

[Shri Bhupesh Gupta.]

is very improper on the part of the Revenue Department to have stopped it without trying to find out as to how we feel about it. I do not think that it is right that you should supply materials at pleasure and we should be denied at pleasure again. This is not a good thing. I would, therefore, ask the Government to keep us informed of this and seek our co-operation.

And lastly—I have finished—go after the Karnani Estate in Calcutta—I will give you another name—where wholesale organised evasion is taking place apart from trusts, where you have to take steps to get the income-tax. I have got details of this, but on some other occasion I will give it. This is going on. Particularly look at these Karnani people. I have added another name to the list that I give from time to time in order to find the concealment. In the interests of the country this money has to be discovered, properly assessed and taxed, and has to be effectively realised. And I think Mr. Satya Narayan Sinha would be the first person to associate himself with the sentiments which I expressed. It is for you to implement. We shall all be helping, if you really mean business. Sir, the time has come when we must not allow ourselves to be badgered, bullied and cheated by some of these big business elements. We are supposed to be more intelligent, more clever, all of us together. I think if we so mind we can get at them and get what is due to the country and the exchequer.

#### STATEMENT RE GOVERNMENT BUSINESS

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI SATYA NARAYAN SINHA): Sir, with your permission, I rise to announce that Government Business for the week commencing Monday, the 9th March will consist of:—

(1) General Discussion of General Budget.

(2) Consideration and return of the Appropriation Bills, as passed by Lok Sabha relating to:—

(i) Demands for Grants (Railways) for 1959-60; and

(ii) Supplementary Demands for Grants (Railways) for 1958-59.

(3) Consideration of any item of Government Business entered in today's Order Paper and not concluded.

(4) Consideration and return of the Appropriation (Vote on Account) Bill, as passed by Lok Sabha.

(5) Discussion on the Report of the Sanskrit Commission, (1956-57), on a motion to be moved by Shri Ram Sahai on 12th March, at 4 P.M.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 2.30.

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

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

#### THE INDIAN INCOME-TAX (AMENDMENT) BILL, 1959—continued.

DR. A. R. MUDALIAR: Mr. Deputy Chairman, I had no intention of taking part in the discussion of this Bill because I wholeheartedly support it, and I thought that words from me were quite unnecessary to extend further support to the hon. Minister. But my friend to my right has made it impossible for me to sit quite, having kindly drawn so many references to my past statements or mis-statements.

It is always a privilege and a pleasure to hear my friend, Mr. Bhupesh Gupta. I derive great inspiration from hearing his speeches. I know exactly what not to say, I know exactly how not to say it, and I know also when

not to interrupt. These are great lessons which often I have learnt from hearing Mr. Bhupesh Gupta. In the speech that he delivered this morning he has excelled himself by categorising several people in that inimitable way in which he alone can categorise them. No section of the community has been excepted, no individuals have found protection from his lashing voice, and I therefore feel, particularly as he made reference to some of my remarks, that I should try to put the position as I understand it with reference to tax avoiders, to tax evaders, to income-tax assesseees, to income-tax assessors, to the staff, both high and low, to those who accept engagement after retiring from Government service, and to those who engage these people when they are available.

Mr. Deputy Chairman, I once said, it is true, that there is such a thing as avoidance of taxation which is not in the same category of guilt, if at all there is guilt associated with it, as that which is known all over the world as tax evasion. My friend could not understand the difference between these two. I shall give one or two illustrations from practical life, from friends who have told me what it is to avoid taxes and why they want to avoid taxes. I am certain that Mr. Bhupesh Gupta, with the abundance of energy that he has got and the infinite patience that he has got to study documents, legislative and otherwise, would know that there is such a thing as the slab system in income-tax assessment which came into existence some time ago. It was in the year 1939, when the Budget was introduced, that that famous or notorious Finance Member, Sir James Grigg, on the eve of his retirement introduced what was called the slab system in a steep way. Before that, at one time, whatever your income was, the rate per rupee was the same, whether it was Rs. 5,000 or Rs. 500,000. The slab system made a very important change. I am not saying anything of the merits of the system. I only observe in passing that he introduced

it, as he was leaving the country and therefore was not affected during the five years he enjoyed office as Finance Member. This slab system makes it that the assessee pays more and more taxes as he earns more and more—quite a right thing to do—it has been introduced in other countries and it is a method of tax-gathering which is not to be taken exception to. But the assessee has his own point of view, and that is what I want to present to this House. An assessee has got a certain income. The slab shows that he has to pay so much tax on that. If, for instance, the director of a company gets what is called the director's remuneration apart from the director's fees, if he gets that remuneration, his income goes up, say, from Rs. 50,000 to Rs. 60,000 and then his tax is such that much of the Rs. 10,000 additional goes away in the form of tax. The rate of taxation increases according to the slab, and ultimately he finds that for all the trouble that he has taken in that particular company to earn that director's remuneration, he hardly retains Rs. 500 or Rs. 1,000. I can give actual examples of that.

**SHRI BHUPESH GUPTA:** May I know one thing? Do these people, directors, work only to earn the director's remuneration?

**DR. A. R. MUDALIAR:** That is exactly the sort of question that I expected from Mr. Bhupesh Gupta. I said that for all the trouble that he has taken being a director of the company, looking after its affairs and ultimately getting the director's remuneration, he does not get Rs. 10,000 in his hand, not even Rs. 5,000 but a bare Rs. 1,000 because the slab has gone up. I personally cannot find, and I have not got patriotism enough to find, fault with the gentleman who says "Let me give up this directorship, because it means so much work and it means so little of any additional income to me". That is what is called tax avoidance.

