

ALLOTMENT OF TIME FOR CONSIDERATION OF MOTION RE. REPORT OF THE ALL-INDIA INSTITUTE OF MEDICAL SCIENCES

MR. CHAIRMAN: I have to inform Members that under rule 153 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I have allotted two hours for the consideration of the motion in respect of the Fourth Annual Report of the All-India Institute of Medical Sciences, New Delhi for the year 1959-60.

THE TAXATION LAWS (AMENDMENT) BILL, 1960—continued

SHRI BHUPESH GUPTA (West Bengal): Mr. Chairman, as I started speaking, the House adjourned yesterday. This measure is before us with a view, we are told in the Statement of Objects and Reasons, to relaxing the secrecy of taxation measures.

[MR. DEPUTY CHAIRMAN in the Chair.]

There is no doubt that under the veil of secrecy, this millionaire class and magnates have developed tax-dodging into a major sport. There is no doubt about it that we all desire that the secrecy should be relaxed and revoked. I do not know as to why there should be secrecy at all in this matter. Even in our own country, I think before 1922, there was less secrecy than it is today. And we should have thought that, now that we are functioning in Parliament in a free country, where popular opinion has to be elicited and public vigilance has to be promoted in all aspects of State and public activities, it is of vital importance that we function openly. We do not allow secrecy, especially in a matter where there has been a lot of malpractices and corruption, as a result of which people and the State exchequer have heavily suffered. I was interested to read a speech or statement made by the hon. Finance Minister, Mr. Morarji Desai, in Bombay on the 24th July this year. When I read it I not only took the cutting from "The Hindustan Times" of the

25th July, but also I immediately drafted a Bill called the Indian Income-tax (Amendment) Bill and forwarded it to the Secretariat, so, that what he had said could be implemented by law. Unfortunately I had been informed that this being a Money Bill, according to their reckoning, could not be introduced in this House in this manner. I am reading out from the paper what Mr. Morarji Desai said:—

"Mr. Morarji Desai, Union Finance Minister, said yesterday that there was nothing wrong in giving out information as to for how much a person had been assessed in a particular year by the income-tax authorities.

He told a questioner at a reception given to him in Bombay by the International Forum, that giving out such information would lead to a healthy public life. If a person could take a pride of place in society because he had so much property, wealth, etc., why should he be afraid of his assessment being given? Mr. Desai asked. "If he is afraid to give his assessment, his credit is worthless," he said.

Mr. Desai said that only assessment would be given out. There was no question of publishing the account, etc. "If the assessment is correct, there is nothing to be afraid of. The very fact that some persons are afraid shows there is something wrong in the State of Rome," he said."

That is what he said. These sentiments were incorporated in a small Bill and I sent it. I called it the Indian Income-tax (Amendment) Bill. Unfortunately I could not get it through in this House because of some technical difficulties. Anyway, we shall consider that. I referred to Mr. Desai's speech yesterday, but I have got the cutting here today. Now, even this much is not contained in the amending Bill before us. Even what Mr. Morarji Desai, the Finance Minister, has said is not sought to be

embodied in this Bill and this Bill comes from his Ministry. One should have thought that when the Finance Minister speaks in this manner, either he means business, or he does not mean business. If he means business then this should be incorporated in a Bill of this kind, which comes before the House after he had made the statement. Now, what is to be taken seriously—the Bill or Mr. Morarji Desai's speech? I would like some gentleman from the Ministry of Finance or from the Treasury Benches to tell us as to what is to be taken seriously.

THE MINISTER OF REVENUE AND CIVIL EXPENDITURE (DR. B. GOPALA REDDI): Sir, I do not see any contradiction between the Bill and what he had said in Bombay. In this Bill we are trying to implement what has been said in Bombay. There is no contradiction at all.

SHRI BHUPESH GUPTA: That is the trouble. He does not see even the contradiction. I will presently point out the contradiction, because Mr. Morarji Desai said that the assessment should be published. You have not provided for it. You have done all kinds of things. I will come to that later when I deal with the Bill specifically. But certainly they have not done it. That is why I put the question: Can the public have all the names of the assessee published? This Bill does not provide for it and he knows it. He is in confusion, utter confusion. All that I can say is that he knows it very well. When he made his speech, you heard what he said. He did not even suggest that kind of thing. Anyway, it is not there in the Bill which is the property of the House, before you. You can see the relevant clauses and say whether it is provided for here. Now, Sir, let me come to another matter. Certain things are amended to relax secrecy. It is a good thing, the gesture is good. But then a trick is made. How? See the amendment now here. Before that, I will make a few observations. In our

country there are about 9 lakh assessee under the Income-tax Act. Then, Sir, there is evasion which is very high, according to the Report of the Direct Taxation Administration Enquiry Committee of which my esteemed friend, Mr. Sinha, was a very valuable and good member. That is why I went actually to give evidence before this Committee. Generally I do not go, but I went there and he did a good job. We are very proud of him that he did a good job on that particular Committee. Arrears in our country according to the figures are about Rs. 284 crores or so. Now you say that there are certain new categories of effective arrears. After the dues have become arrears you do not realise them. Suddenly you give all these reasons and say that effective arrears are only Rs. 173 crores. Rupees one hundred crores are written off. Somebody should be responsible for this. It is just playing with the finances of the country. If these represent the assessed income-tax, then there is something wrong if the arrears are not realised, and it does not do good to the country and even to the Government just to say periodically that these arrears are bad debts, bad arrears so that they had to be written off, and that the effective arrears are only this much. Even if you take the effective arrear, it is Rs. 173 crores, which is not a small sum for a country like ours with so slender resources specially for our developmental activities. Some explanation should have been there. They do not give any explanation. The measures should be so amended that we cope with a situation of this kind. I am not blaming our officers. There is something basically wrong in the approach, in the laws, in the administration, in the methods of functioning, in the operation of the whole scheme of things. That is why such things happen. Now, see the amending Bill. There is nothing in it, there is no realisation even of this thing.

Then, Sir, we have got many cases pending. They go on for years and

[Shri Bhupesh Gupta.]

years, and nothing is done. Again, here in our country cases are filed by the income-tax officer as a complainant. In the other countries it is not so. The result is that the same state of affairs continues. Filing a case as an ordinary plaintiff takes of course a long time, and then the processes of appeal and proceedings go on, with the result that the monies are not collected. Then, Sir, here, as you know, reference is made in the Bill to the gift tax, wealth tax, and so on. Secrecy is being removed to some extent with regard to these assesseees also. May I point out in this connection that Dr. Kaldor estimated that annually Rs. 30 crores would be collected from the gift tax? Maybe, the figure was a little exaggerated or it may not be so. But what has been the collection? In 1958-59 it was Rs. 98 lakhs only, that is less than Rs. 1 crore. In 1959-60 the yields were Rs. 80 lakhs. In the current year it is supposed to be estimated at Rs. 80 lakhs. See the gap. Rupees thirty crores was estimated by Dr. Kaldor, but it is not even Rs. 10 crores. It is not even a crore. About the expenditure tax, no estimate was made. The collection in the year 1958-59 was Rs. 64 lakhs; 1959-60 Rs. 80 lakhs; 1960-61 Rs. 90 lakhs. For capital gains tax, it is not there. It is not levied at all that way. It was estimated that Rs. 25 to 40 crores would be collected. Regarding wealth tax, it was expected that in the first alternate scheme it would be Rs. 17 crores; later Rs. 23 crores. But the collection has been Rs. 7.4 crores, Rs. 9.66 crores, Rs. 12 crores and Rs. 7 crores. Sir, that is the position with regard to collection.

Now we are in a very serious situation. Direct tax is not yielding results. It is more or less static. Its percentage of total revenue is falling, whereas indirect tax is gaining, with the result that people suffer.

