

of the Bill.”

The motion was adopted

Clause 1, as amended, was added to the Bill

ENACTING FORMULA

Amendment made:

Page 1 line 1,—

for “Thirty-eighth” substitute—

“Thirty-ninth” (1)

(SHRI JAGDISH TYTLER)

MR DEPUTY SPEAKER: The question is:

“That Enacting Formula, as amended, stand part of the Bill.”

The motion was adopted

Enacting Formula, as amended, was added to the Bill

MR. DEPUTY SPEAKER: The question is:

“That the Long Title stand part of the Bill”

The motion was adopted

The Long Title was added to the Bill

SHRI JAGDISH TYTLER: I beg to move:

“That the Bill, as amended, be passed.”

MR DEPUTY SPEAKER: The question is:

“That the Bill, as amended, be passed.”

The motion was adopted

COMPANIES (AMENDMENT) BILL

13.53 hrs

[English]

MR. DEPUTY SPEAKER: We are going to the next item, i.e. item No. 17. Shri J. Vengal Rao.

THE MINISTER OF INDUSTRY (SHRI J. VENGAL RAO): I beg to move*:

“That the Bill further to amend the Companies Act 1956, as passed by Rajya Sabha, be taken into consideration.”

The Companies (Amendment) Bill, 1987 incorporates amendments to the Companies Act, 1956 which are of urgent nature and which have been proposed keeping in view the recommendations made by the High-powered Export Committee (Sachar Committee) and the experience gained in the administration of the said Act over the last few years. Opportunity has also been taken to plug loopholes and remove some lacunae which have come to our notice in the working of the Act. It is also proposed to streamline some of the existing provisions for better working and administration of the Act. Certain consequential and incidental

*Moved with the recommendation of the President.

[Sh. J. Vengal Rao]
changes are also sought to be made in the proposed Bill:

The broad considerations kept in view while proposing amendments include the need to better protect the interests of public, investors and depositors. The Bill includes provisions for intervention by the Company Law Board against non-payment of public deposits; compulsory redemption of preference shares in certain cases; requirement that companies disclose reasons for refusal to register transfer of shares; protection of rights of the purchasers of shares pending registration of transfer of their shares; compulsory listing of all public issues in Stock Exchanges, etc. In addition, it has been proposed that the report of the Board of Directors to the shareholders will be required to disclose information relating to conservation of energy, technology absorption; foreign exchange earnings and outgo as well as particulars of employees having some minimum stake in the company and drawing remuneration in excess of that drawn by managerial personnel.

Some of the functions and powers which are purely of an administrative nature or having an element of adjudication and are, at present, vested with the Central Government or the High Court have been identified and are proposed to be vested in the proposed independent Company Law Board. The Board is proposed to be restructured as an independent quasi-judicial body to exercise such functions. The Board is also being given powers to compound offences punishable with fine.

An effort is being made to make the Companies Act operationally flexible. The existing absolute ceiling in a number of provisions are proposed to be replaced by ceilings 'as may be prescribed' by the Government having regard to the circumstances prevailing from time to time.

The Bill can also be considered a landmark in view of the fact that for the first time the Government is trying to administer and regulate the corporate sector through the principle of management by exception. This proposal is reflected in respect of the appointment and remuneration of managerial personnel. It is proposed to dispense with Government approval for managerial appointments and remuneration subject to the fulfilment of certain conditions provided in the statutory guidelines proposed to be incorporated in the Act itself.

The provisions of the voluminous Companies Act are generally based on the philosophy of better disclosure and fiduciary trust. To ensure that the annual accounts of companies reflect the true and fair view of the affairs of a company, it has been considered necessary to delink rates of depreciation under the Companies Act from the rates of depreciation under the Income-Tax Act. Schedule XIV contains the rates at which depreciation has to be provided while preparing the balance sheet under the Companies Act. It is also proposed that the companies will be required to adopt the accrual basis of accounting. This will help in ensuring a uniform accounting practice by the corporate sector.

Another important aspect of the amendment sought to be introduced relates to the reduction in the costs of the company. A number of provisions in the Bill will go towards achieving this. This is sought to be done without in any way diluting the obligations that are considered necessary for the company to discharge. Provisions relating to annual reports, prospectus, polls in general meetings and filing of full returns once in six years are some of such provisions.

It will be noticed that the right of a shareholder to obtain a copy of the full annual report free of cost has not been abridged. What has been provided is that in

the first instance a company which is listed on the stock exchange, has the option to send a statement in a form to be prescribed by the Central Government containing the salient features of what is contained in the annual accounts. However, the company will have to send a copy of the full annual accounts free of cost to any shareholder who desires to have it. It will, therefore, be appreciated that the shareholders' rights are being fully protected.

In conclusion, I would like to say that the proposals in the Bill have been framed while keeping in mind the interests of the various sectors concerned with the functioning of the corporate sector including the shareholders, the management, the depositors, the investors etc.

This is an important amendment to the Companies Act after 32 years and after receiving the suggestions from various Chambers of Commerce and experts in the Company Law and the chartered accountants, I am moving this Bill and in Rajya Sabha, according to the suggestions for 65 clauses, I moved 82 amendments to improve this Bill. People are awaiting this Bill.

I request Mr. Bhattam Srirama Murty and other friends not to object and to cooperate with me.

MR. DEPUTY SPEAKER: Motion moved:

"That the Bill further to amend the Companies Act, 1956, as passed by Rajya Sabha, be taken into consideration."

SHRI BHATTAM SRIRAMA MURTY (Vishakhapatnam): I beg to move:

That the Bill further to amend the Companies Act, 1956, be referred to a Select Committee consisting of 10 members,

namely:-

- (1) Shri Basudeb Acharia
- (2) Prof. Madhu Dandavate
- (3) Shri Murli Deora
- (4) Shri Dinesh Goswami
- (5) Shri Ajay Mushran
- (6) Shri H.M. Patel
- (7) Shri J. Vengal Rao
- (8) Shri C. Madhav Reddy
- (9) Shri E. Ayyapu Reddy; and
- (10) Shri S. Jaipal Reddy.

with instructions to report by the 1st August, 1988.(1)

Mr. Deputy Speaker, Sir, the high-power committee headed by justice Sachar produced a voluminous report consisting of several recommendations both in the field of Company Law Affairs and also MRTP Act.

14.00 hrs

Now, at the outset, I would like to make a passing reference to what was patently omitted i.e. bringing about suitable amendments to the MRTP Act which are long overdue. The MRTP Act has its genesis from the Directive Principles. The Directive Principles of the State Policy very clearly states: "that the ownership and control of the material resources of the community are so distributed as best to subserve the common good." It has also very clearly stated: "that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment." So, these are the very objectives and

[Sh. Bhattam Srirama Murty]
the highest principles on which the foundations of a new society is sought to be built by the people of this country by unanimous decision of both by the Parliament and also by the Constituent Assembly. That being so, it would be imperative on the part of the Government first to think in terms of bringing about suitable legislation incorporating the required amendment to the MRTP Act first...

SHRI J. VENGAL RAO: Sir, I would like to inform the hon. Member that it is under consideration; it is under the examination of the Law Department. Certainly, in the next Session, I will introduce those amendments.

SHRI BHATTAM SRIRAMA MURTY: I thank you for the information. Certainly, they are long overdue. I am happy to hear that it is being brought before this House during the next Session. Sir, now I would like to take up the Company Law Amendment Bill. Certainly, this is one of the largest legislations in the Statute Book. There are a number of provisions and the hon. Minister has taken particular care to bring about such an amendment in a very selected way.

14.02 hrs

[SHRIMATI BASAVARAJESWARI *in the Chair*]

It is not a comprehensive amendment Bill. It is a piece-meal and half-hearted Bill, if I am to say that. Why I am saying so is because he confines himself only to certain aspects of the Company Law and is forgetting such other various salient features which require amendment in tune with the requirements of the situation and in conformity with the ideals which we have taken up for ourselves. The Government says that in order to save expenditure on account of printing, to save to excessive expenditure, an abridged form of prospectus to the application form would do; an abridged version of

the balance sheet and auditors' report would do. It further says that the shareholders requiring a complete version of the Annual Report should send their request through Registered Post and then the Company would send the same in Registered Post. Why do you want these additional number of avoidable transactions? Why not, at the outset itself, the complete information be communicated to the members at a time when we want to get the awareness, consciousness of the shareholders enhanced? It is time when we want the involvement and participation of the shareholders in the management and in the affairs of the Companies. Why is it that we want to stick to shut out such information from them initially? I think it is not proper, legitimate and it is not a correct approach. Therefore, what I suggest is that every required information in full form should be made available to every member. That is obligatory and that is basically incumbent on the part of the Company Management to provide such information to all the members concerned without any reservation whatsoever.

* The other thing is they want to save expenditure. How many such companies are there? Let me ask the hon. Minister as to how many companies are there with large number of shareholders. During the year 1986, out of the 1355 companies studied by the Bombay Stock Exchange, those with 25000 shareholders were only 126 and with about 50000 shareholders were only 45 in number. Those with more than one lakh shareholders, the number is only 15. So, what is it that you are trying to save? Are you trying to save the interests of the big business saying that they are going to incur additional expenditure which you want them to save? Or, are you going to protect the interests of the shareholders? The Amendment is going to benefit only a small number of companies listed in the Stock Exchange; in all these companies, the shareholders are only very few. These are large and estab-

lished companies. Does the Government want to protect only these large companies and not the interests of shareholders.

Another point is this. This Minister has said that it will involve a higher expenditure. I suppose, this is only a plea to deny access to the statutory information to the critical shareholders, researchers, journalists and others. One advertisement on a T.V. will cost Rs. 50,000.

Unless you go in for a colourful printing and multicoloured pictures and advertisements on glossy papers, normally, if it is printed, one lakh copies would not cost more than Rs.1 lakh. That being so, there is no justification or reason to say that it involves additional and excess expenditure which the company will not be able to bear. The implication may be that most of the shareholders may not be interested in the various details of the Balance Sheet and the Annual Report. But that is also not true. Let it be understood that the investing population is often urban-based and educated and they are potentially capable of going through the accounts. If one looks into the break-up and analytical picture of the composition of the shareholders, one will find that the self-employed shareholders is 30.36 per cent and salaried persons 36.32 per cent; roughly it comes to 60 to 70 per cent of the shareholders and they are highly educated and qualified to go through, follow and understand the implications and intricacies of the Annual Report. Therefore, there is no point in thinking for a moment whether they will be able to understand the implications of this or not.

They say that the Reports are big, voluminous, and therefore, it is necessary to economise the expenditure on that account. I would like to show how in certain cases they are very small and in certain other cases they are very big. For instance, I would like to show you that this Report is as big as this,

another Report is as big as this. The smallest Report consists of five or eight pages. For instance, this Report is big because a number subsidiaries are there. When there are a number of subsidiaries, they will certainly have to bring out more number of pages and, therefore, they will have to incur expenditure. That is but necessary; it is unavoidable.

Here I would like to say this, if you really want to save expenditure. I would first come to the donations by the companies to the political parties. Why not do something about it? As I said, some savings in expenditure. That is not sought to be done. That is never contemplated. It is nowhere there; it is not at all suggested. Here is a Report, Indore Export and Import Co., Ltd. Please refer to page 24 of this Report. Here is a subsidiary of that company, the Indian Industrial Traders and Dealers Ltd. The amount given by way of charity and donations in the year 1985 is Rs.10 lakhs; in the year 1984 it was Rs. 10 lakhs. But what is the total turnover? The total business is Rs. 40 lakhs and out of Rs. 40 lakhs, the amount paid towards donations is Rs.10 lakhs. This is what is being done. This is on page 24 of this Report. Again, on page 24, I will show to you another company which is again a subsidiary of this. They have also done likewise. They have paid five lakhs of rupees in one year. They have made this ten lakh rupees and ten lakh rupees. Not this Indian Industrial Traders and Dealers Limited, I have just quoted the figures, they have spent enough money, enormous money on donations to the political parties. But you don't raise your little finger to stop this to check this. This is continuing eternally. At the same time, companies are floated only with the purpose to show that such steps can be taken easily, donations can be made out to the political parties.

The most important thing is that the Minister said the information pertaining to

[Sh. Bhattam Srirama Murty]
foreign exchange earnings and expenditure is going to be insisted upon. They are going to give that. Similarly, redemption of preference share is also made compulsory. They will have to provide that information. But then, here, I would like to make a suggestion to the Minister that unless a clear cut format is drawn up, it is not possible for you to secure the required information in the required manner—precisely and accurately because what will happen is they will just say that the company has taken adequate measures for importing technology. And nothing will be coming forth from them. Therefore, it will be an exercise in futility unless clear cut format is also given and necessary information is collected from them in sufficient, precise and clear terms.

Another point I would like to make is about the annual reports. With the increased pace of diversification, information given in the annual report is found to be highly inadequate and insufficient. Generally, what is being done is that the aggregate figures are given. The company has number of factories operating throughout the length and breadth of the country and more than one line of production is being resorted to. That being so, if they give only aggregate figures, how do we know what exactly is happening in the company? For instance, say in the annual report, I have a machinery worth about ten crores of rupees. Does it refer to textiles? Does it refer to cement? does it refer to jute? We do not know anything about that. Therefore, unless some clear and categorical figures and terms are given in each line of production, we will not be able to reach anywhere. Therefore, I suggest that we will have to make it absolutely clear that such information is bound to be given by them. Otherwise, it will not be useful and helpful.

I have got another example of AC Cement. There are ten to twenty cement companies under their management

throughout the length and breadth of the country. Out of that, some companies are running at a loss. And it is only the aggregate figures which is given. We don't know which company is running at a loss and which company is incurring profits. Therefore, this information must be given in full details industry-wise and plant-wise. Unless some such figures are given, it is very difficult. As far as thrift companies are concerned, the information is still more difficult because information is given in very vague terms. We do not allow any meaningful statistics. For instance, the drug companies, almost invariably report the terms like Tablets, Capsules, Injectibles, formulations. How can we know whether it is Penicillin or Streptomycin or something else. Therefore, it is very difficult. So, what are the Government doing at the moment? The situation is so bad that Government have to depend on OPP—the Organisation Pharmaceuticals Products-in India, a body found by the multinational company for bringing about Indian drugs statistics. So many figures are given clearly, categorically and specifically by these companies that they need not depend on the multinational company for the compilation of statistics which they are not able to collect. This is a sorry state of affairs. So, in the annual report also, some specific information should be insisted upon. Then alone, it will be useful for study. Otherwise, it is difficult. For Instance, I would like, at this stage, to make a reference to certain private companies. According to the MRTP Act 1969, one does not require more than 25% of the equity shares to qualify for being grouped under a House. If a public sector is to be treated as a House; the number of companies in which the public sector deposits account more than 25% of the share should normally be termed as public sector companies only. Are you prepared to do that?