Take another example which was given to me by a gentleman who once

[Dr. A. R. Mudaliar.]

was a Minister of the Central Government. He said: "This step to increase the tax rates, as the volume of earnings goes up, made me think and think furiously. I find that at a certain stage I am losing much more, earning much less income than if I had not had that additional income, and I have resorted to this. I have some of my holdings in Government promissory notes. I carefully calculate how much earned income I have got, and when I find that the income from the Government promissory notes takes me to a slab which deprives me of even more money than I would have had if that income was not there, I sell those Government securities and put them in the Current Account not earning the 3 per cent. interest that I would have earned." That is another example of what I may call tax avoidance. They may be very unpatriotic people, they may not rise to the level which my friend, Mr. Bhupesh Gupta, and some of his colleagues may rise to; but it is not altogether against human nature if people resort to this.

The tax evader is quite in another category. He suppresses his income. He avoids paying the legitimate tax on that, and therefore I wholeheartedly support this particular Bill which has been brought. And in passing may I say that this measure will be a much more just measure than that which was resorted to by the Special Tribunals that were appointed under the distinguished gentlemen whose judicial experience cannot be questioned but whose approach to administrative problems left very much to be desired? I have known of cases where the income-tax assessee has been treated as if he was a murderer, condemned prisoner, insulted, humiliated in court, and told that he must either deposit so much as income-tax or be sent to prison straightway. These cases are well known to some of us who have followed these proceedings, and I therefore think that under the administration of my friend, the Finance Minister, and the Income-tax Depart-

ment these gentlemen will get a much more just appreciation of whatever is due from them than what obtained in the so-called Tribunals which were appointed under the Special Act. I am wholeheartedly glad that under some compulsion, even if that of the Supreme Court, those Tribunals do not any longer exist.

Now, Sir, I have heard my friend say: "This is all wrong. Government is losing money. I am not losing money. Your Government is losing money." Let me correct him for once, when he says "your Government is losing money". He has not yet separated himself from this country or from that section of the people who owe loyalty to the Government, in office . . .

**SHRI BHUPESH GUPTA:** Our question does not arise. The State belongs to us. Government belongs to you. Do you understand that?

**SHRI H. D. RAJAH:** He makes a subtle distinction between the Government and the State.

**DR. A. R. MUDALIAR:** There is too much of subtlety in many a thing that he says. We will not bother about that.

Now, Sir, other suggestions have also been made by hon. Members. They say that whenever we have come across a difficulty, we have to amend the Constitution. We have amended it before; Let us amend it again. I cannot understand this lighthearted way in which some Members try to respect the Constitution or to show want of respect to the Constitution. Constitutions are not there like laws to be amended with every passing phase and frenzy either of the populace or of the Ministry or of Members of the Rajya Sabha or Lok Sabha. There must be some permanency at least about the Constitution. (*Interruption*) I have already said, Sir, the one lesson that I learnt was when not to interrupt. But that is a lesson that I have learnt.

MR. DEPUTY CHAIRMAN: He has not learnt it.

DR. A. R. MUDALIAR: Now, Sir, Constitutions in every country, where a written Constitution exists, are treated more or less as sacred and amendment of the Constitution is a very serious thing. It can only be done after very great deliberations and so occasionally, that people will feel that they have something to depend upon, something basic, something fundamental, something unchangeable, irremovable, on which they can trust over a long period of years and that if any change is to be made in that Constitution, it must be after the greatest deliberation, after the widest thought given to any such change that may be demanded. Therefore, I hope that friends on this side at least, most of whom have partaken in the framing of that Constitution and are proud of that Constitution and are celebrating the Constitution day year after year, will not talk lightly of changing the Constitution.

SHRI H. P. SAKSENA (Uttar Pradesh): We have sworn allegiance to the Constitution.

DR. A. R. MUDALIAR Mr. Deputy Chairman, my hon. friend, Mr. Bhupesh Gupta, spoke the other day on the Budget, and my observations will be relevant even with reference to this measure. I had not the pleasure and privilege of listening to him. But whenever he speaks, I take trouble to see that I read at least what is quoted in the papers about his speech. I never miss any one of his speeches, I can assure you. I know the trend of mind of the party when I read Mr. Bhupesh Gupta's speech. I know, if I live long enough—very long enough—what I should be prepared for. That is why I read the speeches so carefully. Mr. Bhupesh Gupta, commenting on the Finance Minister's speech, said "Well, here is a Finance Minister who has thrown overboard everything. He has forgotten the Nagpur Resolution. He has not given allegiance to the reso-

lution that was passed by his own party at Nagpur." What is Hecuba to him or he to her that he should weep over her? What has the Nagpur Resolution to do with my friend, Mr. Bhupesh Gupta whose resolutions will be passed somewhere in U.P. because that is the spot where this year it will be most profitable to have his party's deliberations at the annual session? What is the Nagpur session and its resolution to him? They may be binding on the gentlemen here; they may be a directive to the Government, to the Ministers. But what have Mr. Gupta and his friends to do with it?

SHRI V. PRASAD RAO (Andhra Pradesh): Just as you speak about Mr. Bhupesh Gupta?

DR. A. R. MUDALIAR: Who ever heard, Mr. Deputy Chairman, of the Labour Party in England finding fault with the Conservative Party which is in office for not carrying out the resolutions passed at the Bournemouth Conference of the Conservative Party? It has never been heard of. This is a strange democracy to which we are drifting when the Opposition takes to task the Government for not properly implementing their party's resolutions at an annual conference. I have never heard of it. Fifty years of study of democratic forms of government has not revealed to me this subtle phase of relationship between the Opposition and the Congress Party or the Government Party.

SHRI H. D. RAJAH: That is our democracy.