Coming to this contrivance here in this Bill, it is quite interesting. The

hon. Minister did not see any contradiction there. Clause 8 of this amending Bill seeks to amend section 56A of the Income-tax Act. Now if you refer to section 56A of the Income-tax Act, you will find that only two or three industries are mentioned. Anyway the substance of it is this, that if a company receives dividends from a subsidiary company—I am putting it in a plain way—such dividends shall not be taxable. No super-tax shall be payable by a company on such part of its total income as consists of dividends received from an Indian company formed and registered after the 31st of March 1952. In the original Act mention was made of iron and steel, heavy chemicals including fertilisers, heavy machinery and parts thereof, boilers and steam generating equipment. That is about all. In the amending Bill you see what they are doing. These are retained and a whole list of two pages of undertakings they have added. That is to say, I do not know how many of them, but almost the whole of the heavy industry is included where they make profit, where millionaires invest money which become subsidiary industries, where the parent companies or holding companies invest their money. They run into two or three pages, I need not read them. Every industry has been included which is in the grip of the monied classes. Therefore, according to the amendment, whereas super-tax was exempted in the case of dividends received from two or three industries, now this exemption is given to the millionaire class in respect of a whole number of industries, over a wide field of industries. This is the position. We have more or less calculated that one hundred families will benefit by this thing. As you know, Sir, the beneficiaries will always be the very rich people because it is they who can get the advantage out of it. Why have you done this? There is talk about interlocking. The Company Law was amended, and it is the declared policy of the Government that there should not be inter-locking, that there should

not be a vertical growth of monopoly capital in the country. But by this measure the Finance Minister encourages both inter-locking and vertical growth of monopoly capital, big money, in our country. The other day the Prime Minister in the other House was saying that he did not know where the national income went. I would ask him to enter the Finance Ministry and ask them where it goes. If he does not do it, let him read this Bill and he will find that the national income goes into these channels of monopoly manipulation and monopoly capital encouraged by the Finance Minister, the champion of monopoly capital in our country. That is what they are doing. Am I to take it that the Government will lay down a policy, the Planning Commission will lay down a policy, declarations will be made, the Company Law will be amended with this kind of declaration before the country, and the Finance Minister will come forward to amend the Act with a view to worsening the situation and encouraging the monopoly growth in our economy, helping the concentration of economic power and throwing the door wide open for widespread manipulation by the big money? It is the question that I put to the hon. Minister and he should give satisfaction. Now, Sir, how will it work? It is very very interesting. That point has to be met straightway. Otherwise things may not be clear. This should be made clear so that laymen like me will understand. My esteemed friend will speak with authority on the subject, but a layman like me can make observations which would be telling in their effect, which would expose the mentality and approach of the Government to this matter. This is how things will happen and this has happened in our country. I give you an example. Everybody knows it. I think it was before the Direct Taxes Administration Enquiry Committee also. We heard all kinds of stories. Many of us read it in the papers. The Mafatlal Group of industries have got the Standard Company. It was said that they were going to

start a chemical industry, a subsidiary industry, and that they would invest their shares of this Company in it. Even before the company was registered, when the news spread that they were going to start a chemical industry, the shares of the Mafatlal Group of Industries jumped up from Rs. 900 to Rs. 2,000 per share. That is how it jumped, because they knew that the Mafatlal Group of Industries were powerful, that they were going to start a subsidiary company, and that would be a place where money could be earned. Why was there this rush for the share of the Standard Company, because under this law, formation of subsidiary companies was allowed, and with the issue of shares, it was announced that every shareholder of the Standard Company would automatically have a share in the subsidiary company. The public had to wait in the queue to buy a share and naturally instead of standing in the queue in that way and losing the chance, the public decided to go in for the shares.

SHRI BABUBHAI CHINAI (Maharashtra): May I know on what clause or amendment of this Bill the hon. Minister is speaking?

SHRI BHUPESH GUPTA: Fortunately for you, I am not the hon. Minister. Otherwise, if I had been one, I would have put Mr. Chinai in a very desirable and right place as an industrialist.

Sir, this is how things will happen if this provision is there and a whole range of companies are exempted and all the dividends from them are exempted. You understand it better because you make a lot of money out of it. The dividends received from these companies by a parent company will be free from super-tax and being a grandfather almost in that industry, you will start investing in these companies in order to get exemption for the dividends. This is what will happen. People will buy your shares in order to have a share in the subsidiary company. You gain both ways. Your shares go up.

SHRI BABUBHAI CHINAI: May I know where the Mafatlal Group of Industries have at all announced their intention to start a subsidiary of the Standard Mill? It is not a fact and no announcement has been made officially or unofficially by the Mafatlal Group.

SHRI BHUPESH GUPTA: Anyway, you say that; you can certainly speak better for the Mafatlal Group than others.

SHRI BABUBHAI CHINAI: Then why do you go on saying that?

SHRI BHUPESH GUPTA: That you do. Don't take away my time.

That is how this thing happens. It is a very serious thing. In any case, the Tatas, the Birlas, the Dalmias, the Jains and so on will invest their extra funds in the subsidiary companies. The door is open for them in order to earn money. The super-tax exemption is there, and they can do it free of super-tax.

SHRI JASWANT SINGH (Rajasthan): Has not Mr. Dange joined this group?

SHRI BHUPESH GUPTA: No, no. Don't drag in irrelevant issues here. You will know what it is.

Therefore, this is the position and you encourage this trend and you know that in a number of industries that will come up, investment will take place. Extra funds will be invested in them, moneys will be earned and payment of taxes will be avoided. And the benefit will go to some small families. And an ordinary shareholder would not get the benefit. Suppose somebody starts one of these companies which, we shall say . . .

SHRI RAJENDRA PRATAP SINHA (Bihar): I do not want to start it.

SHRI BHUPESH GUPTA: But Mr. Jaswant Singh would like to start it

himself instead of going to the door of Mafatlals.

Sir, he would not get the benefit because the benefit is derived only by a parent company. The new shareholders will not get the benefit. Therefore, the emphasis is on the moneyed groups.

SHRI JASWANT SINGH: There is one thing . . .

SHRI BHUPESH GUPTA: He is a very moneyed man but he deals in elephants, bulls and horses. That is the position.

Sir, I want to mention the penalty clause. There is a lot of pick and choose here. I want to point out here they have gone into this matter. Here is their good Report. I do not read it out; the Minister must have read it out. In this Report, they say about prosecution:—

“We have in an earlier paragraph referred to the fact that during the last ten years, the Department had not been able to get even a single person convicted in a court of law for an offence against the Indian Income-tax Act.”

You have not got even one convicted under the Indian Income-tax Act. All slip through your fingers somehow or other. They seem to be either very slippery fingers or the person who slips must be a very slippery person. It must be something like that. In all these years of independence, we have not succeeded in securing a conviction in a court of law. In England, out of 85 cases launched, 81 secured conviction. That is the position. Therefore, there should be punishment in the penalty clause. I want those gentlemen to be in jail. Jail should not be only our privilege. You can fine as much as you like. That Bharat Insurance multi-millionaire came flying to Delhi and offered Mr. Deshmukh money saying ‘Here is Rs. 2½ crores; take it.’ Money does not matter; if they go

to jail, they can stay there, pray to God, do a little introspection and do good to themselves, to their family and to the country. Therefore, in important cases, there should be punishment. That is not done here. There again the pick and choose comes. If their names are published, there will be a flow of income. But the thing is, it is for the authorities to decide whether the names should be published or not. They have provided in the Bill:—

“In revenue interest, the name may not be published if the authorities decide.”

