, the tax-dodgers and tax-evaders go about to foreign countries and have private accounts there and make the most out of their money. I am of the opinion that even if we introduce public flogging, most of these tax-evaders will submit themselves to it rather than pay the money. That is the position Even so, let the country know who those people are and that they worship only money.

I find, Sir, that you are becoming impatient and you are about to ring the bell. So, I think I should yield to your desire. I could have very well understood that, if I had gone out of context in one word. I have been confining myself to the point throughout. But I quite realise your difficulty. I could have gone on explaining the provisions and pointing out how they were insufficient in the present context and kept the House engaged for three or four hours. I do not want this House to be again made the subject of ridicule and be put to disrepute as has been done in the past. What the Law Commission says is partially true, as is seen from the attitude of the hon Minister who brings forward this massive piece of legislation two days before it is taken up and wants it to be referred to the Committee after a discussion of one and a half hours. I want that the Select Committee should spare no efforts and leave no stone unturned to go into the minutest details which are necessary and when this Bill emerges from, the Committee, let us hope it will be a Bill which will be worth having.

17 hrs.

Mr. Deputy-Speaker: The discussion will be continued tomorrow. We shall now take up the Half-an-Hour discussion.

Shri N. R. Muniswamy: On a point of order.

Mr. Deputy-Speaker: Discussion on this subject is adjourned.

Shri N. R. Muniswamy: This is very important. I did not want to interrupt the previous speaker.

Mr. Deputy-Speaker: That business is over; we have taken up the Half-an-hour discussion.

Shri N. R. Muniswamy: Shall I raise it tomorrow?

Mr. Deputy-Speaker: Yes.

17.02 hrs.

BEEF SERVED IN ASHOKA HOTEL*

श्री प्रकाशवीर शास्त्री (गुड़गांव) : उपाध्यक्ष महोदय, मैं आज एक ऐसे प्रश्न को इस सदन में उपस्थित करने जा रहा हूं कि जिसे सुनकर प्रत्येक स्वाभिमानी भारतीय का मस्तिष्क लज्जा से झुक जायेगा वह यह है कि भारत सरकार के संरक्षण में आज दिल्ली में अशोक होटल के नाम से जो एक बहुत बड़ा होटल चलाया जा रहा है उसमें गोमांस का बहुत बड़ी मात्रा में प्रयोग होता है। अब से कुछ समय पहले मैंने ४ मार्च, सन् १९६१ को अशोक होटल में गोमांस परोसे जाने के संबंध में एक प्रश्न पूछा था। मेरे उस प्रश्न का उत्तर देते हुये उपमंत्री महोदय श्री अनिल के० चन्दा ने यह उत्तर दिया था :—

"अशोक होटल में ठहरने वाले लोगों में से ९० प्रतिशत विदेशी होते

*Half-an-hour Discussion.