DR. A. R. MUDALIAR: Then, Mr. Deputy Chairman, he took to task the Finance Minister for giving way to the capitalists, to these richmen, to these unwanted people in this country who are always guilty of all sorts of things and who never play the patriotic game. Has Mr. Bhupesh Gupta studied carefully the proposals of the Finance Minister? Has he given that complete thought which I am sure he will give at more leisurely moments

[Dr. A. R. Mudaliar.]

to what this grossing of dividends means, what the exact impact on companies is and how the shareholders will be affected afterwards? I had hoped to take part in the Budget discussions. I do not know whether I shall have the opportunity owing to various reasons. But this I can tell Mr. Bhupesh Gupta that the vast majority of the so-called capitalists, business men and members who are directing companies affairs will not at all be averse—probably they will be a little easier in mind—if the old *status quo* is restored and the Finance Bill is withdrawn leaving us to pay the wealth tax on companies, dividend tax on dividends and all the other taxes that were so mercilessly, so illogically and so absurdly—if I might say so—suggested at one time. I was myself an opponent of some those taxes. I said so from my place here in this House. I said to the Finance Minister, that he was blazing the trail which led to devastating ruinous depths. I am still of that opinion. But in spite of that, I feel that from the purely monetary gain point of view, most of the companies—I won't say I would prefer—will not be more unhappy at all if the old taxation system which will continue for the year 1959-60 in respect of companies whose final date of closing their annual accounts is 31st March, 1959 were to continue. And Mr. Bhupesh Gupta was angry with the Finance Minister. "Here are the capitalists again sucking the blood of the nation, getting all sorts of advantages. The wealth tax is abolished; the dividend tax is abolished. What are we coming to?" Sir, let us understand these proposals a little more before we charge the Finance Minister with being untrue to the socialist pattern of society; what is more important and more inexcusable, in addition to the additional taxes that the wretched richmen and company directors and stock-holders and shareholders pay, they have the additional benefit of all that vehement abuse of my friend, Mr. Bhupesh Gupta. That is the only thing that they have. In addition to the additio-

nal taxation which will be the result of this proposal—I can demonstrate it to the Finance Minister if necessary—they have the consolation of getting the abuse of my friend here over this matter.

SHRI BHUPESH GUPTA: They also get nominations for the Congress Party.

DR. A. R. MUDALIAR: I am not a party-man, Sir. I stand alone here with a lonely voice just trying to tell what I feel in this matter. The days of my party-life are over—long, long ago over—and I can only say from the point of view of what I feel irrespective of parties, what the position as I see it, is. And I may assure my friend who was talking of my gains that practically all my income-tax is deducted at source and you will then see what that means.

Then the hon. Member went on, not having been completely satisfied with what he described the capitalists to be, to take up the question of the staff—the officers, the income-tax officers in particular. He made great play of the fact that there were about Rs. 230 crores or Rs. 240 crores of arrears. When you realise, Mr. Deputy Chairman, as you must have realised, that the total collections for corporation tax and income-tax in one year come to about Rs. 225 crores and the Explanatory Memorandum would have given that information to Mr. Bhupesh Gupta, you would then realise what these arrears really mean.

See it in proper proportion to the taxable capacity and the amount of tax that is to be collected. I do admit that in some cases taxation has not been possible over three or four years. There is no complaint about income-tax officers. There is really a complaint on behalf of the company concerned that its taxation has not been finished owing to a variety of circumstances. I am not doubting that there are tax-evaders; I never said that. My friend who lives in a particular part of India seems to know

much more of them. I live there for some time in the year but I am not of them however much I would like to be.

Now, Sir, Professor Kaldor's statements are prophetic statements for some Members of the House on either side. I have known Professor Kaldor for over ten years. Prophets are never honoured in their own countries, and so you find the curious phenomenon that none of the wonderful proposals of Professor Kaldor have been accepted in England at all; they are to be accepted here. The Expenditure Tax, the Finance Minister said in his speech, is a unique tax which does not find a precedent anywhere in the world. Therefore he has tried to make it more effective by clubbing the wife, the child and the husband together and making them stick to Rs. 30,000 expenditure.

I would be traversing away from my theme if I were to refer to these things—they are incidental. But my friend said that income-tax officers are often in collusion with the assesses. Sir, this is a responsible House; this is the Upper House.

SHRI BHUPESH GUPTA: I did not say that exactly; I said; There are many officers who are good, but there are also some bad. Collusion takes place between the bad officers and gentlemen of the big business whom the hon. Member no doubt knows very well.

DR. A. R. MUDALIAR: Well, Sir, let me take the modified statement. I never meant that he said that hundred per cent. of them were of that type; I knew that he was referring to some officers. What is the good of making a statement like that? I can make that statement about any section of the society, that there are some who are this or that, whether it is right or wrong. Now what have these officers done? It is right that if they are guilty, if you have knowledge of the collusion, if you can prove that, they should be punished—not that it

should be trumpeted on the floor of this House making every officer feel that he is suspect and demoralising the whole set of officers. I have often heard in this House some Members occasionally pitching forth at the officers, whatever class they may be whether they are railway officers or accounts officers or income-tax officers or the public works department officers. Sir, having had something to do with official life for many years, I can think of nothing more demoralising to the officers who serve so faithfully on the whole than this sort of generalised statement whipping up criticism against them in season and out of season, holding them up—at least some of them as you say—to ridicule without an iota of evidence, without the shadow or substance of justifiable proof being brought against any particular person. My friend said these officers are in collusion . . . (Time bell rings.) If I cannot speak any further I shall certainly . . .

MR. DEPUTY CHAIRMAN: Time is limited—one and a half hours for discussion on this Bill.

DR. A. R. MUDALIAR: My friend, said that there are some officers who are already in collusion and then, when they retire, they are taken on by the big business and given the opportunity of advising the businessmen on fat salaries. This is double misrepresentation of a heinous kind, misrepresenting the officer who gets the job when you have retired him and thrown him out as no longer useful, and misrepresenting those who appoint them for advising them on income-tax matters. You go to a lawyer to advise you on the subtleties of your case. Now, Sir, income-tax law is the one law that baffles 99.9 per cent. of the lawyers in this country. Has my friend read the English text? I shall not refer to the Hindi text; it is a mystery into which I shall not go. But taking the English text, the English language, with which some of us are fairly familiar, it gives me headache when I have to go through the sections of the Income-tax Act

[Dr. A. R. Mudaliar.]

given in the Finance Bill, as it is proposed now, they are the most mysterious, the most complicated, the most involved sentences running to pages. I have not come across another law which is so difficult to understand.