As far as the RBI is concerned, if a company has more than 25% of foreign equity, it is considered as a foreign con-

trolled company. Either in the case of RBI or according to the MRTP Act, it is sufficient if a company comes to possess more than 25% of the equity. In which case it will be treated as a separate House. If you apply that majority test, then most of the private sector companies which are Houses of family concerns and companies will be converted automatically into Government companies.

As far as TISCO is concerned, it has got 2% equity. Public sector has more, public financial institutions have got more than 40% of equity capital. Then how do you consider it as a private firm? You will have to do that under the present dispensation; this is the position.

Now, I would like to make a reference to the DCM. The total number of subscribers possessing equity capital is about 80 lakhs. Out of them the Sriram Family is in possession of ten to twelve lakhs only whereas the public sector comes to possess 34.14 lakhs of shares. Therefore, by any stretch of imagination one is not able to imagine how DCM is controlled by Sriram Family unless it is with the tacit support and the patronage of the Government of India, Ministry of Finance.

As far as Nandas and Escorts are concerned, for a day they will not be able to exercise sufficient control over Escorts without political and official patronage of the Government. What is important here, I beg to point out, is that the real character of the private corporate sector should be clearly brought out and necessary changes introduced in the amending Bill which is contemplated.

Similarly the role of regulation of financial institutions has to be mentioned. The role of the Government nominated directors is also necessary. They are just there. But what is it that they are doing? What functions

are assigned to them? How many times they are attending the meetings? What useful function is performed by them? How do you pick and choose specially at a time when you choose a senior civil servant to become a member of the board of directors presided over by a big capitalist? Then the implications are very serious. Not only that, General and senior civil servants have come to occupy the position of directors—both paid and otherwise. Therefore, they have got several complications and implications. This has got to be gone into.

Previously also I have brought to the notice of the Minister how in quite a large number of cases the Government public sector financial institutions have come to possess more than 50% in the share capital of various companies. I can roughly make some references. Bombay Wire Ropes Ltd. 52.17%; Banswara Syntex Ltd. 82.15%; Gujarat Aromatics Ltd. 52.02%, Madras Oxygen and Acetylene Company Ltd. 57.11%, Nagarjuna Steels Ltd. - 68.36 per cent, Refractories Specialities (I) Ltd. - 60 per cent. Similarly I can quote a few other cases. The important point is what about the public accountability. In respect of public funds to the private sector the PAC is not going to touch it unless the matter goes before the C&AG and he passes a comment and presents a report before the Parliament. Then alone PAC comes in the picture. Normally public sector financial institutions having 50 per cent or more of equity have to pass a special resolution appointing directors in consultation with C&AG which they do not do and, therefore, there is no public accountability. Parliament is kept in the dark. We do not know what is happening. Large public investment in the private sector remains out of the domain of Parliament. Therefore, there is need for public accountability. I would also like to add that there should be a policy of wages and ceiling on salaries. There is obviously something wrong when all the adult members of a

[Sh. Bhattam Srirama Murty]
particular family irrespective of their age and qualification get Rs. 1 lakh per month because they happen to be directors of a particular company. That goes on unchecked and nothing is done by the Government. So what is the use of bringing about a change in the Companies Law? How can we consider it useful and helpful?

Here I would like to make a reference to branches of the foreign companies established in India. They are not furnishing the basic data like sales, profits, etc. This can be seen from the fact sheet brought out by the Department of Company Affairs. If you do not know their profits how can you tax them. Out of 206 branches of the foreign companies operating in India about 50 branches are not reporting any financial data to the Government. Even those which furnish full information they invariably intimate only losses. Are we to construe that all the branches of the companies are very inefficient and invariably run into losses? That is not so. My hunch is all the profits are siphoned off by them to other countries and artificially they are showing losses to us. Government has to consider over this matter. Now new branches are being allowed to be opened by the foreign companies. Take, for instance, GEC. They have opened a new branch called GEC turbines. Why do you allow them to do that? In the case of Singer & Co. once Government insisted that the branch should be converted into a company which they did but now they are permitted to open another branch for the same purpose. Similar is the case with Gillet, Ingersoll Rand and various other companies. A number of branches are permitted to be opened. I would like the Minister to reply that certain companies which have been wound up on the specific decision of the Government those companies, for instance, IBM and Coca Cola in the year 1984 have been included in the fact sheet and they have been reporting sales. They have reported

such amount. How it has happened? Are they wound up or not wound up? Are they still functioning? The fact is that some of the foreign companies are able to retain control over their Indian affiliates even after devolution of equity shares, for instance, Philips, Colgate, Lipton and various other concerns. What they do is, they try to manage to incorporate a particular clause which will permit them to have an absolute control over the management of the company and also derive veto powers over the company.

The veto powers are also given to the multinationals that way. Those restrictive clauses are against the various companies which are listed in the stock exchanges. That is not permissible there but that is being done. These are the various defects coming to notice a number of times.

Could we not do something about the employment potential, employment generated by each one of these companies? There is no place where one gets factory-wise employment data. Labour Bureau, of course, bring out some statistics. They are a decade old. The information for the year 1978 is being given now. The company should provide information about the number of employees working in a particular plant, which they don't do. If they don't do that, then, how do we know how many industries have turned sick and what is its impact on the generation of employment? If you modernise and sophisticate the machinery and if some of the people are thrown out of jobs, how do we know that? We would not be able to know that either. Therefore, it is necessary that employment figures are particularly given

During 1979-80, a survey was conducted. Regarding the industrial capacity of the private sector, it showed that the private sector had a large, under-utilised and unutilised capacities. It is surprising to note that even the large houses have a number of

unutilised licences. There is a very low rate of capacity utilisation in the private sector as a whole. Due to low capacity utilisation, Indian industry has been suffering from high production costs. Therefore, some details with regard to the capacity utilisation also should necessarily be contained in the annual reports and other reports which are produced by them particularly.

I would like to urge on the Minister to re-examine and consider one very important fact. In the private sector companies, the Government have nominated certain directors. Whenever directors are nominated, the selection of the directors, the role of the directors and the results achieved by them, everything should be made known. It should be understood. Otherwise it will be very difficult. It will not be proper if civil servants serve on the board of directors presided over by a big business magnate. It will have serious implications. Does the Government review the existing procedures and practices? There is a need to rationalise this system of appointing the government directors. The private companies are having retired Army Generals, etc.

I have given notice of various amendments. Before I conclude, I would like to point out to the Minister how various organisations are being floated only with a view to get tax benefits and to circumvent the regulatory measures. Here I have got the the 66th Annual Report of the Greaves Company. On page 58, you find Rajpath Investments Limited. Its total capital investment is Rs. 200. That is the company which was floated by them. What is it for? How did it come into being? There is another company on page 82 called Carnation Investment Co. Ltd. The capital is Rs. 200. with that capital amount, it came into being. What is the purpose and why has it come into being? I would like to show one or two other matters. There is DLF Universal Limited. Number of subsidiaries are there. I have suggested that whenever

subsidiaries come into being, the Government should give them clearance at the first instance. Otherwise, they should not be allowed to participate in other companies. Now, to strengthen my point, I may now point out here at Page 36, in the Annual Report, the DLF Universal Limited, during 1983-84, the company has purchased 42.96 acres of land and out of this, the company was able to obtain licences under provision of Haryana Land Development Urban Ceiling and so on. Similarly, in another page, you find another company in the name of Instant Batteries Ltd. They purchased about 64 acres of land, again in Haryana, with a view to circumvent the Act. I can also give another company which is floated by the same parent company. The Anurag Construction Limited, at page 78, has purchased 83 acres of land, so, 83 acres here and 90 acres there in the name of different companies. This is happening. This is how the Government will have to take care to see that the proliferation of subsidiaries will not take place and the circumvention of the existing law also is not resorted to constantly and continuously by them.

I conclude with these words.

SHRI VJAY N. PATIL (Erandol)
Madam, I rise to support this Companies (Amendment) Bill. It is a pragmatic approach and it was since long that Sachar Committee report was pending even during the Janata Party's regime. In India, I think the first company was the East India Company. We started from them and we have come to the figure of more than 1,50,000 in India and for this, we require proper management for proper growth of the companies as well as for saving the interest of the investors, specially the shareholders who are in large number. The formation of the Independent Company Law Board as suggested in the amendment is a welcome feature. Madam, earlier, the shareholders had to approach the court for getting justice against the companies, to sort out their grievances and

[Sh. Vijay N. Patil]
 the expenses of the court were very high. Ordinary shareholder could not approach. The formation of Company Law Board will help in this regard. Then, there are amendments regarding submission of the Annual Reports to the shareholders. In many companies, we find that the number of shareholders are more than one thousand and it becomes a very bulky matter, a very cumbersome affair to spend every year for the balance sheets and other papers to all the shareholders. So, the amendment that annual reports will be sent after six years, will be a compulsory and also a good step. So also the depreciation that we calculate for income tax purposes is different from the actual depreciation we come across in the case of companies, their affairs and their business.

We require good professional management for the companies, but at the same time, the earlier provision was that the appointment of Managing Directors should be approved by the Government. Now certain guidelines have been given and under those guidelines, the Managing Directors will be appointed by the Companies and they will get approval without any hitch because of the specific guidelines for specific companies having certain amount of shares capital.

Then, there is the good feature of listing public issues on recognized stock exchanges. The shareholders must know what is the technological improvement in the company, the measures being taken in the company for its expansion, increased turnover and other matters.

The shareholders and sometimes the depositors also in the company, find it very difficult to get back the deposits. In these amendments, there are 67 clauses—the interest of the shareholders is taken care of. The initial Act is also very comprehensive, but with the increase in the number of com-

panies, with the need of the time, these amendments have been brought forward. But I feel that there should be some liberal approach for small companies and more restrictions on big companies. There are small companies, managed by family members or some very limited number of shareholders. For these companies, there should be some liberal approach and little restrictions. For big companies with more than thousand shareholders, with more than Rs. one crore of investment in the shares, there should be some more restrictions and the approach with regard to professional management restrictions in respect of such companies should be more severe.

We find that in spite of the provisions in the Company Act, we have got some companies which cheat the shareholders. On record are Peerless Company and many more companies. So, with the formation of the independent Company Law Board, there will be speedy adjudication. In this independent Company Law Board, the number of representatives is not spelt out. It would be spelt out afterwards, but I would suggest that professionals, specially the chartered accountants and other law experts should be taken as members on this Board.

Also, for cost accounting and yearly audit, new amendments are being brought. In these amendment, I would suggest that the chartered accountants and cost accountants should be kept at par. Because here it is mentioned that there will be a yearly restriction of 20 companies for a Chartered Accountant or even a Cost Accountant to audit. It has also been said that out of 20 companies, 10 companies should have capital investment of less than Rs. 25 lakhs. Madam, in the case of Cost Accountant it is not compulsory for the companies with the capital investment of less than Rs. 25 lakhs. So, this difference is there between the Chartered Accountants and the Cost Accountants. So I would like to suggest the

Hon. Minister that this restriction on the number of companies having a share capital of less than Rs. 25 lakhs for auditing purposes should be removed so that the Cost Accountants and the Chartered Accountants can come on par as far as the number of companies to be audited every year is concerned.

Madam, in this amendment Bill, there is also a provision for more penal action and fine for the defaulters. But in practice we find many people go scot-free after defaulting the provisions of the Company law. And earlier the fine also was very small, a paltry sum of Rs. 400 or Rs. 500 for not holding annual meetings. I think we should not insist on holding the annual meetings and other such things in case of small private companies. After all, it is just an improved form of partnership firm. From Propriety to partnership, we come to private companies with small number of share holders and with small turn over. So, here again I would like to suggest that the restriction on holding the meetings and then on the appointment of Managing Directors and other things should not be strictly observed. What should be observed is as to whether they have provided the balance sheets or not.

Madam, Chairman, care is also being taken to see that proper accounts are maintained. Otherwise, many companies have the habit of writing the accounts as is convenient to them and many a times they used to skip-over the dividend that was to be given to the share holders by showing losses in their accounts. Here, it is a very weak area as far as the companies are concerned. While writing up accounts they make adjustments, make jugglery by showing more expenses and less accruals. That is why many companies run in loss on record while their assets are being built heavily for the years. How this happens? And this precisely is to be controlled otherwise the companies, the Managing Directors and the Directors go on show-

ing the losses on the one hand and on the other hand the new companies will be taking birth out of these old companies and the employer will keep on expanding his companies.

The income tax and other revenue returns to the Central Government is being cheated. The Directors are not paid the interest. So also, the transfer of shares, the disbursement of dividends and all these things become very tricky. Those who can manage they will cheat the Government. So, for the Directors more penal provisions are required to be made and strict observance of the Company Law Act, as amended, is required. With these words I support the Bill.

SHRI AMAL DATTA (Diamond Harbour): Madam, this is a very long Bill of 38 pages with a very short object contained in just one page. From reading the Statement of Objects and Reasons, one is really not enlightened as to what prompted the Government to bring about this particular amendment. Certain things are mentioned. But what was the occasion that prompted the Government to make those changes?

For instance one of the salient features given in the Statement of Objects and reasons is:

"The setting up of an independent Company Law Board to exercise such judicial and quasi-judicial functions as are presently being exercised either by the Court or the Central Government and are proposed to be transferred to that Board."

Now what was the reason for making this change? What was wrong with the arrangement obtaining as at present? That should have been stated in the objects and reasons instead of paraphrasing and summarising what is already contained in this Bill.