What is the revenue interest about it? The name of a person who has been found guilty should be published. What is the revenue interest in it? All I can say is that their only interest is to create some other ground for manipulation by back-door methods, court-yard parties and so on. That is the kind of thing that is happening. Otherwise, every name must be published without exception and the Government should not invest the authority with this power of discretion in this matter. We want all the names to be published. This pick and choose business again creates a little suspicion in our mind. Here I am coming to Dr. Gopala Reddi's point. Here in section 59B of the Income-tax Act, it is said:—

“Where a person makes an application to the Commissioner in the prescribed form and after payment of the prescribed fee for information as to the amount of tax determined as payable by any assessee in respect of any assessment made on or after the 1st day of April, 1960, the Commissioner may, notwithstanding anything contained in section 54, if he is satisfied that there are no circumstances justifying its refusal, furnish or cause to be furnished the information asked for.”

First of all, I have to make an application and then pay a fee and then I may ask them to give me an assessment. And even so, the authorities have the right not to give it to me if they so wish. Why should it be like this? It should be noted in the books. First of all, there should be no discretion at all, because discretion will be used in their favour and against the public.

Sir, in this Report of the Direct Taxes Administration Enquiry Committee, it is pointed out—I think the Minister will himself deal with Mr. Chinai—that in a number of countries, there is an open register where there are the names of the assesseees. Anybody can go and see the names of the assesseees. France, Sweden, Switzerland, these are the countries where there is this arrangement. In other countries also, this provision is there. On page 185 of the Report of the Direct Taxes Administration Enquiry Committee there is a reference. It says:—

“It is interesting to note that a practice of publishing names of taxpayers with assessed incomes is already being followed in several countries. In Sweden, though the income-tax law itself does not permit the publication, every citizen is required to declare his income when he gets himself registered under the National Registration Law which is necessary for social security purposes.”

Therefore, it is there.

“...In Norway, the figures of capital and income of the taxpayers are made available for public inspection for a period of four weeks. In Italy, the published material includes the declared income as well as the official estimates so that the public could know the wide gap between the two figures...”

In France, “this list is made available for inspection in every French Town Hall for anyone who wishes to consult

[Shri Bhupesh Gupta.]

it". Open thing. Here it is secret; it should be kept in the files of the Ministry of Finance; we should not know it. What is the use? Only the interested people will benefit if this provision is there, I agree. It is better, I agree, to help interested people. I may be interested but someone else will not be interested. Mr. Birla might be interested in finding out Mr. Dalmia's things. I say it should be open to all. The income-tax statement, the figures given by the assessee and the income assessed actually should be published so that everybody in the world could know it. Only then vigilance will develop. Suppose you pass an order of this kind nobody will know. But if, shall we say, you publish in the Statesman, for example, all the names, everybody will know. Every office of that particular concern of Mr. Birla, Mr. Dalmia, Mr. Tata, whoever it may be, will know this is the tax, this is the figure he gave as his income and this is the assessed income. They will know that. Everybody will be vigilant. Everyone, whether he works in a branch of that particular concern in the North or in the South, from his own experience will let you know about the income whether they have done the right thing or not. What is important is to bring it within the focus of the entire country. That is most important. There should be no hush-up. You have to create vigilance in this matter.

Then, again, we must have an enforcement department. We do not have one unfortunately. Publish all the names. You can say that people with small incomes, their names need not be published but names of big assesseees should be published so that you know what happens in their case

According to their report, they came to know of 27,343 cases of concealment of income of over Rs. one lakh and the total concealment was of the order of Rs 81.10 crores. Mind

you, all big people. Only big people can have concealment of over Rupees one lakh each. Who will find it? If you had published the names, probably many people who are associated with them, people who live in the same locality and those who work in their offices and factories would have told you that the statement given by them was not correct and it should be rectified and that will be a better vigilance administration that you will create. That is why I say that Mr. Morarji's assurance has not been implemented. Mr. Deputy Chairman, again the discretion is there. The country should get this thing now. Income-tax evasion has to be fought on all fronts not only by a proper enforcement department which might be created but also an intelligence department by getting the co-operation of the public. I personally talked to the Finance Minister about it in some consultative committees. He admitted the importance of it. What obtains in Western countries? They are no less worshippers of money than this Government? Even they, with a view to looking after their revenues, make certain arrangements. In Italy the system was found to be very effective. That is why I say that all the names should be published. Presently this is a farcical measure. They know very well that they are not going to implement it. They are making a false pretence before the country. They want to make it look as if they are doing something about it. We know that with this measure in their hands certain elements in the Income-tax Department or the Central Board of Revenue will be hard put to carrying out whatever is intended herein. That is the position. Therefore, I think that a measure like this should be discussed in a Select Committee so that people can give their opinion, competent opinion and so on.

I would ask the hon. Members opposite that they should express themselves on it and say as to how we can handle this matter. We

should not allow ourselves to be taken by surprise by the Finance Ministry. Income-tax evasion has got to be stopped in the country and the millionaire class, who are responsible for it, have to be called to book. For that the Government should be armed with every single law, every single regulation. And in this connection the co-operation of the people is very important. The Government have taken the wrong path today. While discussing the Third Five Year Plan in the other House, they were talking about resources. Now the Finance Minister comes to this House with a Bill which gives concessions to the millionaires and leaves the door wide open for tax evasion and avoidance. It is a matter of profound shame for any responsible Government which talks of big things but does so precious little.

SHRI K. SANTHANAM (Madras): Mr. Deputy Chairman, I am sorry I was not here while the Minister was explaining the provisions of the Bill. I intend to take only a very short time in relation to clauses 9, 11 and 12. These clauses provide for disclosure of assessments in respect of income-tax, wealth-tax and the expenditure tax in two cases, (i) where penalties are imposed, and (ii) where a person makes an application and where the Commissioner is satisfied that there are no circumstances justifying the refusal to furnish such information. I am greatly disappointed with these provisions because, Sir, where a person has been levied a penalty, in ninety-nine out of hundred cases, the fact will be known to all the people who are interested in him. So, though I have no objection to such a provision, it is not of material consequence

Sir, the only public sanction which the Bill really proposes is in the new section 59(B) for income-tax and similar sections for wealth and expenditure taxes to empower the Commissioner to disclose the information on application. Sir, this amendment may be very useful to blackmailers but

to nobody else. I have no doubt this will be used by all persons who want to blackmail a rich man. They will get the information and tell the rich man, 'Well, I have got the information. I know that you have hidden some of your income. Therefore, pay me some amount and I shall go no further'. I do not want publicity of the income-tax assessments for this purpose.

Sir, the income of companies is published in their balance-sheets. The income-tax of companies and the income-tax of salaried people is known to everybody. Therefore, the only people whose incomes are not known are the rich professionals and businessmen and it is these people who are evading income-tax to a great extent. If publication of names is to be helpful in preventing this evasion, it is necessary that the general public should know their assessments. For instance, all the lawyers and the judges should know how much income-tax a Barrister pays. They will know very well whether he has evaded income-tax or not. Even though nobody may take any particular action against him, the very knowledge will be a salutary corrective. There will be whispers in the corridors of the High Court that such and such a man is cheating the Government, and I am sure in two or three years' time, the lawyers will think that it is more profitable to give true returns and pay the proper tax. The same will hold good about doctors. Today, many doctors who are having good incomes pay very little income-tax. But if it is known that they do not pay income-tax, they will lose the respect of their own patients; with regard to businessmen, their business will be affected if they give lower returns because a man who pays higher income-tax will naturally be considered to be doing better and he will have better clients. So they will find that honesty is the best policy. Therefore, Sir, I plead that the Government of India should take courage in both hands and have such

[Shri K. Santhanam.]

lists published for each circle and keep them open for all the public to see without any charge or restriction. I would also suggest that such lists for particular categories should be sent to the persons or bodies concerned. The income-tax assessment returns of lawyers should be sent to the High Courts, of doctors to the Medical Councils and similarly of businessmen to the Chambers of Commerce and other such bodies. We want to create a moral climate so that a man who evades income-tax feels that he is cheating. There are many people who would not cheat individuals, but think it honourable to cheat the Government. It is with a view to creating a new climate and putting moral pressure upon these people that we want disclosures. But this particular provision of the Government, I think, will not only fail to meet the needs of the situation but will also give a special handle to evil-minded persons, to people who want to blackmail, because it is only such persons who will find the time and the necessity to apply and get income-tax assessments of other people. I do not know how the Government came to this conclusion and I plead that they should still think over it and provide that all assessments shall be published. They may, of course, omit small assessments. But they should say that all assessments of income-tax for Rs. 10,000 or more are to be published.