You talk of big business. Do you think they are capable of understanding this law or of applying it? And what is there wrong, big business or small business, if they go to those well versed in it, who know how it should be interpreted, and try to get their advice paying for that advice. It must be a very—well, I am not using that word—very queer kind of mentality that sees or suspects all base motives and nothing worthy in all these transactions, and I feel, Sir, that this sort of attack on public officials does no good to the country.

One last word and I shall finish. My friends offer loyal co-operation in this second Five Year Plan and much more loyal co-operation in the third Five Year Plan. I only appeal to them in one thing. It is said in the 'Economic Review' that productivity is the basis of all progress, and productivity is the test by which the third Five Year Plan or the second Five Year Plan will succeed. If my friends offer co-operation it is good; I take it it is good because I never undervalue the honesty of purpose of any individual of any community. Will they go to Calcutta with which they are so familiar, and stop the demonstrations by workers most of whom belong to a particular kind of unions and who are fighting with other unions to the extent of breaking heads and forcing the police to use tear gas? Will they go to them and say: "You are only workers". Cease to think of them as voters, but think of them as workers. Tell them that while their grievances are legitimate, while they should be remedied, they should work if they are to be called workers.

Thank you, Mr. Deputy Chairman.

MR. DEPUTY CHAIRMAN: Mr. Rajah. Ten minutes; just thirty-three minutes left

SHRI H. D. RAJAH: Mr. Deputy Chairman, . . .

SHRI V. PRASAD RAO: You can extend the time.

SHRI H. D. RAJAH: Mr. Deputy Chairman, I wholeheartedly welcome the Bill but still my fear is whether this Bill is properly drafted in order to carry out the objectives that we have in view. Always it has been my quarrel in this House that the Bills are drawn up hastily, are improperly worded and brought before the House and passed, only to be challenged in the Supreme Court by people as being defective. There were many instances of this nature.

The Income-tax Investigation Commission was appointed by the process of a Bill which was passed, and the Commission was given power to go into the cases. But then what happened? The Bill was not considered to be in consonance with the provisions of the Constitution, and as such we have *de novo* to make arrangements to undo what has been done over the past several years. The Commission went into the matter; they collected or rather they assessed to the extent of Rs. 17½ crores, out of which Rs. 8 crores were received by the State as tax. The sin of this is not to be traced only to the Governmental functioning of today, but it is to be traced to the war period when the British were holding monopoly in this country. They were having war profits, both the indigenous elements as well as the foreign elements; the foreign elements and the indigenous elements made quick money, and with that process they had all these moneys accumulated to themselves; they were fostered and encouraged by the then rulers and they wanted to see that their war effort was carried on, never mind what happened to the consumer or the man in the street. That is how this ill-gotten wealth came into the possession of the big capitalists who, in collusion with the Government and their officers, made this huge fortune

by supplying war stores and other materials.

Now, Sir, what is the position? Mr. Bhupesh Gupta referred to income-tax dodgers, and in one of his speeches he said even the trusts are avoiding tax payments. Now how a trust is being formed? I would like him to go into the Income-tax Act and find out the provision that is contained there with regard to the formation of a trust. If certain trusts are formed, which are intended for some charitable purposes and do not attach themselves to particular communities or castes, then a certain portion of the income of an individual is allowed for payment and deducted 3 P.M. from the tax. In the same way, the companies and other institutions who are able to pay some portion subject to a maximum of one lakh or one-twentieth of the total income for such purposes are free from income-tax. I may tell Mr. Bhupesh Gupta that it is not avoidance of tax or it is not avoiding the tax, but it is evasion made possible in the Act for the dispensation of certain patrimonies to some trusts.

Similarly, I do not want him to have a misapprehension about certain legal exemptions that are given in this Income-tax Act and then say that there is avoidance of tax and tax evasion. No doubt, we have to plug the loopholes which are necessary in order to collect the taxes from the people, but the vagaries of the Department also cannot be forgotten. There are honest, decent, conscientious officers in the department, but they have to wait for a long time to get the attention of the Government in order to get promotion. But there are other officers who, in the over-zealousness in their duties, are taxing people. I can tell you concrete examples of a few cases in this House.

There was a case in which an Income-tax Officer called a businessman and said, "Look here. You have blackmarketed your commodities. You have earned 4 lakhs of rupees, and I

am going to add this 4 lakhs to your income". That old man went home, got a heart attack and died. There was another instance in which a man was hauled up and the Income-tax Officer said, "Look here, you have made 3½ lakhs of rupees but you have shown only Rs. Fifty thousand as your income. Therefore, I am adding up the entire Rs. 3½ lakhs as this year's income. I am going to tax you accordingly". That man said, "All my wealth put together does not amount to Rs. 2½ lakhs, and how do you say I have earned Rs. 3½ lakhs for this particular year on which you are going to assess? From where am I going to pay?" "I do not know what you would do, but this is how I have decided about your matter, and you must pay the tax", said the Income-tax Officer. The man went home. He took his gun and instead of shooting that Income-tax Officer he shot himself non-violently and died. That is the way in which non-violent killing takes place.

MR. DEPUTY CHAIRMAN: Have you brought these cases to the notice of the Government?

SHRI H. D. RAJAH: Yes. That is why I am bringing it again to the notice of the Government; the Government knows about it.

DR. B. GOPALA REDDI: How many years ago did it happen?