[Sh. Amal Datta]

You may look at the clause regarding setting up of an independent Company Law Board. One does not find any provision by which the independence of the Board is sought to be introduced or safeguarded. By stating that the Government intends to set up an independent Company law Board, the Government admits, obviously, that so far the Company Law Board is not independent. Very well. Now, starting from that, what is the change that they are seeking to introduce by which the Board will really be independent? Are they prescribing such qualifications, such tenure and conditions of service that the independence of the Board will be safeguarded? They say nothing. They say that the members of the Company Law Board shall possess such qualifications and experience as may be prescribed. If that is all, then they can prescribe anything. Secondly, what would be the tenure? Will the tenure be at the mercy of the appointing authority, who obviously is the Secretary of the Department? In that case, where is its independence? Is it not mere hoodwinking of the people? If you say that are introducing an independent Board of the Company Law administration just by changing its name, will it really become independent? In my opinion it only becomes another tier in the hierarchy of course. You first go to the Company Law Board; then there is an appeal to the High Court; and there is an appeal further to Supreme Court. As regard the High Court, it is also not specified whether it would be a single bench or a division bench. If it is a single bench, it will be referred to a division bench and then to Supreme Court. The whole things adds to more and more delay and nothing else. I do not think there is anybody in the administration of the Company Law Board, who can think of the consequences of introducing another tier. How many more years of delay will it involve? I think the first thing that should have been done is to rearrange their own Department first, instead of trying to rearrange the

Company Law Board.

The Government has not introduced any provision here by which the people can come to know more about the company. Our experience in dealing with the Registrar of Companies is that no information is available in such time that it may be of any value. The whole idea of filing of Balance Sheets, Profit and Loss Accounts, names of the Board of Directors, their assets and all that is, that the person dealing with the company should be able to know whether they should deal or not deal; and whether they should state the money in dealing with a particular company or not. Such informations are presently not available in time with the Registrar of Companies. No improvement has taken place, although we had been hearing for the last three years or more, since the present Parliament and the present Prime Minister assumed office, of computerisation. They are doing the computerisation apparently in a wrong place and where it is necessary, they are not doing it. This would give a protection to the public in dealing with the company, if the assets and liabilities of the companies are instantaneously known.

Another way in which you could have given further protection to the public in dealing with the companies—because nothing can be done against the companies, you can bring a winding up petition against them, that is all, they may be paper companies—is that information regarding assets mortgage charges, etc. have to be registered and should be made available to the public. But in what time? It should be done so that in the year in which they are dealing they should know what is the position of that year. It should be made known to the public in the beginning of the year. At the moment, after the end of the Financial Year of a company, they get six months in which they will have to close their accounts and draw their Balance Sheet. Another month is meant for holding the Annual General Meeting. And in the next

month or two, they will file the returns. So nearly a year will go by the time, they file their returns. Then, they will say the return is not available. It gets lost in the whole pile of papers, which are filed with the Registrar of Companies because there is no system in which one can find out.

If you send your officers to foreign countries, you will find that the micro-films are available of instant information regarding all companies. Immediately when you just pay a very nominal sum, these are available and given away. It is because the public needs all these protections in dealing with the companies. You are not doing that. You are not giving any protection to them. You. All that you are trying to do is to say, "All right, Directors, you will not have to come for the purpose of getting the remuneration approved or some irritants removed". It is because you know that the Directors would in any case be paid somehow or other, if not over the table they will be paid under the table. Whatever the company and the Director has agreed, the Director will be paid. So, that way, it does remove the irritants. But it is also not a very good thing. There are some other things which should have been thought out so that there cannot be any siphoning off of funds, whether by way of remuneration or through assumed fictitious contracts and so on.

There is another thing on the topic of Board of Companies on Administration. It is not stated whether it will be only set up in Delhi or whether it will be in other place also. If it is only in Delhi, then that would mean that the companies registered elsewhere will have to come to this Board as is happening for that matter in the BIFR.

I do not know whether it comes under Mr. Vengal Rao's jurisdiction

SHRI J. VENGAL RAO: It comes under the Finance Ministry.

SHRI AMAL DATTA: Then I will not mention that. But to the people it is creating a lot of inconvenience because it is sitting only in Delhi and has no bench elsewhere. The sick companies are mostly elsewhere. Taking a cue from that, there should have been some provision here that it should have benches elsewhere. That would obviate some inconvenience. You know that there are lot of savings banks. These savings banks take money from the people on the plea that they will give higher rates of interest than banks and other companies, who take deposits. What these saving banks do with the money, nobody knows. Nobody keeps a check on them. After sometime they go bust as it had happened with Sanchaita Investments against which the West Bengal Government has been trying with the Central Government to enact some legislation. It was way back; it was long before your time. But nothing happened. Ultimately, the case was filed. It had totally made bankrupt lakhs of families who had relied upon it, and given their whole life's savings, to get a very lucrative interest. There are such companies again coming up. A lot of companies have come, and others are coming up, as companies. But nothing is being done to see what are their activities.

One of the greatest difficulties now being faced by this country is the sickness of companies, closure of companies after sickness, and so on. Nothing has been done. No provision is here, to monitor sickness, to see that the assets do not deplete, to see that if there is loss, then the company will have to come and justify. Something has to be done, so that the sickness can be monitored at the very beginning, not when it has reached a stage when it is already in its death-bed. Nothing; no provision like that has been introduced, to see that a company which is making a loss, is not ploughing back its profits enough to be able to replace its current assets, such a company must come and give an explanation to the Company Law

[Sh. Amal Datta]
Board, the Ministry or somewhere, that such and such are the reasons why they have not made enough profit—not only made loss, but not made enough profit to put in sufficient funds in the Depreciation Reserve, in the General Reserve and so on. Till that is done, the question of incipient sickness will remain, and more and more companies will sink, because they know that ultimately the Government will take charge of them. They will take away the funds, and the obligations will be discharged by the Government later.

They are saying that no company shall remain without a Managing Director, Chairman etc. Very good. We also do not want that a company should remain without them. But what about Government companies? They cannot manage their own affairs. There are so many Government companies which are called headless, or topless. Some people prefer to use that word. The Government which is injuncting other people from remaining topless, is itself keeping its own organizations topless, for years.

Only yesterday—it is a very recent occurrence; that is why I am mentioning—I had asked whether these NTC mills had got CMDs; and I got a delayed reply that in two of these NTC-subsidiaries, there have been no CMDs for the last few months. These are very big companies. One of the NTC-subsidiaries has, under it, a number of cotton mills - 20, 25, or 35 - and there is no CMD in these companies. When Government takes things so casually, how can it injunct people: 'No; you must have Managing Directors.'? It can do so; but it will never be able to implement these things.

I am saying that Government says that in case of default in complying with the provisions of the Company Law there is a Defaulting Director. Yes; I support you there. There should be a Defaulting Director; he should be penalized. But what about Government's own Directors? What are they

doing; what provision have you got; what facilities do you have, to see that those persons who are appointed from the Government, or by the Government to be Directors of various companies, discharge their duties, that they do not only travel here and there at the expense of the companies, of which they are Directors and then enjoy 5-star facilities—and that is the only purpose, and be-all and end-all of being a Director? They do not see what is happening in the company. They do not report; if at all they do some report, that is a false report. At least, it is not a truthful report, and then nothing is done in accordance with such a report. So, what is the purpose of your having them? What purpose have you been able to fulfil by having these Directors? I am not saying at all that you should not have Directors; but you should have something over and above that, to monitor and check that these Directors perform their functions properly; and they also should be considered as Directors-in-default. If they are appointed by the Government, and they do not perform their functions properly, they also should be penalized for that, by being considered as Director-in-default. Please consider this: it is only then that you will be able to control your own officers. Otherwise not.

15.00 hrs

[*Translation*]

✓ DR. G.S. RAJHANS (Jhanjharpur):
Madam Chairman, I want to say two-three things. The present Bill has been introduced after the presentation of the Sachar Committee report. Sachar Committee was appointed in 1977-78 and since the presentation of its report five to six years have passed. The companies have undergone vast changes since then. I think that in the next session or during the next year the Government should come forward with a comprehensive Bill. Otherwise also in the whole of companies Act there are 600 to 650 clauses one may go through the entire companies Act, he will find nothing else but

confusion everywhere. After the present amendment it has become more confusing. To my mind this should not have been brought forward at the fag end of the session. Two, three days should have been allotted for the discussion on the bill. In India, the industrial growth and the activities of the companies go together. It is a matter of concern that in the last few years many a big companies have gone sick. Those who know the history of the industrial development in our country since the period of British rule are aware that the managing agency system was introduced to extract large sums of money from the companies. After strong protests the managing agency system was done away with by the Government, however in its absence, even today there are several methods of extracting money. The owners of the companies know how to take out money therefrom. I was surprised to note that the Government has allowed in this bill publication of the annual report in the abridged form. This is the gross injustice with the small investors.

Madam Chairman, complete report provided an opportunity to the people to know about the affairs of the company. If the report is of two pages, then nobody will come to know about the things going on in the company. Only the company people know as to what is the state of affair there. I have worked in many companies. I know the things, but cannot disclose. Small shareholders will not come to know from two pages report what they want to know. It is not necessary to get the report printed on glossy paper. Report can be printed on ordinary paper and distributed for the information of the shareholders. Otherwise, it will be an injustice to the small shareholders. The Capital Market will collapse. I also desire to know about the affair of the companies, because I have also bought few shares of the companies. Surprisingly the owners of the companies are becoming rich, but the shareholders do not get even that bank

interest in return. Has it ever been considered necessary? From this Bill it appears that the Government only wants to help the rich and the powerful. Earlier there was the provision to publish in the report the names of the employees drawing Rs. 3,000 or more per month, but this has also been done away with by the Government. What a great injustice it is? Now the owners will easily employ friends, nephews and wife on the salary of Rs. 20,000 to Rs. 25,000 without the shareholders even coming to know of these things. This is an important matter which needs to be debated upon. There was a reason behind the inclusion of the names of the persons drawing salary more than Rs. 3,000/- in the annual report of the company. It was done because in some areas, Chairman, managing directors and directors of the companies started employing their brothers, nephews and wives on handsome salaries. A lot of hue and cry was made on it. Then it was decided that names, qualifications, age and previous experience of the employees drawing more than Rs. 3,000 a month, must be given in the annual report. Surprisingly now the Government is amending the provision. This will enable the owners of the companies to easily defraud the small investors by showing losses in the accounts at the end of the year and to employ even 50 close friends on salary of Rs. 20,000 each. How will the Government come to know of the real things going on in the company?

I was employed in a big company of Calcutta known as M/s. Bird and company and know how the joint company was ruined by the directors by ruthlessly taking out the money from the company. I am a eye witness to all this. Directors withdraw one to two lakhs of rupees by posting these sums in the suspense account. At the end of the year in collusion with the auditors, they settle these account. I will tell you a very interesting thing, if you give me some more time to speak. I am giving the example of Bird and Company. In company's report a director of

[Dr. G.S. Rajhans]

this company showed a sum of Rs. one lakh in the suspense account and mentioned therein that since the fire-bricks were getting damaged they were kept in the godown of Lay-Garden and when a lot of water entered the godown, the fire-bricks were taken to the godown of Bara Bazar by truck and when that godown also started leaking, those fire-bricks were transported to 24-Parganas by truck. But actually all this did not happen at all and nothing was transported to any place. In fact the sum of rupees one lakh was misappropriated in the name of transportation. Subsequently the whole matter was hushed up.

I may tell you what is actually going on in many of the companies and who is ultimately affected by all this. With the increase in prices of fire-bricks, the rate of steel is also increased, because fire brick is the main component in the production of steel and as a result of this chain effect, the construction-cost of house has also escalated. Hence it is the consumer, who constructs a house, and has to pay the entire increase of the cost.

There are many type of bunglings in the companies. I would like to request the Government that more detailed annual report should be provided to the shareholders, (*Interruptions*) if any company wants the details, the same should be provided to them.

Secondly, I would like to submit about the plight and the injustice which the small shareholders have to face. Whenever an issue opens, we also apply. Sometimes, we get the share and sometimes we do not get it. At times, we do not even get back our initial deposit. Even after a lot of correspondence i.e. in response to, say 200 letters, we do not get any reply. It should be legally binding on the companies that if an individual does not get a share or gets less than the demanded no of shares, the balance should

be returned to him by a registered cheque. You know that the small share-holders cannot afford to pursue their cases for long. As regards the transfer of share of such share holders, the small shareholders has to run from pillar to post. It may take a period of 2 years, but even then the shares are not transferred. I want to say that company law covers a very wide field of activities. Hence it should not be avoided so easily. In this amendment you have mentioned that the companies will work for the energy conservation and technology absorption and will apprise the share holders with the position. Perhaps nobody has got any interest in energy conservation and technology absorption. I remember when I was a share holder of a company, the Managing Director of that company used to end the meeting after getting us served with tea and samosas and talking on irrelevant things. Similarly, even with very high sounding words it will not benefit anyone. Have you ever seriously considered about the sick companies? On the one hand, you divert the funds to set up a big new company and on the other hand you declare the old companies sick.

You have also mentioned here that amendment has been made in it because a memorandum was received from the share holders and that from the Chambers of Commerce. Kindly tell us whether you have also received a memorandum from any association of share holders? You should have presented here the memorandum received by you from the Chambers of Commerce. Therefore, my submission is, that it is a very important Bill and you should include less number of clauses in it as it is in the case of direct taxes too, so that everyone may understand it. After all, what is there in this Bill which can be understood only by the lawyers and the business class.

I would also like to submit that no auditor should be allowed to audit a company for more than three years. The Government

should frame such a law that the auditor may be transferred to some other place after every three years. You should make cost auditing compulsory because the entire bungling takes place in cost auditing only. Though you have minimised it to some extent. I know how the Chartered Accountants manage to manipulate the things. My submission is, that you should make cost Auditing compulsory and make its report available to the share-holders. For example, in the case of Liril soap, a share holder needs to know about its component and the manufacturing cost. Having got all this information, he will clearly understand the nature of bungling taking place in that company. Therefore, you should make cost auditing compulsory by amending the company law. I would like to say that please take such steps in this connection as have been taken abroad so that a capital market may be built up in the true sense of the term and the small investors who must have spared money by making savings in their essential items of expenditure to purchase the shares, may be benefitted. Steps should be taken to check the exorbitant profits of the company owners and the losses being borne by the share holders.