I am fully aware that even the publication of income-tax returns and assessments will not completely eliminate this avoidance or evasion of income-tax. There must be other pressures also. For instance, I would earnestly commend to the consideration of the Government the suggestion of Prof. Kaldor that the Government of India should keep yearly balance-sheets of all the rich men in the country and they should correlate their income-tax, their wealth-tax and their expenditure-tax.

SHRI BHUPESH GUPTA: Some such account is there. I understand

the Jantar Mantar Road is receiving such statements of accounts of important leaders.

SHRI K. SANTHANAM: I do not know whether they are keeping combined balance-sheets of all these people. If they are doing it, then I congratulate them.

DR. B. GOPALA REDDI: He is referring to 7, Jantar Mantar Road.

SHRI BHUPESH GUPTA: You have been asking the big Congress leaders to submit their accounts. I am giving only a source of information.

SHRI K. SANTHANAM: I may inform the hon. Member that I felt it an honour to supply a statement of account with regard to my assets and liabilities.

SHRI BHUPESH GUPTA: I am not talking about you, but about Mr. Chinai.

SHRI BABUBHAI CHINAI: I have already submitted my statement, Mr Bhupesh Gupta; don't worry.

SHRI BHUPESH GUPTA: I would very much like to see it.

MR. DEPUTY CHAIRMAN: Please go on.

SHRI K. SANTHANAM: I think that if for about 10,000 rich persons in the country the Government of India make up their mind to keep complete balance-sheets of their annual income and expenditure and also their capital assets, probably they may be able to collect Rs. 10 or Rs. 15 crores a year.

SHRI RAJENDRA PRATAP SINHA: What about the integrated tax system?

SHRI K. SANTHANAM: The Income-tax Officer does not know what amount of capital our assessee has got, nor does he know his expenditure. The annual income minus the expenditure must go into the capital and all these must be correlated.

SHRI RAJENDRA PRATAP SINHA: But there are already various returns submitted—the Gift-tax, the Expenditure-tax, the Wealth-tax and so on and so forth. All that can be correlated. That is already on the Statute Book and the Income-tax Department has got all that information.

SHRI K. SANTHANAM: I have yet to see a law which makes it obligatory on the Government to have correlated balance-sheets of every one of our rich men. I do not know if there is any such obligation, but if they are already doing it, then my advice is superfluous. (*Interruption*) I would go still further and suggest that, as a I have been pleading for annual publication of these income-tax assessments, a similar publication giving the annual balance-sheets of all these rich people should be compiled and kept in proper places for public inspection. This will provide us a healthy climate of honesty and people will feel that it is unwise in their own interests to cheat the public and the Government. That is all I have to say. Thank you, Sir,

SHRI BHUPESH GUPTA: Mr. Santhanam has made a very good suggestion.

SHRI BABUBHAI CHINAI: Mr. Deputy Chairman, I am thankful to you for giving me this opportunity to say a few words on this controversial Bill.

In the first instance, Sir, I would like to point out one or two wrong statements which were made by my friend, Shri Bhupesh Gupta, when he was making his observations. Sir, one statement which he made was that the collection of direct taxes had been going down. This is absolutely not a fact. It can be proved by facts and figures. In the year 1957-58, the total collection . . .

SHRI BHUPESH GUPTA: I never said that the collection of direct taxes

was going down. I said that in proportion to the total tax the revenue percentage was falling.

SHRI BABUBHAI CHINAI: That also is not correct. If he bears with me for a while, I will show him how that statement is not correct. In the year 1957-58, Sir, the income-tax collection was Rs. 220.27 crores. In 1958-59, it was Rs. 226.30 crores and in 1959-60, it was Rs. 242.00 crores. Added to that the Wealth-tax, the Gift-tax and the Expenditure-tax, in the year 1957-58, the total was Rs. 227.35 crores, in 1958-59, it was Rs. 237.71 crores and in 1959-60, it was Rs. 255.64 crores.

SHRI RAJENDRA PRATAP SINHA: What my friend meant is this: The direct tax is not showing the resilience that it ought to show in the background of the developmental expenditure and other things.

SHRI BABUBHAI CHINAI: Sir, for a country which is under-developed and which has been developing of late, the progressive increase in the total collection shows that all that has been . . .

SHRI RAJENDRA PRATAP SINHA: Can my hon. friend give me one figure? What is the amount of black money—he comes from Bombay—which is rotating at the present moment?

SHRI BABUBHAI CHINAI: I am glad that this question has been posed to me by one of the members of the Taxation Enquiry Committee and I hope he must have posed the same question to all those who came to give evidence, and he must have found out the position for himself. I am not the custodian of those people who keep black money and go on counting it. I believe that every citizen is an honest man as honest as I am and my friend there is.

Now, Sir, coming to the exact point . . .

MR. DEPUTY CHAIRMAN: You may continue after lunch. The House stands adjourned till 2 O'clock, not 2-30.

The House then adjourned for lunch at one of the clock.

The House reassembled after lunch at two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

SHRI BABUBHAI CHINAI: Mr. Deputy Chairman, when we rose for lunch, I was just pointing out that this Bill which has been brought forward by the Government is specially to implement the secrecy provisions under Section 54 of the Income-tax Act and other direct taxes Acts. The report of the Direct Taxes Administration Enquiry Committee contains many recommendations which are useful to assessees. I am rather surprised that a controversial recommendation of the type of the secrecy clause has only been singled out for implementation and the other suggestions made by the Committee are being held in abeyance. On this aspect I would like to draw the attention of the House to the observations made by Shri Mahavir Tyagi in the Lok Sabha and they are very interesting. He said:

"As we have already mentioned in our Report, it is not actually the penal clause alone which will save revenues from evasion. We felt it is not a sort of butcher's knife alone which will help us. I am insisting on a comprehensive Bill because then the Minister would be happier and would be well received by the assessee and the public at large; in such a comprehensive Bill, there would be so many fair amenities also. I am quite sure, he is having a judicious view in the examination of the Report submitted to him. Then it would be a balanced Bill. I do not know why the Government have been intrigued into this unnecessary hurry by coming forward with just a few clauses."

Shri Mahavir Tyagi was the Chairman of the Direct Taxes Administration Enquiry Committee and as such his observation should be weighed in the light it has been made. I am sure the Finance Minister will bear particularly in mind the need for improving the efficiency of the Department and for their cultivating good public relations because then only more revenue will be forthcoming from the assessee. It is not so much the number of I.T.O.s. or the quantum of tax raised that matter. What matters is the quality and efficiency of the Department. The revenues also will then increase, as I have said.

Another point on which I would draw the attention of the House is in connection with clause 4. Clause 4 provides that development rebate will not be admissible in respect of transport vehicles and office appliances. Everyone knows that for the development of the trade and industry of this country, this particular type of industry, namely, the transport industry, requires to be developed more and more and therefore, to say that the transport industry will not be allowed any rebate is, according to me, not correct. Also, when big machinery, etc. are exempted and this rebate is allowed but if office appliances like typewriters and others are bought, they will not be allowed according to this provision. The Government should revise their view on this because after all, whether it is a transport vehicle or whether it is a typewriter which is used for the day-to-day work in furtherance of the industry or trade, both have their usefulness and so this clause should be amended.