SHRI H. D. RAJAH: There is another instance. An Income-tax Officer was approached by a lady. She said, "My husband is in Burma. I wish to go. I want a Clearance Certificate." The man said, "As the woman is the property of the husband and as the husband has not paid the taxes due to the Government, I refuse to allow the Clearance Certificate." Fortunately, there were responsible and decent officers in the Central Board of Revenue, they issued an injunction urgently asking the certificate to be given and then that lady was able to go and see her husband in Burma.



[Shri H. D. Rajah.]

There are numerous instances which can be quoted. There is another instance in which the Deputy Chairman's income was added to the income of all the Members of this House and taxed collectively and he was asked to pay the tax. The Deputy Chairman said they were all independent members and had got the right to exist separately. "No, I am not concerned about that. They are all Deputy Chairman's nominees. Therefore, all their income should be taxed." was the reply.

MR. DEPUTY CHAIRMAN: You can leave the Deputy Chairman alone.

SHRI H. D. RAJAH: And the Deputy Chairman is called upon to pay the income-tax.

There are instances of a similar nature where you have to make a distinction between the chaff and the grain, between the evader and the honest man and between the man who is paying tax on the basis of some fundamental principles and a man who is really the tax dodger. Therefore, Sir, the position must be reviewed in the light of such grievances that are felt in the country. If you want to tax the men who make the incomes, their incomes must be taxed and not the fortune of the entire people of this country.

I will suggest another simple method. Now they are referring to so many ideas of the British because they have inherited all that is British. Let them also understand the basic principles of taxation in Britain. Let them see that certain provisions are made, some allowances are given, some deductions are accepted, and then on the balance the tax is made. As Mr. Ramaswamy Mudaliar said in this House, let it be the law of the intelligent, let it be understood by people in the proper perspective, let them not engage lawyers and pay them fabulous amounts. Let the Income-tax Department advisers themselves

help the citizens to understand the A B C of law and see that money is collected in order to promote yourself and your self-interest. To get a promotion in the Government Department, you cannot ruin other families. Do not think that you can live on the ruins of other families by asking them to pay taxes which are unconscionable and improper. There must be certain limits up to which the thing can be accepted. And, will you believe me, Sir, that the Income-tax Officer enjoys unlimited benefits and privileges which even the Commissioner of Income-tax cannot enjoy. Is there a specific law by which the man can assess any particular income, is there a specific point in which the Income-tax Officer's powers are curbed and limited, unless assessment is made and you are able to take it to the Court of Appeal, to the Assistant Appellate Commissioner, to the Commissioner, to the Tribunal, to the Court, to the Supreme Court? The man at the bottom is the most mischievous element. His rights are not defined, his powers are not defined. His idea of taxing a man is not limited. He can do whatever he likes and he can immediately demand the payment of the tax, failing which heavy penalty—one and a half times of the tax payable—can be levied by that man. (*Time Bell rings.*) Shall I finish?

MR. DEPUTY CHAIRMAN: Yes. Mr. Prasad Rao also wants to speak.

SHRI H. D. RAJAH: I require five minutes.

Therefore, the position must be analysed from that point of view. Now, this Bill particularly refers to excess incomes going a lakh of rupees or more. Now, after the assessments, Rs. 8½ crores were collected by the Government and they were to be retained. I would like to know from my hon. friend, Mr. Gopala Reddi, what has happened to the balance of Rs. 9 crores, which were already assessed? Were they collected from the people, or were they not collected, or were they held over on account of

the Supreme Court holding that illegal? Or, now what is the estimate by the Government with regard to the evaded tax that is still with the people who are the subject matter of this Bill? Can they enlighten this House as to what is the amount which they hope to collect even after that?

Sir, there is another danger in this unlimited power to reopen cases unlimitedly. What will be the net effect of it after so much laborious work is done? When they get the people and collect the tax from them, is it proper that a laborious process must be adopted and the tax collected or not collected after a long period of time? These are matters which must engage the attention of the Government.

Then, again, this period allowed to an Income-tax Officer to wait for five years to assess a man is the most harrowing thing you can think of. A man submits his return. Under the law we allow the Income-tax Officer to sleep over the matter. He can say, "I will leisurely tax you and assess you as I will, and you will be in a position to pay me tax." I think these are things which require drastic amendments by us, the Parliament, and the Government must seriously consider the inconvenience that is caused to the assessee in respect of his return and not allow the officers or the department to wait for five years to assess the man. His position becomes ridiculous. He does not know where he stands. With the Damocles' sword hanging over him as to what this Income-tax Officer will do with him, he is in perpetual danger. And, added to that, the power to reopen an assessment after ten years even, or having given a period which is unlimited makes the situation even worse. The assessee's point of view must also be **taken into consideration**. When the Department thinks of dealing with him, there must be some finality, there must be a stage where he should feel that he is free from the difficulties and bothers of the Department. You cannot ruin families on the basis of

irrational and improper assessment. At the same time the Government must see that not a tax-dodger is allowed to go free and that he gives his income-tax. Therefore, Sir, with these few words I wholeheartedly support the Bill that is before the House.

DR. P. J. THOMAS (Kerala): Mr. Deputy-Chairman, I support the Bill. I think that this Bill has come, not a day too soon. We have all been looking forward to see effective measures being carried out for ending tax-dodging. Several points have been raised by the previous speakers. I feel that some have expressed some extreme views. In fact even the most efficient measures against tax-dodging cannot be effective sometimes unless we apply the principle properly, apply the policy properly and sometimes if we go too far, as Shri Ramaswamy Mudaliar pointed out, it may mean that we lose revenue. This is particularly so when dealing with Income-tax cases. I hope the Finance Ministry will go further and try to draw up rules and regulations for energetically pushing on the work of collecting arrears so accumulated. Unless we make it difficult for tax-dodgers to continue with their work, we would not be able to get on with the work of increasing our revenue and thereby developing our economy. Sir, I have nothing much to add. I strongly recommend the Bill and hope that this Bill will be passed and carried out effectively and vigorously.