[English]

SHRI THAMPAN THOMAS (Mavelikara): In the Statement of Objects and Reasons of the Bill it is said that this Bill has been brought as per the recommendations of the Sachar Commission. also on the basis of the discussion held in the Chambers of Commerce and also a nationwide discussion on that. But when I go through the Bill I find that a mountain has given birth to a mouse. It contains nothing but just procedural matters, just shifting the responsibility from one place to another, that something which has been decided by the High Court is going to be shifted to Company Law Board. Post of Company Secretary is made mandatory and some sort of protection is given to

the depositors. Deposits and loans are taken as one. I think, the Law Department of the Government could not find any difference between loan and the deposit. That is why, loan and deposit are to be treated at par. That will have wide disadvantages to the persons who are depositing money with the companies. So this is not clear from the approach made in this Bill.

Another aspect is that giving depreciation as per the Income-tax Act and as per the Company Law is going to be de-linked. I would like to know in what manner it is going to be delinked. Is it going to create a position wherein people who want to make black-money will be protected to make black-money because of the delinking? Or will it go for the purpose of getting the real market value accounted in the interest of the public? This is not made clear in the Bill. Only it is said that there is a provision of delinking. Of course, delinking with an objective to bring the entire depreciated value of the company or assets of the company to the proper accounting is welcome. If it is the other way round just to escape the income tax responsibility which they have to pay now and to give them a handle for making black-money, I say it will not be in the interest of the nation. Therefore, I would like the hon. Minister to explain with what purpose this delinking is proposed from the income-tax and from company law. In the Company Act and other laws connected with companies and industries like bonus law, normally the terminology used in preparing the balance-sheet is 'exemption given in the Income-tax Act'. If it is given a go by in the Company Law, I would like to know whether it is the purpose of the Government to give that connotation in all the laws where the terms like depreciation, etc. are used for preparing balance-sheets. Otherwise, I say that this will look like half of the laws will use a particular approach and in other half of the laws the old system will continue and it will end up in a big mixing. I would like the Minister to answer in what

[Sh. Thampan Thomas]

manner Government approaches this problem of delinking income tax, depreciation, calculation and what about all other laws which are in existence, in force in the country.

One of the main things is that how these people who are having influence and who control the things from the upper class, cheat the poor class. Some of the examples have been narrated by some of my friends here. Recently I have taken up certain issues with the Government. One I know is Aditya Finance in Bombay. They have collected large sums of deposits especially from Kerala where people are going abroad and bringing money by their hard work and some people are approaching them and saying: You deposit with us, we will give you better interest. Then believing that, they deposited money with them. But one fine morning we found that all the Directors and everything disappeared, and under the Companies Law, when a prosecution was to be initiated or steps were to be taken, then what they found was only a wooden chair, which was broken, and a table in the office. The Directors had swindled the money and earned wealth elsewhere. This is the case of Aditya Finance. Not only Aditya Finance, there are the cases of Jan Priya and Peerless also. In my State if an enquiry is conducted, there will be more than forty or forty-five such organisations which are registered under the Companies Act, which are private limited, public limited or whatever it may be. With the term 'Limited company,' they get the responsibility to pay to the depositors only to the extent of their assets. By the time they have to pay the money, they would have diverted these funds for their personal assets. Take the case of Oriental Finance. There is a big story about them. Then there is the Sanchayita Finance which was supported by the Government. This is a method of investing money and earning money. Recently I heard a story that a person who has deposited Rs.

5,000 with Sanchayita will get Rs. 535 and that too after a lapse of six years. The depositors have not got even a pie from them. They have been going around spending more than Rs.535 to receive Rs. 535. What checks and measures is the Government going to adopt in such cases of cheating? Yesterday Mr. Tytler moved a Bill here in respect of Provident fund matters. We were very happy when he said that section 405 of the Indian Penal Code is going to be amended to include cheating of provident fund as a cheating so that criminal action can be taken in such cases. I would like to ask why the hon. Minister can't bring such measure by amending the Company Law also properly, so that the whole money is collected from them. In my State, such companies are known as 'blade companies'. This is a connotation which is used for such companies which come up, collect money from the poor people, and one fine morning disappear with everything, and the poor people are thrown on the streets. They are known as 'blade companies' because if a person puts a blade on the throat, the head can be cut. And they are giving licences to such people. What steps have they taken to check such things? When people like us write to them, they simply send back a letter saying that the Reserve Bank of India is to deal with such people. We see that such people make money, put their money elsewhere and take properties in their wife's name, in their children's name, and in their relatives' names. Even benami transactions are taking place. When they say in the Objects of the Bill that this is to attract investors and also to avoid benami transactions, what are the effective steps that they are going to take to avoid benami transactions? Benami transactions are well-known in the companies. Most of the money invested by the people is in somebody else's name—somebody who is accessible to him, or whom he can canvass, or from whom he can get the benefits. Surely, in such names they purchase the shares and hold the company

in a benami manner. What steps are there to prevent such benami transactions? I am very much concerned about what is going on. If any amendment is brought to the Company Law, the first amendment should be to safeguard the interests of the depositors. To help the people to get their deposits at the earliest, and for the Government to have access to check the companies and act suddenly when they go away.

Another thing which I would like to point out is the cumbersome procedure that is going on under the Company Law. Being a practising lawyer, I have found that even in the High Court, there will be (Interruptions).

SHRI J. VENGAL RAO: As a lawyer, are you defending the Company Law cases?

SHRI THAMPAN THOMAS: No, I am not defending the cases, but as a practising lawyer, I would like to tell my experience in the realm of prosecution of Company Law cases. I sympathise with them. In my own office I have seen people coming from far off villages. Many people come just to get Rs. 500, Rs. 200, Rs. 300 or Rs. 900 from companies which are liquidated. They will have to go to an advocate, then get a signature, then go to the Munsif Court and get a declaration in their favour, what is said to be a succession certificate. They have to file an original petition in the Munsif Court and get a declaration that they are the heirs, if the father or the mother, who has deposited the money, dies. Then they go to the Liquidator. The Liquidator asks them to go to a High Court Judge because the High Court Judge is the judge under the Company Law who has to decide. He will have to go and appear before the Judge. Then the prosecutor will get up. So, for getting just Rs. 500/-, how much money and labour is involved from village to the court?

This has to be made easy for the people to get their dues provided they have to re-

ceive some money from the company. Now, I think because of this amendment what you are going to do is that the poor people in the villages will have to go to Delhi before the Company Law Board for getting their money. I do not know in what manner you are going to decentralise this system. What I would urge upon the hon. Minister is that proper decentralisation should be there even at the district level. Wherever liquidation takes place, the people concerned who are affected should be taken care of. You should look at the problem from the angle of big companies, you should not see that the big companies mean those companies run by Tatas and Birlas. So, a legislation should be brought forward to this effect that the High Court Judges or the Supreme Court Judges will have to take decision on the above point. But there are common people who are very much involved in the formulations of the capital for a company. The people who are working as multi-nationals in our country go abroad and work who have spread their tentacles all over the country and they are really exploiting the common people by attracting their funds by way of shares. Many people have also come forward to purchase shares in order to get share dividends and it is easy money. They also think that the value of the shares will go up and they think that by this way they can earn money. They purchase shares by investing their money because they get dividends on their share value. But finally they land in risk. But the legislations which the Government have brought forward, which we are bringing forward here, should take into account the problem of the common people. I do not mean the problem of those big people who are enjoying and spending the money in their own way, in the manner in which they like to spend.

Therefore, I urge upon the Hon'ble Minister to consider decentralising the things, instead of taking away the powers of the High Courts' judges, dilute it to the district

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level so that the people who are concerned with it are able to have access to these places very easily. You should see that such laws and regulations are brought in instead of making it more rigid and see that the people get the benefits without any difficulty.

These are my points which seek consideration of the Government. My submission on the Sachar Commission's report is this. I have not gone through the recommendations of the Commission. Therefore, I am not in a position to go into this in detail. Whatever be the Commission's Report, I hope that if it was for a few years, if such discussions are taking place throughout the country and all that, then many recommendations would be suggested. This is only touching the periphery and that too in the opposite direction. Sir, my point is that a law should properly be made with the perspective of the nation which is moving, a nation which has got to put a stop to the cheating and other practices exercised by the people, a nation which is concerned about the poor people and the people who have got influence and access to the offices make money using public sector and public money and also the common man's money and those people who have become rich should be stopped from indulging in such activities. With these suggestions, I hope you will bring forward another amendment before this House for consideration and passing.

SHRIMATI GEETA MUKERJEE (Panskura): Madam, actually, I am speaking now in this House after taking the medical advice today so that the condition of my heart-beating may be known. That is the reason why I rise to speak on this Bill. But after coming to the House and finding the subject on which I have to speak, I find that I am in a better condition. I thought that my present state will at least tell the doctor whether I have to undergo by-pass surgery and that will remove my trouble. But Mr. Vengal

Rao's trouble with the Companies Act of 1956 as it is revealed by the functioning of the Companies Act in our country and its effect on our economy is such that no amount of by-pass surgery will do any good at all. Therefore, many of my friends have suggested that this Bill should be referred to the Select Committee and I think that is what could have been done, at least the minimum, because really will this amendment Bill serve any purpose? Just setting up of Board which will be independent of whom one does not know, independent of the vested interests surely will not be, but it will not touch the principle concern of our people as a result of the working of the Companies Act. Will it touch the question of how the top industrial houses have increased their total assets by 75.4 per cent between 1983 and 1986? Will it touch the question of how in our country today one-and-a-half lakhs of companies are closed and lakhs and lakhs of workers are suffering under miserable conditions? What loopholes in the Company Law have resulted into this? What provisions should have been made to put an end to this situation? Has that thing been gone into in this Company Law Amendment Bill? Nothing. Therefore, in relation to the substantial question on the health of industrial life affecting our people, this Bill is totally inadequate. Actually the Sachar Commission made its recommendation from an opposite point of view, i.e., how to curb monopoly profit.

15.31 hrs

[SHRI N. VENKATA RATNAM *in the Chair*]

Here, I find that the Sachar Commission's recommendations are being mentioned as the basis of this Bill though they are not mentioned in the Statement of Objects and Reasons. But one does not see anything in these amendments which will actually take into consideration the question of how this profit can be curbed.

Now, there are certain more claims for which this Amendment is being sought. I really don't understand. Here the Bill says:

"for protecting the interests of the investors by providing for intervention by the Company Law Board against non-payment of public deposits, compulsory reduction of preference shares in certain cases" etc.

I am not a lawyer. Whatever provisions I can see here, I do not understand how this pittance is going to save our depositors from the whole series of frauds that are going on inside our country today. Had the Minister told us what loopholes in the Companies Act actually landed us in this Sanchaita scandal, for example what kind of provisions allowed it and then given us the new provisions to plug the loopholes, then we would have understood. But this Amendment does not at all give us any such study and resultant provisions. An independent Company Law Board, as many of our friends said here, is not going to serve any of the real purposes for which our people would have liked the Companies Act to be amended. Therefore, the whole thing should have been gone into seriously, and then in connection with that, all the experiences we have gathered in the field which have been very well brought out by many of our friends here. We find that really impossible things are happening every day under our very nose, no amount of Company Act is doing anything to meet that situation of total conscienceless companies which are really cheating people from all sides. Therefore, I really see that this is not going to serve any purpose whatsoever. There is still time to go into all aspects. Therefore, it is better to send the Bill to the Select Committee and revise the entire Companies Act according to the needs of the situation.

Now, I have mentioned one or two points to show how inadequate these provisions are. You are having joint sector where

in the existing law, you have already kept a provisions that up to 26% of the shares will be given to the private sector as co-partners in the joint sector. May we know, why this 26% is kept? Is it because they will be having advantage under the Companies Act to fleece the people? I would like to know why this is not changed. Why in the joint sector, overseas private partners have been given this advantage to take undue advantage of the position? Your new amendment does not deal with such a thing. It is a question of 40% foreign equity holding. Why should that be still there? It is not only that. You have already kept the provisions in certain sectors in the name of sophistication, core sector activity, export etc., where you are even ready to give more equity shares to the foreign companies. More equity shares means more money which goes out in the shape of profit from our country to the foreign countries. This is a very serious question. On this your pittance of Companies (Amendment) Bill does not go anywhere at all. So, this whole sphere of Companies Act is ineffective, including your MRTP Act about which you have said, you are going to bring some amendment. We will see that in future. But both are closely inter-related. All kinds of odd things, the private companies are doing.

Our great Hindustan Lever is shedding some of its companies. It is because, in order to get out of the commitment that they have to make, if they have to keep all those units together. Their behaviour is absolutely so bad, towards their employees, that even the Magistrates, courts and industrial tribunals have given their verdict against this Hindustan Lever because they had taken some of the retrenched workers on the orders of tribunals as well as DM and then, those workers have been thrown out. Due to the loopholes, they have succeeded in hoodwinking your Companies Act and your Department with impunity through the shedding of their units to Lipton.

[Smt. Geeta Mukerjee]

There is a saying in Bengali. Raw plantain does not give you anything. That is the situation we are in. In that situation, I think, we are bringing this Amendment Bill which is not only inadequate but it is actually a cover to your intention of not going through properly and not realising the difficulties or the loopholes in the present Companies Act, which are ruining our economy, ruining our workers, ruining our people, ruining our small investors and putting them in trouble. Even at this stage, I would request the hon. Minister to refer this Bill to the Select Committee.

DR. DATTA SAMANT (Bombay South Central): Sir, while going to the Companies Amendment Bill, after about 30 years, the Government is coming with some suggestions. But in these 30 years, the industry in our country has grown about 10 times more, in terms of assets and all other working capital etc. The Government is trying to develop the country through industrialisation and that too through private enterprises, because public sector units are gradually diminishing and that is the policy of the Government.

We always talk in this House that the Industrial growth is 10%, 14% etc., but textile industries, jute industries are closed and some electronics and other things have come in. They go on talking something which suits the Press or TV. What is the Private sector doing in this country? Prof. Rangaji you are going for more privatisation. Therefore, it is high time that the Government should see how the programme is working. I am making a bold statement here that all the private sector companies are run by the money of the banks corporations and the shareholders money.