The amendment to Section 15B of the Income-tax Act regarding donations is, of course, welcome. I would, however, suggest that Government should be more liberal and give as much encouragement as possible to donations to charitable institutions for the purposes of education, medical re-

lief, relief to the poor, etc. Individuals and companies must be encouraged to help deserving causes. The fact is that Government, even with its avowal of a socialistic pattern of society, are not able, and have not got the necessary resources, to help and therefore all those individuals and companies who can be of help to the needy should be encouraged to do so. We know that in the U.S.A., an assessee can contribute up to 15 per cent. of his income to charities without paying tax. I have another suggestion to make. The companies are now given rebate only in respect of income-tax and not in respect of super-tax. I suggest that donations by companies should be exempt from super-tax also. This will enable companies on whom demands are now almost daily made to contribute for some cause or the other, to make liberal contributions. Therefore the suggestion that companies should also be given exemption from super-tax so far as donations are concerned would not be out of tune and would meet with the requirements of the situation.

Then I would come to the industries specified in Section 56A. My friend Shri Bhupesh Gupta, while elaborating his point of view on this special section, said that here is the Government who have come out with a very big list which has come out to-day. In the old Act dated 18th April, 1959, if he will refer to it, the same industries more or less, will be found. What has happened here is, there is an amplification of the industries. For example, suppose it was only chemical industry there, here it might be written 'fine chemicals including photographic chemicals'. So an explanation has been made. I must also admit that there are a few industries which are now included also, but which are those industries? They are industries which came into existence during the course of the last few years and which require this type of assistance.

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Therefore it is not that all of a sudden a new list has been prepared by the Government and placed before the Parliament Members for acceptance.

Coming to this section, I must say that the benefit of this section should be available to all deserving industries. So I suggest that the Government should empower themselves to use their discretion whenever necessary to give exemption to whatever industries they think fit and they must take power to add to the list of industries specified in this Bill.

The most controversial part of the Bill, according to me—and my friend Shri Gupta also dealt with it in a very lucid way—is about the disclosure of the assessments. We know that the Taxation Enquiry Committee also had suggested two ways and the Committee left it to the Government to select any one of them. The Government has selected the one which has been published in the Bill. What is it? It says that about the assessment of assessee above a certain limit, information can be given quite openly. We have been told that there are certain countries which are publishing assessment orders as well as wealth statements.

In the world generally, there are four countries which partially fall in line with this clause in our Bill. Out of these four countries only in France do they publish the statement of assessment and the final order whereas in other countries, e.g., Sweden and Norway, they give the assessment figures when they are asked for; they are published in gazette.

SHRI RAJENDRA PRATAP SINHA: I may correct my friend. It is not a fact. These things are published and they are open to the public for inspection. Anybody may take extracts and publish them.

SHRI BABUBHAI CHINAI: Yes, if anybody wants to have information

[Shri Babubhai Chinai.] regarding the assessment of X or Y, then he can get it and nobody is barred. That is so even under the Bill. I was only comparing the Bill as is before us with the position obtaining in Sweden. If I have committed any mistake in interpreting it, I beg to be excused. My point is that even under this, there are chances of people being blackmailed. You may ask as to how it is done. The very fact that Government itself has taken upon itself the power to refuse information in the interests of revenue strengthens my point of view. Questions may also be raised about the 'interest of revenue'. It is like this. Take, for example, my own case. I had made very good profits in the previous year and as such am assessed for a very big sum.

SHRI RAJENDRA PRATAP SINHA: What the hon. Member is saying is not correct. They cannot refuse to give information in the interest of revenue so far as clause 59B is concerned.

SHRI BABUBHAI CHINAI: I am talking about disclosures.

SHRI RAJENDRA PRATAP SINHA: It is not there.

SHRI BABUBHAI CHINAI: It is mentioned. I am sorry, I cannot agree with the hon. Member.

MR. DEPUTY CHAIRMAN: Mr. Sinha, you will have your chance.

SHRI RAJENDRA PRATAP SINHA: But he is labouring under a misapprehension.

MR. DEPUTY CHAIRMAN: Make it clear when your turn comes.

SHRI BABUBHAI CHINAI: The relevant clause reads as follows:

"Notwithstanding anything contained in this section, the Central Government may refrain from publishing the name of any person if it is satisfied that in the interests of

revenue it is necessary so to do . . ."

SHRI RAJENDRA PRATAP SINHA: That is the penalty clause.

SHRI BABUBHAI CHINAI: I am just on that; I am not on the original clause. I am only saying, Sir, that the inclusion of a clause like this strengthens my case that there are very good reasons for not publishing the names in certain circumstances. As I said earlier, I might have made very good profits in an earlier year but in the meanwhile something might have happened by virtue of which I would not be in a position to pay the tax. As you know, Sir, assessment is not made every year, and it might so happen that Government will lose the revenue which it is entitled to by my having earned greater profits in an earlier year.

Sir, I want to point out another thing in regard to this clause. In the penalty clause, it is provided that even a minor offence like the failure to file a return of income will mean publication of the assessee's name.

DR. B. GOPALA REDDI: No.

SHRI BABUBHAI CHINAI: Is it not so? Then it is very kind of you, Sir. For cases under the Penal Code, no special effort is made to publish the names. If a newspaper man is in the court, he takes down the whole thing but no special effort is made to publicise the names. That being so, I do not see any reason why special efforts should be taken to publish the names.

If this provision is at all to be retained, then some safeguards should be provided for in order to see that an application is made for honest purposes and not for purposes of blackmail. It is, therefore, necessary that the applicant should give an undertaking that he will not disclose information to anyone else. The Commissioner, on receipt of the application, must disclose the name and address of the applicant to the assessee and give him an opportunity of being heard in the matter. If the Commissioner is satisfied that there are no

circumstances which justify the supplying of information, then he should intimate the applicant accordingly. It is very necessary, Sir, that in a matter of this kind, great consideration should be given. Such a provision does not exist in many countries of the world. I would also like to say that we have not quite understood the exact provision in this Bill. I would therefore, urge the deletion or improvement of this clause, if it is not possible to drop it altogether. Rather I have explained the object of the amendment proposed in section 56A of the Income-tax Act is to clearly describe and simplify the industries covered under items (2), (4) and (5) of section 56A, namely, iron and steel, heavy chemicals, including fertilizers and heavy machinery used in industry, in accordance with the revised First Schedule of the Industries (Development and Regulation) Act of 1951, as amended in 1957. As I pointed out earlier, Sir, Mr. Bhupesh Gupta had a wrong notion about expansion of the list.

I have done, Sir.

SHRI JASWANT SINGH: Mr. Deputy Chairman, the hon. Minister while moving the motion told us that the Government decision to relax the secrecy provisions of the direct taxes Acts was arrived at even before the Direct Taxes Administration Enquiry Committee had submitted its report, and that this Bill has been brought before us now after the report had become available. The Minister also said that a comprehensive measure would be brought forward soon. In the circumstances, I do not understand why this incomplete Bill has been brought before us. You will find, Sir, that in addition to relaxing the secrecy provisions of the Income-tax Act, the Wealth-tax Act and the Expenditure-Tax Act, some other limited provisions have also been brought in, but the Estate Duty Act has been left out. The hon. Minister explained that legislation would be brought forward in course of time. Thus it will

be seen that this is only a provisional legislation to meet immediate needs and the comprehensive legislation promised to be brought forward soon will take into consideration the recommendations of the Direct Taxes Administration Enquiry Committee and other relevant facts. He has not explained, nor has it been given in the Statement of Objects and Reasons, as to why this legislation has been felt absolutely necessary at this stage and what particular purpose this Bill would serve. I do not know how far we would be able to achieve our objectives by this Bill because howsoever strict we may be in our legislation, people who have to pay taxes will find ways and means either to evade the payment of taxes or avoid taxation. Evasion, of course, is illegal and unlawful, but if they can avoid under the law, they have the satisfaction that they have not done something wrong or illegal. This Bill has been brought forward in order to avoid evasion, and we will have to see how far it will be successful. Even during the last four or five years, strict action has been taken to see that evasion does not take place but even then there is not much improvement as far as the figures relating to arrears are concerned. Along with legislation, something will have to be done in regard to the moral standards of the people of the country. In the United States of America, there is no actual assessment. There the assessee submit their returns of income and they are accepted on their face value. Income-tax is realised on that basis, the safeguard being that after a few years, four years or five years, a thorough scrutiny is made, and if any lacuna is found or if any party is found to have evaded payment or avoided payment under the Act, he is then very severely dealt with. It is very difficult here straightway to adopt such methods, but at least in regard to the smaller cases, there is a good ground for an experiment being done with a view to seeing how far by raising the moral standard we can avoid evasion. By this way, slowly and steadily these figures of income-tax can be raised and in due