SHRI V. PRASAD RAO: Mr. Deputy-Chairman, I am not going into all those aspects of the Bill and all the points raised in the interesting speech of Shri Mudaliar, the prophet of keeping things in *status quo*, and who has almost painted the Finance Minister in the colour of Red. But in the few minutes you have allowed I want to confine myself to some of the factual material which goes conclusively to prove that there are not only those cases that are pending before the Income-Tax Department but also those cases that are not being taken up where not only hundreds

[Shri V. Prasad Rao.] and millions of rupees had gone into black but they have sprouted up and sprung up in so many new industries. Let us take one of these very patriotic families to whom almost a wholesome tribute has been paid from the other section of the House, that is the Birla Company. Here I have got a sheaf of papers, Mr. Deputy Chairman, copies of which had already been sent to the Finance Ministry, to show how tax is being evaded in these companies. In 1942-43 when there was control, when there was a lot of black money that was coming into the hands of these very patriotic gentlemen, they were floating companies in order to evade taxes. Many bogus companies had been floated in the so-called native States. Here, take for instance, the company floated called Jaipur Development Limited, which was started on 17-3-43 in Jaipur. Who were the Directors? All these people. With a capital of Rs. 20 lakhs it had been floated. The Directors were Rampratap Jajodia, Sanwarmalram Jajodia, and Brijlal Churiwala. On 29-9-43 Chiranjilal Dhuraka became the Managing Director. And he was in charge of another bogus concern of Birla's under the name and style of Rajasthan Trading Co., Ltd. Hari Ram Sultania becomes a Director in 1944.

DR. GOPALA REDDI: Are we discussing the Birla companies?

SHRI V. PRASAD RAO: I am making out a case. It is not only that the pending cases have to be considered but even all those cases which were there before 1947 should be brought to light and considered. The people responsible must be made to pay the tax. Who are those people? They are actually those who are in the pay of Birla's, and who can never hope to float a company with Rs. 20 lakhs as capital. Mr. Deputy Chairman, there is no time. That is why I am putting company after company.

MR. DEPUTY CHAIRMAN: We are not concerned with what happened before 1947. Do those companies

which were floated in the native States before 1947 come under the operation of the Act?

DR. B. GOPALA REDDI: I do not think.

SHRI BHUPESH GUPTA: How....

(*Interruption.*)

MR. DEPUTY CHAIRMAN: Order, order. Whatever you say must be relevant to the Act.

SHRI V. PRASAD RAO: My case is that all those cases should be brought to light and there must be investigation. There is another company—Industrial Trust Limited, registered on 9-3-1943, capital originally Rs. 50,000, then raised to Rs. 4 crores. My case is that even those cases that were there even in pre-1947 era, they must be brought to light and the so-called patriotism to which a wholesome tribute has been paid by my friend Shri Mudaliar, should be investigated and let there be a skin-peeling of these so-called patriots. Now the capital of the Industrial Trust Ltd. was originally Rs. 50,000 and the capital had been raised by a curious process within one year to Rs. 4 crores. Who were the Directors? B. L. Purohit of Pilani, S. D. Pande of Pilani—Principal of Birla College and Babulal Himmatramka of Pilani. This B. L. Purohit was previously the Personal Secretary to G. D. Birla and afterwards he became the Manager of the United Commercial Bank, Indore. At present he has been transferred to Calcutta. The one very clear and positive proof to assess the entire present capital of the concern by the linking of Birlas with this bogus concern is a perusal of the the Company's file with the United Commercial Bank, Jaipur—another Birla controlled affair—especially the copy of resolution subsequent to opening the current account wherein the Chief Accountant of Birla Brothers at Calcutta, one Mr. G. D. Makhria, is given the power to not only operate the account but even to over-draw and he is neither a Director nor a shareholder.

MR. DEPUTY CHAIRMAN: Pass on these papers to the Finance Minister.

SHRI V. PRASAD RAO: They were already passed on but I am sorry to say, Sir, that no action had been taken. This shows the patriotism of these gentlemen. It is not only in one or two concerns. Take another instance—Rajasthan Industries Ltd., registered on 3-3-49. What is the capital? Rupees five lakhs, but increased by novel methods to Rs. 55 lakhs. Directors: Hari Ram Saboo, Omkarmal Maheshwari and Bilasrai Kajriwal, all Birla's servants or agents with no status. They would never be capable of raising Rs. 55 lakhs. There are many concerns. For instance, Produce and Share Brokers Ltd., Jaipur Investment Corporation Ltd., Rajasthan Trading Co., Ltd.—said to be under liquidation—Rajputana Commercial Co., Ltd., Northern India Trading Co., Ltd., Associated Trading Co., Ltd., and the National Bearing Co., Ltd.

There is another glaring case to show that even the Income-Tax Officers are indulging in these things. Last time I put a specific question whether any of the Members of the Income-Tax Investigation Commission had taken employment under the Birlas. It was, Sir, about V. D. Mazumdar, who joined the Birlas and, unfortunately, unless he is removed from that place, it is impossible to prove some of the cases. Actually when he was the Income-Tax Commissioner, the Birlas were given a clean sheet, and hardly two years had elapsed when he left the service and joined as Consultant and took employment under the Birlas. Are we not entitled to suspect that the linking of this gentleman with a Birla company is one of the factors for non-assessment of the income-tax?

So, Sir, I have got hosts of cases wherein the so-called patriotism of these capitalists can be blasted to pieces. So, it is not patriotism that has prompted them but the sheer

love of wealth. They want to see that their wealth is increased. That is their *modus operandi*. On some other occasion I would give a clearer picture how they operate and how they try to influence the Income-Tax Department.