Even a company like Premier Automobile which is making business every year of Rs. 300 crores, the stakes of the owner are

hardly Rs. 7 crores in that. That is with every company. I can take the names of 2,000 companies with 10%, 15%, 20% and even 7%. They have got the share capital, each controlling the huge kingdom there and the Government is helping them in all aspects of reducing taxes. Again, you are giving them concession to go through the backward areas. You are giving them concession in sales tax and income tax and in export. I am reading them out in the House. I put a categorical question to this Government. Are the big industrial houses who are controlling the whole industry of the country behaving properly? In the purchase, are they showing the account? In the scrap, they are showing soldering the minimal amount. Is it correct? The selling agency is different. In the Bombay textile industry, they give to this Government the names of 21 people as the selling agents, the son's name, father-in-law's name and the names of somebody. They are literally draining the economy of this country. This is what the hon. Minister and we talk in this House. The big industrial houses of this country are literally draining the economy of this country. They go on collecting the black-money of this country and this Government has done nothing whatsoever in the last 20 years and by bringing such type of Bill here and passing in the House, you are committing another blunder to encourage these blackmarketeers. You are ruining the workers, the national economy and everything. That is my opinion.

In the last three years, two industrialists were having more than Rs. one crore share capital. I am making a survey of the report of this Government. There are about 700 factories. Out of this, 500 to 600 are controlled by the big 40 houses. Their turn-over went up by 18%. Their assets went up by 8%. Their profits went up by 12%. I am talking of aggregate. For this, the employment potential went down by 11/2% These are your figures. The employment of this country has

gone down. You are showing your exports here but that is not because of these big houses. You have given them good money. But their exports have gone down.

During 1985-86, the borrowing by these big houses went up by 60%. I am giving the figures of the Government. All these big bosses and big industrial houses are working on Government's money. They are reducing exports. The employment potential has gone down. Is this the way the Government is going to work in this country? This Government is sleeping. You are calling the big bosses from Bombay to UP and from UP to Bihar and making them all pay the maximum money and do all these things. You are not giving them permission to do things.

You are giving away the rights of the Government and all the rights of the High Courts to the Company Law Board and you are making them their property. What is the Sachar Committee's report of 1978? It is given by your Chambers of Commerce and the big bosses. The Government has nothing to say. You are not going to bother to know what new developments have taken place after eight years. Every year 1,000 industries are closed. That is the situation. You know all this but you are not going to consider anything.

From 1983 to 1986, the assets of 50 top industrial houses in this country went up by 74.4%, Rs. 17,910,90 crores, from Rs. 31,232 crores.

The assets of Chidambaram went up by 930% and Reliance by 259%.

Birlas assets are Rs. 4,600 crores.

Tatas assets are Rs. 4,400 crores.

They went up by 200% every year.

The assets of Reliance are Rs. 2,000

crores. From the 14th year, it has come to their principal because he brought the machine without taxes.

The Government has given him concessions to the tune of Rs.600 crores in the textiles sector. But the benefits have not been passed on to the consumers. His licence is for 10000 tonnes of yarn. But he is taking 25000 tonnes of yarn without making anything. The Government is giving him everything. I would like to say one thing in this connection. There are big business bosses in this country. They are controlling the economy of this country and not the Government is controlling them. The Government knows what happened in Bhopal...(*Interruptions*) The Government is dancing to the tunes of what the Bombay Dyeing and the Reliance people say. This is very bad. This is a shocking thing in this country. It is high time that this Government should do something. These big business people are dealing with such things just for their sake. Is the Government going to curtail anything? Regarding economic offences, there are provisions in the Companies Act. I have gone through the report. This government have launched 6000 prosecutions so far. But, what is the fine imposed in such cases? It is only Rs. 7 lakhs. That is all. What are the offences that they have committed? The Managements have diverted the funds. They have not held the meetings. In spite of committing such types of miserable offences, the Government is imposing an average fine of Rs. 400 on the big industrial houses. They have collected crores of rupees. The Government has submitted report to the House. They have not imposed even one day's punishment on such defaulters for committing serious economic offences. If they diversity Rs. 5 or 6 crores and make use of that money in some other ventures, the fine is only Rs. 400/- Not a single man has been prosecuted. This is the report of the Government.

PROF. MADHU DANDAVATE (Rajapur): That is a tip to the Government; not even kickbacks. (Interruptions)

DR. DATTA SAMANT: Now I am coming to the industrial sickness. Out of the 14 lakh industries in this country, one lakh and fifty thousand industries have been closed. That is your figure. This is such a serious thing. About 60-70- lakh workers have lost their job. For this situation, in 98 per cent of the cases, the employers are responsible. The hon Minister can blame me only for 2 per cent of the cases of closure. But every time the Minister is telling it is due to Dr. Datta Samant. In Bombay, 150 big industrialists have shifted their industry outside Bombay.

SHRI J. VENGAL RAO: Sir, I have heard his speech during the debate on the Demands for Grants of Ministry of Industry. It is the same prototype speech now also that he is making. (Interruptions)

DR. DATTA SAMANT: Coming to my point about industrial sickness, I would like to say that it is a very important matter. What the Government is going to do with such type of closures? The assets of the Tatas and Birlas went up to Rs. 4600 crores. Two Mills belonging to the Tatas have been closed. One of the two Mills is the Empress Mill. How the Government is going to deal with this situation? A sum of Rs. 1500 crores bank money has been advanced to the textile mills. That is an accepted figure. What are you going to do for that? The Government is just keeping open the public money for such industrialists. This Government is using Rs. 20000 crores from the Provident Fund deposits. The big bosses are spending that money. What is the state of the economy of this country? Neither the consumers nor the workers are benefited. Therefore, I am of the opinion that in this country the Private Sector is coming up utilising the money of the Government or the public. The industrialists

should not be allowed to make this as their fundamental right. Our country is a backward country. I know what the Prime Minister is saying about competitiveness among the industries. He says that if there is competition, then cheap goods would be made available and there would be quality products. Our country is not like America, Russia or England. Our country is a backward country. The big industrial houses are bent upon exploiting the consumers, workers and the Government also. They are going to cheat the whole economy of this country. I am of the opinion that the private sector companies must be controlled by this Government. I have gone through this Amendment Bill. There is nothing about this. On the contrary, the present control vested with the Court and the Government is going to be vested with the Company Law Board to look after the affairs. The Government is going to make the punishment a little light. With such type of things, how is the Government going to work? 10 per cent of the industries have already been closed. It is not the question of Rs. 5000 crores of bank money that has been blocked. Crores of rupees are being collected. Rs. 20000 crores of black money is being generated. The Companies Act is 30 years old. I would like to ask one question. Why the Government is not taking the workers of this country into confidence? In this Bill not a word has been mentioned about this. The workers of this country are not having any stake in that. Is it not the policy of the Government to see that there is workers participation in the management? We do not want any share. But why can't the workers participate in the management and share the profit? I think, the time has come when you cannot go on with your old sections and discuss them in this House. Therefore, I appeal to the Government to withdraw this Bill. I am telling you, by this, you are going to ruin the economy of this country, black money is going to increase, inflation will be there, unemployment will be there; and you are not going to control prices.

You give the workers participation in the management. You are giving those people Rs. 5 crores. You force them under this Act. I am making this demand. You take the elected representatives of workmen. I am not asking you to take any outside man. Let the workers run it. Because the employers or the industrialists do not want it, you have not given any suggestion of this type in this Bill. Industries are run with the shareholders' money, with public money and, therefore, the workers have all the right to participate. Government must implement it. The workers should be the owners of the unit; they should be partners in this. Why is the hon. Member laughing? A man with Rs. 7 crores is running a factory of Rs. 300 crores and is making so much of black money, and workers have no participation in that. Government is accepting this type of economy. That is why, the private sector is continuing. Workers have no control at all. Government is losing their control by this; they are only making things more and more liberal for the employers. Workers should have some control.

In all these Amendments, the consumer is again neglected. In the last budget, you have given concession for fertilisers, cement and textiles, but I am sorry to say in this House that none of these concessions has been passed on to the average man or consumer. Therefore, in this country the private sector is encouraged by the policies of the Government. The consumers also should have control over the working of these factories.

Another important aspect is this. The NRI people are interfering with a lot of things. Hinduja's have taken over your Ashok Leyland. Their assets are Rs. 14,000 crores three times of Tatas' or Birlas'. They have infiltrated into our country. There, they earned the money not through industry but by Bofors and such type of means. Here they have started taking over industries.

They are interfering with Haldia pipeline. Because of that, I hear, there was a raid going on there. All these big bosses are becoming your friends.

Another thing is, Chhabrias have taken over five factories, including the Dunlop. I dealt with them the other day. They do not know anything. They just say that the money is to be invested. These NRIs are interfering with our national economy. Are you going to have any control over them or are you going to give them everything?

In the AICC Session, the Prime Minister has said that we are going to encourage those foreigners who are trying to invest in this country, with certain controls. What are those controls? Pepsi Cola have started coming here. The foreign companies are interfering with our economy. It is no use talking like this. 70% per cent of our people are uneducated; there is so much poverty in this country; people are starving for everything. I do not know what is the intention of the Government. There is no other restriction the Government is having—the Minister may correct me if I am wrong. The Companies Act is the only thing by which you can make the control more stringent. You should monitor these companies. Do not leave the big bosses just like that. Therefore, I totally oppose this type of Bills. On the contrary, it should have been more stringent with more controls and more eyes on the working of the big business. Government is making the mistake of encouraging the private sector; they are shutting their eyes to the economic offences that these big bosses are committing. This is going to ruin the economy of this country.

He says that he is going to protect the interests of the shareholders. How is he going to protect? What protection is he going to give? In the Stock Exchange, they have to enrol. It does not mean 'shareholders'. Shareholders are the poor people. I have

[Dr. Datta Samant]

attended some of the meetings. You cannot protect them. The Balance Sheet comes as the big bosses want. If you want more loan, it is profit. I have dealt with all these employers. Losses are many. They do not give benefit to the workers. There is more investment which we can see and the employers are becoming richer. That is the law of this country. Some Marwaris say.

[*Translation*]

More you close the units, more you become rich.

[*English*]

That is the economy. What is this law which you have brought here which you are going to discuss? It is not suited at all. This is the biggest blunder which the Government is making. Please withdraw this Bill and have some stringent act to teach a lesson to the big bosses. That is my demand.

SHRI C. MADHAV REDDI (Adilabad):
Mr. Chairman, Sir, at the outset I would like to congratulate the Minister for digging up the forgotten Sachchar Committee Report and then bringing certain amendments to the Company Law which is, of course, at half-hearted effort. While I do not want to go into the various recommendations made by the Sachchar Committee, of course, they are very good recommendations, far-reaching recommendations have been made, that the Report was made to wait for ten years. And even when we had taken up that Report and drafted the Bill, the most important recommendation of the Report, which was unanimously accepted by all the Members of the Committee and appreciated by everybody, that is absent in this Bill. That is, with regard to the issue which my colleague in his usual trade-union language, very forcefully explained the participation of workers in the management.

As you all know, the type of management that we are having whether in the public sector or private sector, associations of workers and workers' representatives in the management was accepted as one of the objectives, as one of the policies of this Government. But the main recommendation has been forgotten. As a matter of fact, even the representatives of the big business accepted that recommendation. But our Government has not accepted that recommendation. I do not know the reasons for that. Even though now and then we talk of workers' participation, but when a time comes like this, when you have to incorporate in this Bill, the only thing and which was left to the Government to be decided was, what should be the ratio between the other directors and the worker's directors. That was the only issue which was left to the Government. Otherwise, the recommendation is very clear and I am very sorry that such a recommendation has been omitted. Without making any comments on the general recommendations, I would like to go into various amendments which have been brought in this Bill. Of course, there are many good recommendations. I support them. Presently, I would like to give and tell my opinion why they are so important.

Going by the spirit with which the Hon. Minister has accepted several recommendations or brought forward Government recommendations in the other House, I just only envy that the Bill was discussed first there. As a matter of fact, in spite of several recommendations, the amendments which he has moved in the other House, I still feel that there are several defects in this Bill which have become a 'Judge-made' law. It is no longer a law which we had made. I was a party to this as a Member of that House and this House when for the first time, this Act was passed in 1956. How much has it changed since then? How much the courts have participated in this change is very important. Because I find, it is no longer the

laws that we have made. It is mostly the judges who had made the law. That is, various judgements which had been given by various courts—High Courts and the Supreme Court—and the question of interpretation of each clause it has taken several judgements on one particular clause; so unless you go through all the commentaries, you will not be able to understand any of these clauses. You are giving no scope to such a type of litigation again by this Bill.

16.00 hrs

I welcome the amendment relating to the deposits. It is a very good amendment. We all know that the deposits these companies are taking from small people are not being returned when they are due for repayment. Because they just say that they do not have funds and they will pay later. The depositors do not have any security because these are mostly unsecured deposits.

Somebody was telling something about the deposits being equated with loan. But I feel that the depositors are at the mercy of the companies. They do not have any status of a loan.

SHRI J. VENGAL RAO: We have provided sufficient protection for the depositors also.

SHRI C. MADHAV REDDI: I am coming to that also. The amendment made in this regard is that the non-payment is now made a penal offence. But the point is, having done that, you have stopped it. What you have done is, you say that if ten shareholders come forward and say that they want the deposits to be retained in the company, the company law board is going to accept it. Do you think that it is difficult for any company managing Director to get hold of ten shareholders and put up an application to the company law board? Why should you have this loop-hole? Having attempted to

help them, again you are providing a provision under which it would be impossible for the depositors to get back their deposits. It is easy for the company to get ten shareholders and get an application saying that they do not want the deposits and let these deposits remain with the company. How can you say that you have helped them?

The second amendment is with regard to the redemption of the capital. I am sorry, many of these provisions have not been properly dealt with here. Maybe, perhaps there was no time for us to study it. We agree and we support this clause relating to the redemption of capital.

SHRI J. VENGAL RAO: In the Rajya Sabha Telugu Desam Party supported this Bill. Mr. Naik spoke on this Bill and supported it.

SHRI C. MADHAV REDDY: Am I not supporting this Bill Sir? I am only pointing out certain defects which are still there.

I am supporting the provision relating to the redemption of the preferential capital. Today the preferential capital holders are absolutely at the mercy of the companies. Even when the redemption is due after ten or five years, the holders does not get his capital redeemed for the reason that the company will say that it does not have any fund and it cannot redeem. He has to wait. No capital is redeemed, no dividend is paid. It is for the first time now that the Government has thought of these preferential capital holders. Some protection is being provided to them. But even here also I find that there is a loophole through which it would be easy for the companies to escape the payment of preferential capital. Because five years period is available. Within five years if some companies apply to the company law board, the company law board permit the company to redeem the capital within five years. Why should you have such a provision? Perhaps

[Sh. C. Madhav Reddi]

you have one difficulty in view, many companies are not in a position to pay; either they are not having funds or they are making losses.