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course of time—it may take some years—it may be possible that we may also follow the example of the U.S.A., and thus much harassment can be avoided and the purpose of getting revenues also could be served.

Sir, the evasion of payment is itself a human frailty and it has to be controlled, but there is nothing in our taxation laws to control the weakness of the taxation officers. Sir, I understand that the United Kingdom Income-tax Act provides for controlling the attitude or the manner in which the officer has to work. Therefore, it is quite legitimate for us to enact such laws. There should be some provision somewhere on the lines of the law of the United Kingdom to the effect that where the officers make a mistake deliberately or through omission, they could also be controlled. That will go a long way towards giving confidence to the people at large in the officers. Here the position of this Department concerned with direct taxes is such that even an honest man is afraid of it, and therefore mutual trust has to be established. If a provision on the lines of the United Kingdom Act is made in our laws also, that will create certain confidence in the people that if the officers out of spite or for some other reason harass the people, they will also be taken to task. At present there is nothing in our laws to give confidence to the people that if officers go wrong, they will be punished. After these general remarks I would now like to say a few words in regard to the various clauses of the Bill before us.

First of all, Sir, in regard to clause 4, the hon. Finance Minister justified this provision in view of the decisions of law courts, and here rebate on development has been sought to be excluded as far as transport vehicles and some other articles mentioned in the proviso are concerned. In this regard I would submit that I want a little clarification from the hon. Minister because I have not fully

followed him as to what he actually means because he states that in view of the decisions of courts rebate cannot be given to the road transport industry. No doubt the road transport industry is playing a very big part in the development of the economy of our country. I only hope that this thing has not been brought in because of the pressure of the Railway Ministry. Road transport is competing very very strongly with railway transport, and it is hoped that this clause has not been brought in at the instance of the Railway Ministry. Even then I would like to have a clarification from the hon. Minister. The Road Transport Reorganisation Committee made an enquiry some time ago. I would like to know whether the report or the recommendations of that Committee have been accepted by the Government or not. As far as my information goes, the Transport Ministry has accepted them, and so has Parliament. That is my information. In page 32, paragraph 63 of this Committee's report it is stated:—

“The road transport industry was being granted an initial depreciation allowance of 20 per cent on new vehicles put on the road, but from 1956-57 in view of the introduction of the development rebate of 25 per cent, the initial depreciation allowance has been withdrawn.”

This is in direct contradiction to what has been stated in the speech of the Finance Minister. The Finance Minister says that depreciation allowance at generous rates is being given to different types of road transport. Here the Road Transport Reorganisation Committee says that from 1956-57 this depreciation allowance has been withdrawn.

DR. B. GOPALA REDDI: What was withdrawn is the initial depreciation allowance, but depreciation allowance continues. There is a distinction between initial depreciation allowance and depreciation allowance.

SHRI JASWANT SINGH: I take it that the initial depreciation allowance has been withdrawn.

DR. B. GOPALA REDDI: For all machinery it has been withdrawn because the development rebate was coming in.

SHRI JASWANT SINGH: Up till now road transport had the development rebate of 25 per cent. Under this clause 4 this is withdrawn. The initial depreciation allowance has also been withdrawn. Therefore, this industry has been doubly hit. In view of the big part that this industry is playing in the development of our country, I feel that it is being hard hit, and naturally the people who are in this industry will feel that as it is putting up a big competition against the railway transport, it is at their instance that this has been brought in. If that is so, then it is not fair.

Now, Sir, I will come to clause 9 which is the crux of the whole Bill. While I agree with these provisions in substance, I would like to make certain remarks. According to new section 59A, the names of those persons on whom a penalty amounting to not less than Rs. 5000 is imposed will be published in the Official Gazette, and Government has also kept the power to publish the names of persons on whom penalties of lower amounts are imposed. I am in favour of the publication of all names irrespective of the amount of penalty. Therefore, I have no objection to Government taking power in respect of lower limits also. But in this connection I would submit that it makes no difference whether they are big defaulters where the amounts involved are very big and where the penalty imposed has been Rs. 5000 or over or whether they are small defaulters where the money involved is very little. I would personally favour that all the names of those who have been penalised should be published, and it will have a salutary effect. I do not

know why this differentiation is made irrespective of whether the amount of penalty of Rs. 5,000 or less. Though Government have taken power in respect of lesser amounts, all could be brought within this law without discrimination. I am personally in favour of it that all names should be published, and in a way it is good that Government can, if necessary, publish the names of even those in whose cases the penalty of a sum less than Rs. 5,000 is imposed.

In regard to clause 9, sub-section (2) of proposed section 59A, I submit that this provision has gone beyond the recommendations of the Direct Taxes Administration Enquiry Committee. Here it means the publication of names of not only those who have evaded, but who have delayed by a few days. Here even in genuine cases there is a possibility of harassment and it will unnecessarily create alarm amongst the people. So, I would like to know what has led the Government to go beyond the recommendations of the Direct Taxes Administration Enquiry Committee. When the Report of that Committee has still to be considered by the Government and a comprehensive legislation has to be brought before the House, it may be that on reconsideration again that recommendation of the Committee may be accepted or rejected. Therefore, to bring in this provision at this stage goes beyond the recommendations of the Tyagi Committee and is, in my opinion, not justifiable.

In clause 9, in regard to the proposed sub-section (3) of section 59A, the point is that there will be no publication of name if an appeal filed before the Appellate Assistant Commissioner is pending. Here I would submit that I am not satisfied with this provision, because the Appellate Assistant Commissioner is the immediate officer of the I. T. O. and only in very rare cases he would upset the decision. When the case has gone up and it has been decided finally, if it

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is published then, of course, there is some logic. But to say that it can be done only till the appeal is pending before the Appellate Assistant Commissioner, will not meet the case. Also, people will not have so much confidence in this provision, because the Appellate Assistant Commissioner is under the control of the Central Board of Revenue, which is being dreaded by everybody, honest and dishonest. There is not a single assessee—whether he is honest or dishonest or whether he evades or does not evade—who is not afraid of it. It is an institution of which everybody is afraid and nobody likes it. They take it for granted that this institution is something which is not friendly, which is inimical to everybody.

SHRI RAJENDRA PRATAP SINHA: The results do not show that.

SHRI JASWANT SINGH: That is the general impression I am having.

DR. B. GOPALA REDDI: Is it the Central Board of Revenue?

SHRI JASWANT SINGH: Yes, Sir. Therefore, if confidence is to be created, the provision should be changed. Shri Bhupesh Gupta was referring to me as a very moneyed man and that I deal in elephants, horses, etc. I do not know how he got the impression. I am not a rich man. I am only a soldier.

DR. B. GOPALA REDDI: Hereafter you will get information about your wealth tax.