DR. B. GOPALA REDDI: Sir, the Bill under discussion has received almost unanimous support from all sections of the House. We are grateful for the general support. Some hon. Members have gone to the extent of saying that it has not come a day too soon. After all, we are trying to restore the *status quo* as far as the Supreme Court judgment is concerned. Here are cases which have been referred to the Special Investigation Commission. Most of them were settled and they were willing to pay a certain sum. They had paid half the amount and for the rest of it also they gave security and at that time the Supreme Court judgment came. So I say, we are not doing anything new. We are only trying to restore what has been unsettled. Therefore, I am very happy that this measure has received the unanimous support of the House. But availing of this opportunity, the entire income-tax administration has come under discussion. I do not know whether I can go into the ramifications of the working of this department, as to what they should do and what they should not do in this department, whether the officers have behaved properly or not. All those matters will, perhaps, be not quite relevant to the Bill under discussion. But hon. Members have taken this opportunity of referring to the entire administration of the Income-tax Department.

Firstly, Mr. Gupta complained that the usual revenue statistics which used to be supplied every year were not supplied this time. Only yesterday 25 copies of these were sent to the Library and they are available to hon. Members to go and see. So there need not be any complaint on that scope

[Dr. B. Gopala Reddi.]

With regard to overhauling of the Department, we are also anxious that the Income-tax Department must act very effectively, that they should not allow these arrears to accumulate and that they should also take the public into confidence and carry them with them, instead of creating an impression of harassment and so on. But we are also all aware of the very difficult work that the Income-tax Department is doing. The Law Commission has been seized of the matter and they have gone into the whole question and they have given a report which is under consideration as to how the whole Act could be simplified and made more understandable to the public. Moreover, the Direct Taxation Committee under the chairmanship of Shri Mahavir Tyagi is also going into the question. They are touring all the States and we expect them to submit their report very soon. They also aim at facilitating matters, in connection with the submission of returns and so on and the question of the administration of direct taxes. The whole matter will be gone into by that Committee. Therefore, we are alive to the issues that have been mentioned.

Shri H. D. Rajah complained that certain officers had not behaved well. Just look at the difficulties of the officers. When they come across some persons who have concealed incomes, when they are dealing with the cases of persons who have hidden their accounts, or things like that, perhaps, they have sometimes to take a stiff attitude, not necessarily an unreasonable attitude. After all, their assessments can go up to appellate authorities, to the tribunals, to the High Courts and to the Supreme Court. Therefore, they cannot act in an irresponsible manner. If we take the statistics of cases in which the decisions of the Income-tax Officers have been nullified by the superior authority, their number is not large and it is certainly something going to the credit of the in-

come-tax officers that a high percentage of their assessments have been upheld by the appellate authority. Therefore, it will be seen that they are doing a very difficult work now. We want and we are trying to impress it on them, that they should carry the public with them, that they should not create a feeling that they are for harassment, while every pie due to Government is collected. Therefore, I think Mr. Rajah has exaggerated the situation to some extent. It may be that one or two officers have erred. But that happens when there are large sums concealed and they have to exercise their judgment and then to the best of their judgment the assessment has to be made.

On the other hand Dr. Mudaliar has said that the Department has done well and is doing well and we should not demoralise them by any criticism on the floor of the House.

The question of ousting the jurisdiction of the courts or of amending the Constitution so that these assesses may not run up to the High Courts or the Supreme Court was also mentioned during the course of the discussion. Sir, this is a very serious matter and if for this purpose we are going to amend the Constitution and oust the jurisdiction of the High Court and the Supreme Court, there may be other people who would like to amend the Constitution for certain other purposes. Going up to the High Court and getting writs, according to some people, is not a right provision. You know people are going to the High Courts and getting writs. Are we then to amend the Constitution to make it impossible for people to get these writs? That will be a very serious matter and it will be a wrong thing if we begin to amend the Constitution because it does not please a particular section of the people. Of course, the aggrieved man must have the right to go to the High Court or the Supreme Court and get justice if he feels that injustice had been done to him or that a certain officer

had gone beyond his powers or authority. In that case he should certainly have the right to go to the High Court or the Supreme Court. If we amend the Constitution or oust the jurisdiction of the courts, we will not be doing the right thing. Therefore, that suggestion also cannot be given serious consideration. Of Course, it is very embarrassing sometimes, because big sums may be concerned and stay orders are produced. But in spite of all that, unless we are in a desperate position, we should not entertain any idea of amending the Constitution because there is embarrassment sometimes.

Tax evasion also is a big question and we are all the while thinking about it and all the committees are going into this question, particularly the Special Investigation Commission who deal all the while with these concealed incomes and cases of evasion. We are, therefore, constantly examining the question of how best to improve the machinery for detecting this tax evasion. It is an eternal battle. The tax-dodgers and the tax-collectors fighting like this, I suppose, till time eternal and perhaps in all other countries also there is this tax evasion to some extent. Therefore, the Department must be strengthened and improved and given prestige and authority so that they can detect these concealed incomes.

With regard to retired officers, there is already a rule that they cannot accept any appointment with any private firm within two years of their retirement. That is the present rule. If they want to enter into any such service with a firm, they must take the permission of the Government.

SHRI V. PRASAD RAO: The retired officer can work as a consultant.

DR. B. GOPALA REDDI: Therefore, we are just thinking whether we should extend this to practice also. Whether retired persons when

they want to practise in income-tax matters, should take the permission of the Government is a matter which is engaging the attention of the Government and therefore, I do not want to say anything more about it. A man retires with his knowledge of the Income-tax Act. When people go to him for consultation, I do not know whether he can be penalised for all time to come. Can we say, "All right, now that you are retired, as an income-tax officer, for the next ten or fifteen years or as long as you live, you should not speak to any assessee on income-tax matters." I do not know whether we can put an embargo on such retired people in such a manner. I am not quite sure; but the matter requires very careful consideration and without infringing the fundamental rights of the retired officer, we have to examine the question in a judicial manner.

SHRI V. PRASAD RAO: It is his knowledge of the facts which has become very useful for the purpose of these big employers.