But my point is, whatever may be the condition of the company, this particular clause may be enforced and the property of the company should be sold and the shareholder's capital, the preferential capital should be redeemed. There is no alternative. Now you say we redeem by giving another lease to the redemption capital. That means you will give another redeemable share capital and that would be treated as a payment. It is not a payment in cash. It is in kind. That is wrong. What you are doing is with one hand you are giving and with another hand you are taking away what you have given.

Now there is a very useful recommendation with regard to the appointment of directors. Many small public limited companies now need not have to go to Company Law Board for the approval of directors and their remuneration. There again there is a provision that suppose a particular director is a relation of another director or shareholder then naturally he has to go and take the permission. I do not think there is a need for such a provision. The amendment in respect of officers in default is also a welcome one because 'officers' means 'directors'. If the directors which include nominee directors and if they are in default they should not be prosecuted. After all they are directors of the company. They are coming to attend the meeting of the Board of Directors and go back. They are not in charge of day-to-day affairs of the company. So that is the reason why the directors should be exempted from the provisions of the Companies Act. When there is a default-say any default-the nominee directors should be exempted and I support that provision.

Similarly there is a provision relating to the listing of shares-amendment to Section 73. I support it because today we feel listing is not automatic. It is left to the discretion of the company. When they go in for a fresh issue it is their discretion to have listing facilities or they may say we do not require any listing facilities. Even though they are going in for a public issue yet they do not want listing of their shares in the stock exchange. Now listing has been made compulsory. This is a welcome provision.

Now you have brought about delinking of the rates of depreciation with the Income Tax rates. It was being ridiculed by some Members. I think it is a very welcome provision. The word 'delinking' is confusing. There is no delinking. What you are doing is in the Company Law you are giving certain rates of depreciation yourself which means you are not following the Income Tax law but the Income Tax law will have to follow you. Income Tax law will have to accept the rates of depreciation fixed by the Company Law. This is quite logical. Why should Income Tax Department dictate as to what should be the rates at which the depreciation should be allowed? Now it is the Income Tax Department which has to link up their rates with the Company Law rates. That is the actual position of this amendment. It has to be deemed public company. There is so much of criticism about the deemed public companies. When a private company crosses its turnover of about Rs. 1 crore and when it accepts deposits from the public, then, it becomes a public company. But it is not a fullfledged public company. It is only deemed to be a public company. It is called deemed public company. I do not understand why you should change this and say that Rs. 1 crore limit is removed and that will be specified in the rules. That means, you are taking away the power from the purview of this Parliament. You are giving it to the delegated legislation. Would you like to take the powers that Government would like to define that

this is the turnover? Maybe, you say that Rs. 25 lakhs. Maybe you are going to say Rs.2 crores. What is that you are going to say? Why are you taking these powers? Why are you taking the power which the Act mentions, which this Parliament has and now you are taking to yourself? And you want to define what should be the turnover at which a particular company becomes a deemed company? That is the point.

Now, I come to the question of companies which are very small. Mostly they are private limited companies. In the last 30 years, the companies have mushroomed to such an extent, particularly in the private sector, that the public companies are very few. There are a large number of small private companies which my friend said that they are only glorified partnership. Now for these glorified partnerships, why should you impose all these restrictions of the Company Law? I agree with this line of argument that there should be a separate law for these small companies, which are only a little larger than the partnership firms. Some restrictions have been removed. I support them. But much more paper work is there. That has to be removed. These companies should be exempted from several of these regulations.

Another point I would like to mention is about the annual returns about which much has been discussed here. In the annual returns, now the period has been increased from three years to six years. Why have you done it? Obviously, I do not know. May be you wanted for this type of annual returns, in which various details are given, there is no need; once in six years is enough.

But the point that was made here was that the shareholders would like to know various details about the companies. If these details are filed once in six years, it will be difficult to know what is the actual position today. That has to be looked into again.

Another restriction, which is being removed—I do not support it—is with regard to the prospectus.

When a company is inviting public shares or public debentures, prospectus is a very important document. You cannot dispense with that document. You can't say that there is no need for prospectus to be attached along with the application; only an abridged form or memorandum, or whatever it is, is to be attached; that is enough for the shareholders.

That is not enough. I think, the prospectus must be attached. Otherwise, it will be difficult for the shareholders to know what would be the prospects of that company; how much profit it is going to make; what is the type of manufacturing programme, and so on and so forth. Dispensing with the prospectus is something which I am not in a position to support. But, by and large, to the extent the amendments have been brought, I welcome them. Maybe again, you may have to come for further amendments.

THE MINISTER OF INDUSTRY (SHRI J. VENGAL RAO): Sir, so many friends participated in this discussion and gave some suggestions and some constructive criticism also. Mr. Madhav Reddi mentioned here that when he was the Member of the First Lok Sabha, this Bill was passed in 1956. With sincere and honest efforts, this Bill was introduced in Rajya Sabha and today in Lok Sabha. I cannot exaggerate that all the defects can be removed with these amendments. Some important loopholes can be plugged. Some of them can be removed and bring in some safeguards for the small depositors and investors. We can check the diversion of funds from one company to the other. There are so many loopholes in this and for the last one year, I am trying to introduce this Bill, but there was no chance. At least, I got the change to introduce this Bill. The draft will be published and

[Sh. J. Vengal Rao] circulated throughout the country for all the firms and the Chartered Accountants as well as the experts on this subject. I have addressed so many Chambers of Commerce in so many cities. I have got very good and constructive suggestions from experienced people there. I know that in the House, you cannot be praising the Government. But outside, wherever I go, they say that this is the best amendment Bill. I hope that this time, this Bill will be passed in the Lok Sabha because so many people are praising. But as you said, there are so many defects and I may come out with some amendments after some time. To relieve the burden immediately and to remove some hurdles, this Bill was brought with sincere effort and with good intention. It is only with good intentions, I introduced this Bill. In Rajya Sabha, this Bill was introduced with 65 Clauses. After receiving suggestions from various Chambers of Commerce, from Chartered Accountants and financial experts, I moved 82 official amendments to this Bill. Only then it can be useful. Otherwise, what is the use of passing the Amendment Bill? That is the intention of the Department and myself, i.e., with good intentions, the Bill was introduced. I welcome your criticism also. I will certainly, if necessary, bring some amendments. I entirely agree with Mr. Datta Samant and others. There are lot of variations. This Company Law cannot bring in all these things because courts come in. If you issue a notice to a person he will go to the court and get a stay order. There are so many difficulties in this. In Calcutta there is the Peerless Company. We gave a notice; the Company Law Board has got powers to appoint government directors. We got a stay order from the High Court. There are, therefore, so many difficulties in implementation. I want your cooperation for this.

I have heard with great attention the various speeches made by the hon. Members during the foregoing debate

on the Companies (Amendment) Bill. I am happy to note that, while some suggestions have been made about changes that the Members feel should be effected in the provisions of the Bill under discussion, by and large, the Members have supported the proposals. While I shall deal with the individual suggestions later, I would like to assure this House that the provisions that have been incorporated in this Bill, have been brought forward after detailed and careful consideration. The hon. Members might be aware that the Bill was first introduced in the Rajya Sabha on the 31st August, 1987. Thereafter, considerable interaction took place with the corporate sector and others. Seminars and discussions were held all over the country in which members of Chambers of Commerce and Industry, public shareholders, depositors and investors, professionals and others involved in the functioning of the corporate sector participated in large numbers. A number of suggestions were thrown up in these seminars and workshops. Suggestions also were received from others who were interested in the provisions of the Bill. After taking these suggestions into account, the Government brought forward certain official amendments in the Rajya Sabha which were approved by that House and now from a part of the Bill which is under consideration. I say this in order to indicate that the interests of various sections have been borne in mind and kept in view while finalising the proposals and even after the introduction of the Bill in Rajya Sabha, the Government has accepted those suggestions which were found to be of benefit to the corporate sector, including the shareholders, investors, depositors etc. I would also like to say that the proposals that are contained in this Bill are of urgent nature in order to improve the functioning of the corporate sector. As was mentioned by me in my opening remarks, some of the proposals are also aimed at removing the lacunae or loopholes that have been found to exist in the present provisions. I may also say that this

amendment Bill cannot be regarded as an attempt at recodification of the entire Companies Act. Only those provisions have been considered where amendments were considered necessary on an urgent basis.

As the Hon. Members must have noted, the provisions of the Bill take care of the interests of the various sections that are concerned with the functioning of the corporate sector. It is not only that we have brought forward provisions to make the task of the management of companies easier, the provisions also include those which protect the interests of the shareholders, the depositors, the investors, the preference shareholders, employees, the professionals and the public interest. Members would also appreciate that by virtue of Clause 9, a forum is being provided within the Companies Act where the depositors whose deposits are not being repaid by companies in accordance with the terms and conditions of the deposit can now seek redress. The proposal envisages that the Company Law Board, after taking into account all the circumstances of the matter, may pass an order directing the companies to refund the deposits in such manner as the Board may specify. Failure to comply with this direction attracts penalty.

Better protection of interests of the shareholders has also been kept in view while framing the proposals. It has been mandatory that a company will deliver share certificates and debenture certificates within a prescribed period of time after allotment or transfer. It has also been provided that when a company refuses to transfer a share, it has to give reason for such refusal. This would provide an opportunity for a person aggrieved by the company's refusal to take steps for redressal of his grievance. It has been provided that when share transfers are refused and there is a dispute, pending settlement of the dispute the transferee will not lose his rights over the dividends, right

shares and bonus shares. The provision in respect of refund of application money to those applicants who are not allotted shares is also another step towards protecting the small investor and shareholder.

It will be seen that in various existing provisions of the Companies Act, there are specific limits prescribed such as the ones for disclosure of salaries above a certain amount, inter-corporate investments, inter-corporate loans, compulsory appointment of a Company Secretary, rates at which fees can be charged etc. etc. With the passage of time or due to change in circumstances, many of these limits became outdated or need to be changed. It is felt that flexibility in these matters would be of great benefit and with this aim, it has been provided that instead of a specific ceiling being mentioned, the provision should be such that this ceiling can be fixed by the Government having regard to the circumstances, and all other factors that have to be taken into account, from time to time.

As I mentioned earlier, some of the provisions relate to removal of lacunae or plugging of loopholes. There can be no dispute that whenever a lacuna is observed and it is seen that undue advantage is being taken by any company to evade or circumvent the intention of law such a lacuna must be removed. It is with this intention that the provision regarding private limited companies becoming deemed public companies, the provision regarding intercorporate deposits being treated as inter-corporate loans and the provision regarding inter-corporate investments have been brought in. I am sure that the member would agree that circumvention of the law by the corporate sector is not to be permitted.

The ceiling on the number of cost audits is being regulated on the same basis as is presently applicable to a statutory financial audit. This Bill help in avoiding concentration

[Sh. J. Vengal Rao]
of cost audit with individual cost auditors and will be in the interest of the cost accountancy profession.

Shri Bhattam Srirama Murty referred to the provision regarding the abridged form of balance sheet. I may say categorically that the rights of shareholders are being fully protected. The provision is clear. Every shareholder gets the salient features of the annual report and also he will have a right to get a copy of the annual report free of cost. Regarding how much a company can give by way of political donations, is regulated by the provisions of Section 293 A of Companies Act.

Shri Bhattam has asked for disclosure of more information in the annual reports. The manner in which the annual accounts are to be presented is prescribed by Schedule VI. If any changes are required this can be done by a notification and no amendments are necessary.

Shri Bhattam Srirama Murty has spoken about majority equity holding by financial institutions. As he may be aware, the financial institutions are under the overall jurisdiction of the Ministry of Finance. The functions of the nominee directors are clearly prescribed.

Foreign companies are in general being regulated by the Reserve Bank of India as far as opening new branches or starting other activities is concerned.

I thank Shri Vijay Patil for supporting the Bill. His suggestion that there should be distinction between the regulations for small companies and big companies is already taken care of. Some exemptions are already available to private companies from certain regulatory provisions of the Companies Act. The limit on the number of Cost Audits has been proposed after careful consideration.

Shri Amal Datta wanted to know how the independence of the Company Law Board will be assured. What is proposed is that the CLB will exercise powers conferred on it statutorily and not by delegation by the Central Government. Members will be selected in accordance with regulations to be framed. It is Government's commitment to make CLB an independent quasi-judicial body. Regarding locating CLB benches at various places, even now the Board has bench sittings at Delhi, Calcutta, Madras, Bombay. There will not be any change in this respect.

AN HON. MEMBER: What about Hyderabad?

SHRI J.VENGAL RAO: It may be at Hyderabad also. It is not centralised at Delhi.

To improve the functioning of the offices of Registrar of Companies, we are progressively computerising the records of all offices. This will ensure quick information retrieval.

Shri Rajhans mentioned about abridged version of annual report. I already dealt with it earlier. Shri Rajhans seemed to be under the impression that the companies need not disclose the names of employees drawing over Rs.3000/- per month and above. It may clarify that the provision is that the figure of Rs.3000/- will be replaced by a provision that the figure would be as may be prescribed by Government. With passage of times and rising salaries, this requires a change. Instead of proposing an amendment every time, the flexibility as proposed is much better.

Shri Thampan Thomas spoke about the provision regarding depreciation. The de-linking of depreciation in the Companies Act from the Income Tax Law has nothing to do with black money. The depreciation rates

under the Companies Act are proposed in order that the annual report gives a true and fair picture of the state of affairs of the company which is necessary from the point of view of declaring dividends, etc.

Mr. Geeta Mukherjee wondered how the interests of depositors is going to be protected. I have already said earlier how this is proposed to be done. She wanted to know whether provisions will take care of companies like Peerless. She may be aware that there are other provisions in the Act to take care of different kinds of problems.

SHRI THAMPAN THOMAS: What about other companies such as Aditya, Jana Priya, etc.

SHRI J.VENGAL RAO: You please send me a list of all those companies and I will certainly order an inquiry. I have no soft corner for any of those companies.

The CLB had passed an order under Section 408 of the Companies Act appointing Government directors of the Peerless Company. Of course, as at present this order is stayed by a court order.