SHRI JASWANT SINGH: As he says, I am interested in horses and elephants, guns and rifles and all those things, because I am a sportsman. That is true. But I have no dealings with the Central Board of Revenue. I come from a part where industrialists abound in thousands and they are all friendly with me. And from my talks with them I understand and I hear also from them that they are not afraid of anything in the world

except the Central Board of Revenue. They consider this institution as nothing but an enemy.

DR. B. GOPALA REDDI: They make no assessments.

SHRI RAJENDRA PRATAP SINHA: They hate the Finance Ministry itself.

SHRI JASWANT SINGH: They do not hate the Finance Ministry so much. Because the Income-tax Commissioners and others are directly under the Central Board of Revenue, they consider that this institution is something obnoxious. They are the people who pay this money and they will not be satisfied with this provision.

SHRI N. R. MALKANI (Nominated): Thank God, there is some fear in them.

SHRI JASWANT SINGH: They will not feel confident if this Appellate Assistant Commissioner is under their control. If he is under the control of the Law Ministry or if he is an independent man, then they will have some confidence in this institution that something will be done.

Lastly, I wish to submit a few words in regard to the proposed section 59B. Here I entirely agree with what has been stated by Shri Santhanam. As it is capable of being misused, this will encourage blackmailing. If the Government really means business, then disclosure of information on an application, in the manner in which it has been provided here, will not meet the case. The suggestion of Shri Santhanam is most laudable. Without taking the time of the House and without elaborating the points which he has done in his masterly way, I wholeheartedly endorse what he has said. I would favour the suggestions made by him rather than the provision that is made here, because according to me it will not help solve tax evasion at all. The rich people will be blackmailed outright and the Government will not gain anything,

unless the suggestions made by Shri Santhanam are accepted by the Government.

With these words, I agree, in principle, with the objects of the Bill, but as at present this Bill, I consider, is a piecemeal legislation which will not meet the needs of the case and which will not help the collection of taxes and stopping of evasion. A comprehensive legislation is called for and very necessary. This Bill could have been brought forward when the Government was ready. The Estate Duty Act has not been included in this. There are many recommendations in the Report of the Tyagi Committee, which should also be taken into consideration. While I agree with the spirit of the Bill, I do not feel myself in a position to say that the Bill, in its present form, will help much in the purpose for which this legislation has been brought before the House.

SHRI RAJENDRA PRATAP SINHA: Mr. Deputy Chairman, I am glad that the hon. Minister has said that the Government propose to come forward with a more comprehensive measure to give effect to the various recommendations of the Direct Taxes Administration Enquiry Committee. No doubt the Committee has dealt with both the problems which were referred to it—the problem of tax evasion and the problem of giving relief or convenience to the assesseees. Therefore it has been rightly pointed out that a more comprehensive measure which includes both the sides of the picture will be more welcome to all sections of the people and to all sections of this House but I see no reason why we should not welcome even this piecemeal measure, as it has been called, to give effect to only a few of the provisions as recommended by the Direct Taxes Administration Enquiry Committee. I think it is very important that we should enlist the co-operation of the public in fighting what is called tax evasion. Sir, I would not like to let this impression go that this tax evasion is rampant

only in our country. It is there in every country. I have found that in England the problem is as acute as it is here. In the United States of America the problem is probably a little worse. It was very bad in France and therefore lately they have adopted this measure of fighting this problem by publicising the income that is returned by all the citizens. As far as my knowledge goes even in England they are considering whether such a measure will not help in fighting tax evasion in that country. Therefore, Sir, I very much welcome the provisions contained in the new proposed sections 59A and 59B that are to be incorporated in the Income-tax Act. I may not agree so far as the details are concerned but the very fact that we have accepted the principle of doing away in our taxation laws with all the secrecy that shrouded the assessment of income, wealth and all that is a very healthy sign in the right direction.

Sir, first I would like to draw your attention to the proposed section 59B. It has been very rightly pointed out that the way it is being done is not correct and I find, Sir, that a large number of hon. Members of both the Houses have pleaded that we ought to have adopted the second alternative suggested by the Direct Taxes Administration Enquiry Committee, that is, to publish—of course they have said the declared income—the assessed income of all the assesseees. If you do not want to publish it, let it be hung—the list may be hung—at the headquarters of each Commissioner and kept open for public inspection. Sir, I am glad that the Government have decided to publish the assessed income and I personally regard this as an improvement on the recommendations of the Direct Taxes Administration Enquiry Committee. It is not proper to give only the declared income; that may give a distorted view. Therefore I would urge that when the Government brings forward the more comprehensive measure that they have in view, they should take into consideration the large number of

[Shri Rajendra Pratap Sinha.]

Members of both Houses who have supported the view that the whole thing should be published and they should consider the question of amending this section 59B accordingly.

Coming to 59A, I would consider that the provision as drafted is an improvement on the recommendation of the Direct Taxes Administration Enquiry Committee in the sense that the Government has taken powers even to reduce the floor limit of Rs. 5,000 to a lower figure. I agree with Mr. Bhupesh Gupta and Mr. Jaswant Singh that there should be no limit at all. Let all the penalties be published as is done in the United States of America and in the U.K. So far as penalties are concerned, I understand that they give good publicity there. I also welcome the decision that we shall publish it at the stage of disposal by the Appellate Assistant Commissioner. I can assure my friend that there will be no difficulty in that. Otherwise it will defeat the very purpose if we had to wait for a number of years till a final decision by the highest tribunal in the country, the Supreme Court.

Sir, I know the difficulties that the Department faces with regard to returns. But there will be only very few cases and the names of only the most recalcitrant assessee will find a place here. Large number of them do file their returns in time and in the case of the very few who persistently refuse to file returns in spite of the various notices issued by the Department, it is better that we advertise their names if they fail to answer the calls of the Department.

Sir, I had occasion to know the administrative set-up and the young men who man this Department rather from a very close quarter and I am proud to say that the staff of our Taxation Department are equal to any in any part of the world. I found that our Department and our

departmental men are highly respected in the United Kingdom. They have copied, not only in England but in America also, most of the methods that we have adopted to fight tax evasion. One of the important things is the means test.

SHRI BHUPESH GUPTA: I hope evaders are not also copying us.

SHRI RAJENDRA PRATAP SINHA: Then we will fight the evaders. One example is the means test that was evolved by our Department and that is now being followed in other countries, and I do hope that many of the recommendations that we have made will be followed and copied in other countries also. Sir, what is needed is to strengthen the Department. It is not merely enough to have good laws; what is more important is to administer these laws effectively. And to that we have drawn your attention.

As far as penalties are concerned, section 28 of the Act provides that $1\frac{1}{2}$ times the tax evaded could be levied as penalty but in actual practice we find that not even 10 per cent. is levied. The assessing officer levies some penalty but that is watered down by the appellate authorities. Therefore what I feel is that our penal provisions have remained a mockery. It is very important that whatever penal provisions we have in our Statute Book they should be properly administered and made use of. In U.S.A. we found that they had what is known as the graded system of penalties. Their corresponding sections are 291 and 293. Once the penalty provisions are attracted, you have no option but to pay the penalty. There is no discretion left. I do not say that for all offences—minor and major—you should have $1\frac{1}{2}$ times penalty. For ordinary offences, have small penalties and for major defalcations, for deliberate concealment of income and all that, have three or four times penalty as you have in England. But do not have this discretion of varying

it and reduce this preventive provision to a farce when in actual practice, we are not even able to secure one conviction.