DR. B. GOPALA REDDI: I suppose the hon. Member will have no objection to a retired man accepting practice if he has no knowledge of the facts. If a man retired from Madras and takes up practice in Calcutta, without personal knowledge of the facts there, I suppose the hon. Member will have no objection, because then he will have no knowledge of the facts.

SHRI V. PRASAD RAO: But nowadays officers are transferred.

DR. B. GOPALA REDDI: And I suppose when we issue orders in this matter, the cases of these officers must also be exempted. So I say, the whole matter requires careful consideration. With regard to arrears there is always a feeling that about Rs. 280 crores are in arrears. It is not as if all this sum of Rs. 280 crores is in arrears. The only effective arrears come to Rs. 168 crores, because a sum of Rs. 26 crores account for the total tax relief and other relief claims.

Then comes the item, amount due from companies under liquidation, companies which went under liquidation about ten years ago. This comes to Rs. 6 37 crores. Then is the amount covered under certificates under section 46(2) of the Income-tax Act, excluding certificates relating to the above-mentioned items and it comes to Rs. 90 38 crores. The amount pending disposal of appeals Rs. 14 98 crores and so, the effective arrears are only about Rs. 168 crores. The officers and the entire machinery of the Income-tax Department are trying to collect as much as possible but there are many items which have to be written off. For example, amounts are still shown as outstanding against persons who have gone over to Pakistan, who went away as early as ten years back.

SHRI BHUPESH GUPTA: Then give out the proper figure?

DR. B. GOPALA REDDI: That is what we are trying to do. There is no use showing amounts against parties who are not available now and there is no use carrying forward this figure of irrecoverable arrears from year to year. Therefore, the entire thing has got to be looked at and gone into with a view to writing off such amounts as cannot be recovered even after all the necessary steps have been taken. Therefore, it is not true to say that Rs. 280 crores are still due to Government.

With regard to the appeals, I have only to say that the Department is trying its best to dispose of as many appeals as possible. Till a few months ago, the staff was not adequate because of the new taxes that were imposed, the estate duty, the wealth tax and so on. Just now we have sanctioned many more posts and disposal is very satisfactory. I am sure that the large accumulation of pending cases will not be there in the future and I hope that we will be able to dispose of all the cases.

SHRI H. D. RAJAH: What about the Rs 9 crores out of the Rs. 17 crores yet to be collected?

DR. B. GOPALA REDDI: They have given some securities to us but in the meanwhile the judgement has come. We want to retain the money that we have collected and also the securities that have been given to us should be valid. That is the scope of the Bill and I am really grateful to the hon. Members for the generous support that they have accorded to this measure.

SHRI BHUPESH GUPTA: Sir, I want to know what happens in a case of the kind I am going to mention. I got it just now. It is a cutting from "The Statesman" of February 5, 1958. The Orient Paper Mills Ltd., published a notice of meeting of the General body. It is stated there:

"Whereas the East India Produce Limited, an associate of Messrs. Birla Bros. Private Ltd., the Managing Agents of the Company, maintain a London Office....."

Then it says:

"required for the London office £40,000"

and another £5,000 for certain other items of expenditure. You will find it. I have got the cutting here from "The Statesman". It is clearly intended for tax evasion.

DR. B. GOPALA REDDI: Not necessarily tax evasion.

MR. DEPUTY CHAIRMAN: You pass it on to him

SHRI BHUPESH GUPTA: I am pointing out to the House, Sir.

MR. DEPUTY CHAIRMAN: You have already made a speech. You cannot make another speech now.

SHRI BHUPESH GUPTA: I do not want to make another speech. I am not making a speech but I just want to point out . . .

MR. DEPUTY CHAIRMAN: If you have got any information, pass it on to him.

SHRI BHUPESH GUPTA: It is for your information, Sir.

MR. DEPUTY CHAIRMAN: I do not want it. Order, order.

SHRI BHUPESH GUPTA: Sir, I consider this to be a serious matter that concerns the House. It is a photostat copy.

MR. DEPUTY CHAIRMAN: Please pass it on to him.

SHRI BHUPESH GUPTA: I am not interested in passing it on to him. If you are not willing, I will keep it in my pocket.

MR. DEPUTY CHAIRMAN: Order, order. Please sit down.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill further to amend the Indian Income-tax Act, 1922, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause by clause consideration.

Clauses 2 to 5 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

DR. B. GOPALA REDDI: Sir, I beg to move:

"That the Bill be returned."

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be returned."

The motion was adopted.

## REFERENCE TO ALLEGED BUDGET LEAKAGE

SHRI BHUPESH GUPTA (West Bengal): I only want to draw your attention to this. I think the House will be interested. Here is the photostat copy of a letter from L. Salig Ram & Co., Kutub Road, Delhi, dated the 21st February, 1959, to the same company in Bangalore:

"I have come to know that there are chances of enhancement of excise duty on Players and Gold Flakes. As such, please make arrangements to keep stocks for 2-3 months."

MR. DEPUTY CHAIRMAN: Please pass it on to the Finance Minister. I want you to pass that letter to him.

SHRI BHUPESH GUPTA: This is a serious matter, Sir.

THE MINISTER OF REVENUE AND CIVIL EXPENDITURE (DR. B. GOPALA REDDY): What is the date of the letter?

SHRI BHUPESH GUPTA: The date of the letter is the 21st of February.

MR. DEPUTY CHAIRMAN: Pass it on to the Government. Please help the Government.

SHRI BHUPESH GUPTA: Here is a photostat copy of the letter, Sir. Here is also the particular date.

DR. B. GOPALA REDDI: Long before the budget proposals were finalised. The Budget was presented on the 28th February and this letter was written on the 2nd of February. It has nothing to do with the Budget proposals.

SHRI BHUPESH GUPTA: Whatever it is—whether it was before the proposals were finalised or not—it is for your benefit.