I thank Shri Madhav Reddi who has commended a number of provisions of the Bill. I may clarify to him that there is no provision that if ten depositors go to CLB and say that the deposits are not repaid, the CLB can pass such an order. The provision provides a forum to which a depositor can go. In the beginning I have mentioned that after a long time, after 32 years, we had introduced this Bill in Rajya Sabha. The Rajya Sabha had passed it.

Now, it is before you for consideration. With a good intention to take care of all the interests of the people that I have brought this Bill before - this House.

I think all the Members will support this Bill.

I thank you all.

MR. CHAIRMAN: Now, I will put Amendment number 1 moved by Shri Bhattam Srirama Murty to the vote of the House.

Amendment No. 1 was put and negatived.

MR. CHAIRMAN: I shall now put the motion for consideration of the Bill to the vote of the House.

The question is:

"That the Bill further to amend the Companies Act, 1956, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: The House will now take up Clause-by-Clause consideration of the Bill.

There is no amendment to Clauses 2 and 3.

The question is:

"That Clauses 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 4 (Amendment of Section 102)

SHRI BHATTAM SRIRAMA MURTY (Visakhapatnam): I beg to move:

Page 3,— after line 28, *insert*

"Provided that the Company Law Board shall function independently

[Sh. Bhattam Srirama Murty]
as on autonomous Board."

The Hon. Minister during the course of his reply has made it adequately clear that he took into consideration the view points expressed by different sections of the society including the Chartered Accountants and also the various industrialists, journalists, specialists, judiciary and everybody else.

Now, I would like to urge upon him to once again go through the Sachar Committee's recommendations. They have categorically mentioned that the Company Law Board should function independently and autonomously and it should not be subject to any restrictive provisions or it should not be subject to any subordinate position and it should not receive directions from the Government. As the Hon. Minister has mentioned in the beginning that it is the best of intentions and therefore I am suggesting and earnestly requesting him in view of the recommendations made by the Sachar Committee's Report, let the Hon. Minister accept the Amendment which is "the Company Law Board may be given autonomous power". That was the recommendation of the Sachar Committee. Is it so or is it not so?.

SHRI J. VENGAL RAO: The provision is suggested for insertion after sub-section(5). The only clarifies that the Company Law Board should function independent of the Central Government. The reconstituted Company Law Board as proposed in new sub-clause (6), will be independent and quasi-judicial Board. I am, not, therefore, accepting this amendment.

MR. CHAIRMAN: Now I shall put Amendment number 9 moved by Shri Bhattam Srirama Murty to the vote of the House.

Amendment No.9 was put and negatived.

MR. CHAIRMAN: There are no amendments to Clause 5,6,7. I now put Clauses 4 to 7 together to the vote of the House. The question is:

"That Clauses 4 to 7 stand part of the Bill."

The motion was adopted.

Clause 4 to 7 were added to the Bill.

Clause 8 (Amendment of Section 56)

SHRI BHATTAM SRIRAMA MURTY: I have two amendments to Clause 8. I beg to move:

Page 5, line 16:-

after "prescribed" insert:-

"which may also offer the applicant sufficient information regarding the financial position of the company to enable him to decide whether to apply or not for shares or debentures."

Page 5, lines 19 to 21,—

for "on a request being made by any person before the closing of the subscription list be furnished to him."

Substitute—

"accompany with every application from issued by the company;"

The point is this. What I urge in these amendments is that the financial position of the company should be adequately known to the applicant. Unless it is made known to him, he may not be able to exercise his choice, whether he should subscribe for them, or whether he should become a shareholder,

or not become a shareholder. Unless the full and complete financial position and status of this company is given, it is very difficult for him to exercise his choice. Therefore, what I urge on the Minister is that he should consider this—because he is motivated by the best of intentions—with a view to safeguarding the position of the shareholders. What I request him is that information in full be supplied to the shareholders. Then alone he will be able to take a free and independent decision. Therefore, I urge the Minister to accept my amendments.

SHRI J.VENGAL RAO: The first amendment is not acceptable, as the Government will consider prescribing contents of the Memorandum containing the salient features of the prospectus. Relevant material, including financial position etc. required by investors to decide whether they should invest in the shares of the company or not, will be made available.

Now about his second amendment. The amendment suggested is that the prospectus should accompany the application form issued by the company. This is an existing provision. As per the Bill, it is proposed that while an investor will be provided with only a Memorandum containing the salient features of the prospectus, full copy of the prospectus, which is a voluminous document, will be provided on request. This has been proposed with a view to cut down the cost of public issue. In view of this, I am unable to accept this amendment.

MR CHAIRMAN: I now put amendments No.2 and 3 moved by Shri Bhattam Srirama Murty together to the vote of the House.

The Amendments No.2 and 3 were put and negatived.

MR. CHAIRMAN: There are no amendments to Clauses 9 to 14. So, I put Clauses

9 to 14 together to the vote of the House. The question is:

"That Clauses 9 to 14 stand part of Bill".

The motion was adopted.

Clauses 9 to 14 were added to the Bill.

Clause 15 (Amendment of Section 108)

SHRI BHATTAM SRIRAMA MURTY: I have an amendment to Clause 15. I beg to move:

Page 8, line 13,—

add at the end—

, 'and after sub-section (ID), the following sub-section shall be inserted, namely:-

"(IE) No company registered under the Monopolies and Restrictive Trade Practices Act, 1969 shall invest any amount in any other corporate body or a partnership firm without the prior approval of the Central Government."

My submission is this: 'No company registered under the Monopolies and Restrictive Trade Practices Act, 1969 shall invest any amount in any other corporate body or a partnership firm without the prior approval of the Central Government.' I have only said that the Central Government may be empowered to enforce the decision. Without the knowledge of the Government of India, let them not go ahead with this, because during my preliminary remarks, during my earlier speech itself, I have made it very clear that a number of subsidiaries have been floated, a number of organisations have come into being; and they are fictitious, they are bogus,

[Sh. Bhattam Sriram Murty]

they are not able to function because they have got only one registered office. A number of subsidiaries are there. They are there only with a view to serve the purpose of tax planning, with a view to circumvent various regulatory proceeding; and, therefore, with a view to enable the Government to exercise sufficient caution, I want Government's concurrence, Government's clearance to be obtained first, before they come in to float these organizations. Therefore, I am only saying this to strengthen Government's hands, and not otherwise. Therefore, let the Minister accept this amendment. That is my suggestion.

SHRI J. VENGAL RAO: Mr. Dandavate, that is not the question. Mr. Rama Murty has forgotten that there is another MRTP Act. It is suggested that MRTP company should invest in other company or partnership firm with Government's approval only. Investment by MRTP companies are regulated under the MRTP Act in addition to Section 372 of the Companies Act. Accordingly, the amendment is not acceptable.

MR. CHAIRMAN: Now I put amendment moved by Shri Ramamurthy to the Vote of the House.

The Amendment No. 4 was put and negatived.

MR. CHAIRMAN: There are no amendments to Clauses 15 to 29. I now put Clause 15 to 29 together to the vote of the House. The question is:

"That Clause 15 to 29 stand part of the Bill."

The motion was adopted

Clauses 15 to 29 were added to the Bill.

Clause 30 (Amendment of Section 217)

MR. BHATTAM SRIRAMA MURTY
(Visakhapatnam): I beg to move:

Page 13,—

after line 32, Insert-

"(f) break up of expenditure on Research and Development, new products/processes patented;

- (i) Total number of employees in different categories together with their emoluments,
- (ii) concessions and subsidies available,
- (iii) information on capacities, production, stocks and sale,
- (iv) expenditure incurred on guest houses, and air-travel,
- (v) prosecutions and proceedings launched against the company and its directors by various departments of the Government,
- (vi) names of the fifty shareholders and their holdings and other directorships held by the members of the the Board of Directors,
- (vii) complete replies to the objections raised by Auditors;

Provided that no exemptions shall be granted by the Government, to any class of companies from compliance with any of the requirements specified above." (5)

Page 13,—

after line 32, insert-

- "(f) break up of expenditure on Research and Development, new products/processes patented;
- (i) total number of employees in different categories together with their emoluments,
- (ii) concessions and subsidies availed,
- (iii) information on capacities, production, stocks and sale,
- (iv) expenditure incurred on guest houses and air-travel,
- (v) prosecutions and proceedings launched against the company and its directors by various departments of the Government,
- (vi) names of top fifty shareholders and their holdings and other directorships held by the members of the Board of Directors,
- (vii) complete replies to the objections raised by Auditors,
- (viii) pollution control measures undertaken by the company,
- (ix) particulars of sick units owned by the company,
- (x) the number of meetings of the Board of Directors held in the year and attended by each of the Directors together with, (a) the expenditure incurred by the company both in regard to the sitting fees, travel entertainment and (b) payment for

professional services rendered,

- (xi) List of relatives of the members of the Board of Directors who are in the employment in the company together with their emoluments, qualifications, nature of duties and other particulars;

Provided that no exemptions shall be granted by the Government, to any class of companies from compliance with any of the requirements specified above. (11)

This is a very simple and straightforward amendment which should be normally accepted by any reasonable person, especially by the Minister, who is a very well intentioned person. My amendment No.5 reads like this:

"(f) break up of expenditure on Research and Development's new products/processes patented should be given."

This is the information which is required by me. What objection he will have got? It further reads as follows:

"(i) total number of employees in different categories together with their emoluments,"

Now what is being done is that people with higher bracket income, pay scale, getting more than Rs.3000/-, some such information was given to us; but the rest of the information was denied to us. Therefore, what I requested was that the entire information may be given so as to subject it to the scrutiny of the general shareholders. Let it be known to the public so that everybody understands this, where we stand, what is being paid, to whom it is being paid, how

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many people are working, how many people are not working, how many people are employed. On an earlier occasion, I pointed that even the employment date was not available with us because the Government was also finding it difficult to secure that information; that is the position which I the other day, pointed out. Then it further reads as follows:

"(ii) concessions and subsidies availed,"

Various concessions and subsidies are made available by the Government. I would like to know whether they are availed and to what extent they were availed. If further, reads as follows:

"(iii) information on capacities, production stocks and sale."

I have tried to make it very clear in the beginning that most of the private sector companies and also large companies are under utilising their capacity their under utilisation of capacity has been experienced. Therefore, let us know to what extent they are able to fully utilise their capacity? How is it that they are also running sick and all that? Unless that information is given to us, it is very difficult for anybody to exercise an independent judgment of the matter. Therefore, all vital statistics which are in the public interest - I am requesting the Hon. Minister - should be incorporated in this and be placed before the general public; not only that, but also before the share-holders. It further reads as follows:

"(iv) expenditure incurred on guest houses, and air-travel,"

The Ministry is keenly interested in avoiding wastage and reduction of expenditure and proper utilization of the fund available in the best interests of the country. I am referring to

the wastage which are occurring day-in-and-day-out by every company. On all occasions, this has been in the Public interest to do it. Everybody is interested to know about it. Therefore, what I wanted is that let everybody understand what is happening there, inside this particular organization and an enterprise. Therefore, the record of expenditure incurred on guest houses and air-travel should be made available to us; because, after all, this is a public money and 80 per cent of the money is generally being contributed by the public sector Institutions and most of the money is also coming from the public by way of shares and debentures and things like that. Therefore, we have a right to know this. What is happening inside this, we should know.

Similarly, prosecutions and proceedings launched against the company. Some of the Managing Directors who are responsible for some of the units running sick, will have to be disqualified. They will not be able to go back again and join any of the public sector undertakings and the Government should not help them in any manner to join some other organisation. They will have to suffer the consequences for their acts of omissions and commissions. Therefore, let us know what is happening. So, what I say is, prosecutions and proceedings launched against those people should be known to us. Therefore, it should also be very clearly incorporated therein.

Then, names of top fifty shareholders and their holdings and other directorships held by the members of the Board of Directors should be given. Because, there are family concerns, family houses and one by one all the members of the family, all adults, everybody becomes a director, each person gets a few lack of rupees per month. Ans so, all these details should be known, and how these organisations are being run, that information I wanted to be supplied to the share-holders.

Similarly, complete replies to the objections raised by Auditors should be given. This is a very serious matter. Auditors are there. Normally, generally, they do not make very serious objections. And, if at all they do it only by way of suggestions, and give general hints, that something is wrong, it may be rectified. Even that, they will have to give. This is statutory obligation. They will have to answer on those points. If we go through the annual reports we see that they will never answer them. They cannot afford to do that. They cannot go scot-free if they do that. Then they are punishable. Therefore, what I suggest is that to every objection raised by the Auditors answer should be given and the annual report should incorporate the reply on the objections raised by the Auditors.

And again, about pollution control measures undertaken by the company. This has been our experience. Our Chief Minister, as a Chief Minister and even otherwise being in charge of the Insurance Department, he knows fully well, that the towns are getting suffocated. And most of the industries which have come into being, they do not instal the necessary anti-pollution equipment, because it is costly and it is very difficult. And most of them, in spite of the directives being given by the Government and other various organisations, also, they are resisting them. They are not doing it. Therefore, it has to be known, what are the requirements for the public safety and health, whether it is hazardous for public health, whether anything has been done or not done, we must know that. And, therefore, pollution control measures about which this Government seems to be very particular and very conscious, should be given. Therefore, I adopted only that standard. I wanted that to be implemented here and that information should be given, very clearly and adequately.

Finally, information about the sick units

owned by the company, should be given. Because a number of companies, as I mentioned earlier, number of subsidiaries are there, some of them are running into losses. Of course, some of them are flourishing. They are prosperous, they are minting money, they are minting profits. I do agree. But then, individually, independently, on account of each single one, what is the financial position, we wanted to know, because the figures are given in a broad general aggregated manner. Therefore, what I wanted is, particularly in respect of each such unit we must be able to know the financial position. We will assess that, we understand that. That only we will be able to decide. Therefore, what I wanted was, particulars of sick units owned by the company should be given; because ultimately it will be the Government's baby and they will say, 'hands up'. Most of the people will go, and they will be thrown out of office. Therefore, something is required to be done. Let us take notice of this. So, that information with regard to the whole company must be given.

Then, the number of meetings of the Board of Directors held in the year end attended by each of the Directors should be given. Most of the directors, nominated by the Government generally do not turn up at the annual general meetings of the Board of Directors. They are non-functional, they do not attend. They are absentee landlords. Then, if at all they attend, they do not play any role.

PROF. MADHU DANDAVATE (Rajapur): They are like the Government that appoints them.

SHRI BHATTAM SRIRAMA MURTY: They are like the Government that appoints them! Yes, I stand corrected.