Then comes the question of sections 51 and 52. Section 52 provides for six months' imprisonment for wrong verifications and for concealment of income and all that. Ever since independence, not a single man has been sent to jail. I was talking to the people of the Enforcement Department of the United Kingdom and they told me that they had far less powers than what had been given to our heads of departments. They do not have all those powers that we have given to our department. But even then, they are more successful because they make use of even the smaller powers that they have. And here I regard it as the failure of the political executive and not of the administration. It is for the political executive to give the directions that the provisions of sections 51 and 52 should be enforced. Why was not even a single prosecution launched and why was not even a single man sent to jail for the concealment of his income? In 1958-59, as my friend, Mr. Bhupesh Gupta, said 27,000 cases were opened under Section 34, out of which a concealed income of Rs. 41:10 crores was discovered and the tax and the penalty assessed was to the tune of Rs. 15 crores odd. But we did not care to launch even a single prosecution in all those cases of severe defalcation of the tax. Why? The one deterrent . . .

SHRI SONUSING DHANSING PATIL (Maharashtra): Was not that conditioned by an assurance that there will be no prosecution?

SHRI RAJENDRA PRATAP SINHA: My friend is confusing between voluntary disclosure and the act of concealment. I am only giving the figure of the concealed income discovered by opening the assessments under Section 34 where no assurance, either

legal or moral, has ever been given by the Government.

SHRI BHUPESH GUPTA: You can deal with the Madhya Pradesh bandits through Vinoba Bhave, but not the tax-evaders.

SHRI RAJENDRA PRATAP SINHA: Therefore, I was told that the course taken against tax evasion in England was the punishment that they inflicted upon the tax-dodgers. They have an enforcement branch whose whole purpose is to prosecute these tax-evaders in big cases. I asked them which people they prosecuted. They said that they settled it by the back-duty method. That is, so far as small cases are concerned, cases below £200, they will take them to the court. Very big cases, cases which will attract some publicity, cases of people who are well known, only such cases are prosecuted, not the small fry.

SHRI BHUPESH GUPTA: Here it is the opposite.

SHRI RAJENDRA PRATAP SINHA: Yes, here it is the opposite. You see, they will say, 'well, we catch hold of one or two fellows.' I am not talking of income-tax. In regard to sales-tax incomes, there is no question of prosecution. There is no question of big or small there. This is how they do it there. Therefore, as my friend has quoted, every year, a report has to be submitted to Parliament wherein it is stated how many prosecutions have been launched and how many people were convicted. Not only that, they also prosecute the tax-abettors, the accountants, and every year four or five accountants are sent to jail.

DR. B. GOPALA REDDI: Lawyers also.

SHRI RAJENDRA PRATAP SINHA: I cannot off-hand say whether lawyers are there or not but so far as accountants are concerned, I can say it definitely. Whoever he may be,

[Shri Rajendra Pratap Sinha.]
they call him a tax-abettor. A doctor was also sent to jail. That is one of our recommendations that tax accountants who help in the abetment of crime should also be caught in the net.

SHRI FARIDUL HAQ ANSARI
(Uttar Pradesh): Lawyer also.

SHRI RAJENDRA PRATAP SINHA:
Whoever is the tax-dodger.

The other important point is this. Why is it that they succeed and why is it that we fail? The Central Board of Revenue people and others who gave evidence before us very correctly pointed out that the burden of proof here in India has been placed on the department, to prove that he has evaded the tax fraudulently. The department does not know the affairs of the assessee and as such, how can the department prove that the assessee has concealed his income or has not concealed it? Now, the department has to prove that there was a *mala fide* intention and that there was a fraudulent purpose in evading the tax. All these things the department has to prove. It is an impossible task. No prosecution can succeed in India under the Indian Income-tax Act. In England, we have found that Section 49(1) places the onus on the assessee to prove that he has not fraudulently deprived the exchequer of the taxes that are due to it. It is for the assessee to prove it. He knows his affairs well. Therefore, we have recommended that you should have a provision on the lines of section 49(1). Then alone will the prosecutions succeed, as was very correctly pointed out by my hon. friend, Mr. Bhupesh Gupta, it is not possible for the income-tax officers, as it is today, to go and stand in a queue with the other complainants and the litigants and to launch the prosecution. You have not provided a proper machinery for prosecution, and in that connection, the recommendations are that there should

be an Enforcement Branch whose duty is to prosecute the people who have defrauded the exchequer of the tax due to it. Sir, the most important thing is this—and it is unfortunate—that we are chary of spending money on this revenue-earning department. We are reluctant to provide more funds and we are reluctant to give an adequate number of staff that is required to man and manage our revenue department. If we want to improve things, we must strengthen the administration of our tax departments at every level. That is what we have suggested. We were conscious of the fact that we should not increase the costs of administration unduly, but the minimum that we have recommended must be done. And if you are not going to strengthen the administration, no results will be forthcoming.

One of our recommendations in this respect is the formation of a Vigilance Directorate. I am one of those who think that the Income-tax Department is more sinned against than sinning. I hold the assessee the black-marketeers, and the evaders who come to our officers to be corrupt. They are equally responsible. It is they who have pots of money in their pockets and dangle them before our young officers and hoodwink them. So, it is important that our vigilance should be improved and therefore we have suggested a Vigilance Directorate.

Now, the important point is that in the matter of . . .

MR. DEPUTY CHAIRMAN: You can continue on Monday.

SHRI RAJENDRA PRATAP SINHA:
I will finish in two minutes.

MR. DEPUTY CHAIRMAN: You take only one minute. because at three o'clock, we have to take up the other business.

3 P.M.

SHRI RAJENDRA PRATAP SINHA: What I suggest is that we should take the initiative in the matter of vigilance. Of course, I know there are a large number of cases pending for disposal—they do not find time—and if you keep such cases pending for two years or more than that, it loses its very weight. Therefore, what I was saying is this that it is good that we have brought forward this Bill. I lend my support to it with the observations that I have made but the important fact is that the administration must be strengthened at all levels. You have got a body of men of whom we could well be proud. Of course, a proper direction from political heads is very necessary.

FOURTH ANNUAL REPORT OF THE ALL-INDIA INSTITUTE OF MEDICAL SCIENCES

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): Mr. Deputy Chairman, Sir, I move:

“That the Fourth Annual Report of the All-India Institute of Medical Sciences, New Delhi, for the year 1959-60, laid on the Table of the Rajya Sabha on the 9th August 1960, be taken into consideration.”

Sir, this Report of the All-India Institute of Medical Sciences was laid on the Table of the House, as it is laid every year, about a fortnight ago. In the rush of business, usually such Reports escape the notice of the House. It is to be admitted that when such huge sums, to the extent of crores of rupees, are being spent on this Institute, and when this Institute itself was started in the midst of a controversy four years ago on the ground that there was a munificent donation from the New Zealand Government, through the T.C.M., to the tune of a crore and a half rupees—it was start-

ed with the blessings ultimately of both the Houses in the expectation that the good that was promised would be forthcoming as a result of this vast expenditure which the country could ill afford, in my opinion, on one single institution—we can hardly ignore it. Some four years have elapsed and the institute which was to be started with the object of providing staff of a proper standard of education to the various colleges in our country, which found it difficult to get duly qualified staff, has not been able to fulfil that function in such a short time as it should have done as far as post-graduate teaching is concerned.

Sir, before I go into details, I would like to point out that the Report is a well-drawn report and is a brief one but complete in every respect. It gives a complete picture of the present position. Actually the Report is not expected to go into the shortfalls or difficulties because that may be considered outside the scope of the Director; and perhaps it may not be proper for a Director to point out what would have been better and what would not have been better in the short space of a Report. I would begin, Sir, in the order in which the Report has begun. I would at once, leaving the administration side, which shows various aspects about the administrative section which has since moved to its own building—previously it was in some private lodging houses—come to the teaching staff.

The Institute has added to its teaching personnel six persons. There has been one foreigner from America for teaching preventive and social medicine. All these people are taken on three years' contract. This Report says that another expert, Dr. Megibony, is expected to arrive, again through the T. C. M., as an expert in hospital administration.