So, this is the position. Therefore, what I want is, how many meetings were held and how many directors attended, that informa-

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tion must also be given. If it is not known, it may be mentioned so, clearly whatever is done, how many directors are attending, what other directives are being given, otherwise, what type of control you will be able to exercise over the units for which you have appointed directors. Therefore, the relationship to the company, the role of the Directors and the part played by them— everything must be clearly known.

Then 'list of relatives of the members of the Board of Directors who are in the employment in the company together with their emoluments, qualifications, nature of duties and other particulars'—this information is a must. It will serve the interest. Shri K.S.Rao may not agree with me, that is a different matter, because he is only to oppose me and not to support me. Ultimately, Sir, public finance is coming from the public financial institutions. If you appoint your own man and earn lakhs of rupees, eight persons in a family then it is highly objectionable. We will not accept it. In any case, let us know where we stand. Therefore, I request that this information be furnished.

Finally, 'Provided that no exemptions shall be granted by the Government, to any class of companies from compliance with any of the requirements specified above'. Sir, the Government year after year have been granting exemptions to certain industries from production of certain very relevant vital information with regard to the productions sale, and the type of products, which they are manufacturing. They easily fail to give these information because they got exemption. I do not understand why the Government is giving exemption. Therefore, I suggest that no exemption should be given to any company whatsoever, from producing all these details with regard to the quality, quantity, production, sale or various commodities and they must be invariably be given. The right of the Government to grant

exemption invariably year after year must be withdrawn totally and they must be forced to submit this information for the scrutiny of the shareholders.

SHRI J. VENGAL RAO: Sir, I am very happy and congratulate my erstwhile colleague Shri Bhattam Srirama Murty because he has taken lot of pains for studying this Act in detail.

I am not accepting his amendments because the expenditure of R&D is a matter relating to the disclosure in the profit and loss account forming part of Schedule VI to the Act. any alteration in the aid Schedule can be done by issue of notification in the official gazette under Section 641 and no amendment of the Act is required. Informations regarding capacity, production, stock and sale already form part of Schedule VI. In view of this, the suggestion for amendment is not acceptable. I hope, my friend will withdraw his amendments.

SHRI C.MADHAV REDDI: If you give assurance, then he will withdraw it.

MR. CHAIRMAN: Do you wish to withdraw your amendments?

SHRI BHATTAM SRIRAMA MURTY: If there is any assurance, then there is no need for me to insist on my amendments.

SHRI J.VENGAL RAO: We have got power under the existing Act.

SHRI BHATTAM SRIRAMA MURTY: The Hon. Minister has assured us to consider all and incorporate them in the rules, if they are not there. Therefore, there is no need for me to insist on my amendments. Certainly it will be considered by prominent lawyers. I have no vested interest. You know very well I do not have any industry. I am not an industrialist.

(Interruptions)

MR. CHAIRMAN (SHRI N.VENKATA RATNAM): It is not a question of insisting or not insisting. Are you prepared to withdraw your amendments?

SHRI BHATTAM SRIRAMA MURTY: In view of the assurance, I withdraw it. I seek leave of the House to withdraw my amendments No. 5 and 11.

MR. CHAIRMAN: Has the Hon. Member leave of the House to withdraw his amendments?

SEVERAL HON. MEMBERS: Yes.

Amendments no. 5 and 11 were, by leave, withdrawn.

MR. CHAIRMAN : The question is:

"That Clause 30 stand part of the Bill."

The motion was adopted.

Clause 30 was added to the Bill.

Clause 31 (Amendment of Section 219)

SHRI BHATTAM SRI RAMA MURTHY: I beg to move:

Page 14.-

Omit lines 21 to 39

Page 14, line 44,-

after "deposit" insert—

"and all recognised stock exchanges share holder associations, Institute of Chartered Accountants of India, Institute of Company Secretaries of India,

Institute of Cost and Works Accountants of India and Research Institutions receiving funds from the Government of India" (7)

Page 14, line 44,-

omit "on demand" (8)

Page 14, line 48, -

add at the end,-

"and also after the annual general meeting (AGM) is held, the company shall supply the summary of the proceedings of the meeting to its share holders."(12)

Clause 31(2) says:

"That any member or holder of debentures of a company and any person from whom the company has accepted a sum of money by way of deposit; shall, on demand, be entitled to be furnished free of cost with a copy of the last balance sheet of the company..." I wanted 'on demand' to be deleted and it should be obligatory on the part of the company to furnish the balance-sheet. You will have to make in compulsory on their part. It is not a question of demanding on the part of the somebody. It is not necessary that the share holder should exert himself, spend some money and put up a demand. This unnecessary correspondence and transaction can be avoided. Straightway you can say that it is obligatory on their part to send the balance-sheet etc.

SHRI J.VENGAL RAO: The Hon. Member wants to delete the proposal made in the Bill relating to sub-section (1) of section 219. It is provided in the Bill that in case of listed companies, if they so desire, instead of sending full annual accounts to the shareholders, they have option to send a statement containing the salient features thereof,

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 as prescribed by the Government. However, full copy of the annual accounts shall be made available by such companies to the share-holders and depositors on demand, free of cost. The proposal is made with a view to save costs in printing of detailed accounts, as prescribed by the Act. The same is in the interests of the companies as also the share holders, who will be provided with the required information relating to the annual accounts of a company. Hence the suggestion for amendment is not acceptable. The Hon. Member has also suggested that that the companies should also send annual accounts to all recognised stock exchanges, share holder associations, three professional Institutes relating to Institute of Chartered Accountants of India, Institute of Cost and Works Accountants of India and the research Institutions funded by Government. The listed companies are required to submit annual accounts to the stock exchanges where their shares are listed. Apart from that accounts are open for inspection to any member of the public. Hence the suggestion for amendment is not acceptable.

SHRI BHATTAM SRIRAMA MURTY: The Hon. Minister has just now observed that it is with a view to reduce the expenditure that he is not in a position to accept this. This is the sum and substance of whatever is stated by him just now. It appears that the Minister has got in touch with various sections including various other companies, etc. Has anybody clearly ever suggested that this should not be printed in that number to save cost? Has anybody said that? Which is the party which has suggested that?

SHRI J.VENGAL RAO: You know it very well that so many share-holders will not see the books. Also by proxy they will work in these companies. There is a provision for that. That is why, printing of so many copies will be just waste of money. If anybody is

particular that he should get a copy of it, he will get it free of cost.

SHRI BHATTAM SRIRAMA MURTY: That way tomorrow you can say that since MPs do not read the reports, they should not be supplied these reports.

SHRI J.VENGAL RAO: Sir, here in Parliament, Shri Srirama Murty cannot vote in proxy, whereas there they can vote in proxy.

MR. CHAIRMAN: Mr. Bhattam, are you prepared to withdraw your amendments?

SHRI BHATTAM SRIRAMA MURTY: No, Sir, I am insisting on them.

MR. CHAIRMAN: I will put amendments No.6,7,8 and 12 to Clause 31, moved by Shri Bhattam Srirama Murty, to the vote of the House.

Amendments Nos.6 to 8 and 12 were put and negatived.

MR. CHAIRMAN: There are no amendments to clause 32. So, I shall put both clauses 31 and 32 together to the vote of the House. The question is:

"That clauses 31 to 32 stand part of the Bill."

The motion was adopted.

Clauses 31 and 32 were added to the Bill.

Clause 33 (Amendment of Section 224)

MR. CHAIRMAN: For Clause 33, there is one amendment No.10 by Shri Vijay N.Patil. Are you moving your amendment, Mr. Patil?

SHRI VJAY N.PATIL(Erandol): I beg to move:

Page 15,-

after line 15, insert,-

"in Explanation-I, after part (b), the following parts shall be added namely,—

- "(c) in the case of Cost Auditors, twenty companies irrespective of the amount of paid-up share capital of those companies".'(10)

While bringing the general amendments to the Companies Act, it was not necessary to bring this amendment of bringing parity between the Chartered Accountants and the Cost Accountants. Earlier there was no limit to the number of companies which could be audited by the Cost Accountants in a year. But amendment is brought to section 233B of the Act and it is sought to bring parity as per section 224(1B) of the said Act, between the Chartered Accountants and the Cost Accountants. It is just like reducing the height of one person in order to bring him to the height of a third shorter person. How are they comparing Cost Accountants and Chartered Accountants, I do not understand. The number of Chartered Accounts in this country is about 30,000 and the number of companies which can be audited by them is more than 1,50,000, whereas the number of Cost Accountants is far less and also the category of companies which can be cost accounted is about 35. The total number of such companies which fall under these 35 types of categories is also small. Of course, the idea here is that there should be twenty companies which can be audited, as partners of a firm or individually, by the Chartered Accountants as well as the Cost Accountants... (Interruptions)

MR. CHAIRMAN: Don't elaborate too much. It has already been circulated and read by the Members. So, you need not

elaborate it so much. Be brief.

SHRI VIJAY N.PATIL: Just I am finishing in a minute, Sir. There is one clause added there that out of the twenty companies, which can be audited, ten companies should be having less than Rs. 25 lakhs as paid up share capital. It is not mandatory for the companies, with a share capital of Rs.25 lakhs or with the investment in plant and machinery to the tune of Rs.25 lakhs, to have cost accounting.

17.09 hrs.

[MR. DEPUTY SPEAKER *In the Chair.*]

Financial accounting is a must, but it is not mandatory to have cost accounting. So, virtually for the Cost Accountants, the number of companies will be brought down to ten, while the Chartered Accountants will be able to audit twenty companies. So, if you want to bring parity between these two type of Accountants, I have brought my amendment that the limit of Rs.25 lakhs share capital should be removed in the case of cost accounting. That is my amendment.

SHRI J.VENGAL RAO: Sir, I am opposing this amendment, but I must say a few words. The ceiling on the number of Cost Audits is being regulated for the first time in this Bill on the basis as statutory financial audit ceiling. This will help in avoiding concentration of cost audit with individual cost Auditors, which I feel is a healthy practice.

MR. DEPUTY-SPEAKER: Mr. Patil, are you withdrawing your amendment?

SHRI VIJAY N.PATIL: Yes, Sir.

MR. DEPUTY SPEAKER: Has the Hon. Member leave of the House to withdraw his amendment?

SEVERAL HON. MEMBERS: Yes.

Amendment No. 10 was, by leave, Withdrawn.

MR. DEPUTY-SPEAKER: There is no amendment to Clauses 31 to 51. So I now put clauses 33 to 51 together to the vote of the House.

The question is:

"That Clauses 33 to 51 stand part of the Bill."

The motion was adopted.

Clauses 33 to 51 were added to the Bill.

Clause 52 (Amendment of Section 372)

SHRI BHATTAM SRIRAMA MURTY: I beg to move:

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after line 23, insert

"(aa) after sub-section (17), the following sub-section shall be inserted, namely:-

"(1A) No company registered under the Monopolies and Restrictive Trade Practices Act, 1969 shall invest any amount in any other corporate body or partnership firm whether incorporated in India or outside without the prior approval of the Central Government." (13)

Page 23,—

omit lines 1 to 5.(14)

Page 23,—

for lines 1 to 5, substitute—

'(d) for sub-section (14), the following sub-section shall be substituted, namely:-

"(14) No company shall have more than one investment company as subsidiary." (15)

Sir, I am moving all my above amendments. I congratulate the Minister for coming forward with certain restrictions and conditions. But then I am not fully satisfied with this. What I am suggesting is that no company shall have more than one investment company as a subsidiary. That is the suggestion which I have made.

SHRI J. VENGAL RAO: He mentioned about M.R.T.P. Act here. I will come with amendments to the MRT P Act in the next session. You are again mentioning the same.

MR. DEPUTY-SPEAKER: Are you withdrawing Mr. Bhattam Sri Rama Murthy?

SHRI BHATTAM SRIRAMA MURTHY: Now, in view of the assurance given by the Minister that it would be considered at the time of bringing amendments to the MRTP Act in the next session, I think there is no need for me to press my amendment.

MR. DEPUTY-SPEAKER: Has the Hon. Member leave of the House to withdraw his amendments?

SEVERAL HON. MEMBERS: Yes.

Amendments No. 13 to 15 were, by leave, withdrawn

MR. DEPUTY-SPEAKER: The question is:

"That Clause 52 stand part of the Bill."

The motion was adopted.

17.13 hrs.

Clause 52 was added to the Bill.

BHARAT PETROLEUM CORPORATION
LIMITED (DETERMINATION OF CONDI-
TIONS OF SERVICE OF EMPLOYEES
BILL)

MR. DEPUTY SPEAKER: There is no amendment to Clauses 53 to 68. The question is:

"That Clauses 53 to 68 stand part of the Bill."

The motion was adopted.

[English]

THE MINISTER OF STATE OF THE
MINISTRY OF PETROLEUM AND NATU-
RAL GAS (SHRI BRAHMA DUTT): I beg to
move:

Clauses 53 to 68 were added to the Bill

MR. DEPUTY SPEAKER. Now the question is:

"That clause 1, the enacting formula and the Long Title stand part of the Bill."

The motion was adopted

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

"That the Bill to empower the Central Government to determine the conditions of service of the officers and employees of Bharat Petroleum Corporation Limited and for matters connected therewith, be taken into consideration."

Sir, before I go into the Bill, I would like to point out that a mistake has occurred in the Bill. In the statement of Objects and Reasons wherever the word "Tribunal" occurs may be read as "Court".

MR. DEPUTY SPEAKER: The Minister may now move the Bill for passing.

SHRI J. VENGAL RAO: I beg to move;

"That the Bill be passed."

MR. DEPUTY SPEAKER: The question

Sir, there is a historical background which calls for the necessity of bringing forward this Bill before this House. Prior to 1976, the Burmah Shell had two companies in India, namely, the Burmah Shell Refineries as well as its Marketing Organisation. Both were nationalised in 1976. Nationalisation was done under Burmah Shell Acquisition of India Act 1976. After the nationalisation of the company, the company has been able to enter into HPL with all the employees in accordance with the public norms except for a few categories, that is, pre-nationalisation clerical employees, employees of the Marketing Division of the Bombay Region, pre-nationalisation and post-nationalisation of the clerical and labour categories of the Refinery. While the pay of the employees of the pre-nationalisation with whom fresh settlement could not be arrived at, has been

"That the Bill be passed.

The motion was adopted.