

14.56 hrs.

**COMPANIES TRIBUNAL (ABOLITION) BILL**

The Minister of Industrial Development and Company Affairs (Shri F. A. Ahmed): I beg to move:

"That the Bill to provide for the abolition of the Companies Tribunal and for matters connected therewith, as passed by Rajya Sabha, be taken into consideration."

As hon. Members would recall, quite some time back, Government had appointed a commission known as the Vivian Bose Commission to inquire into the affairs of certain companies. This commission had reported various malpractices and gross irregularities in the management of some companies and made certain recommendations for the amendment of the Companies Act. While considering the report of the Vivian Bose Commission, it was noticed that due to inadequacies in the law, persons who may be said to have acted in an undesirable way in corporate management could not be easily or fairly soon removed from their positions of authority. To remedy this situation, powers were taken by Government to remove such persons from their directorship etc. in all companies, after giving them a due hearing.

In order to ensure speedy disposal and also for affording due consideration of the representations of the affected persons, it was decided to place the decision in regard to such matters in the hands of a tribunal with a judicial bias. Accordingly, the Companies Act, 1956, was amended in 1962, providing for the constitution of a tribunal and empowering it with the power of making recommendations to the Central Government for removal of directors etc. from the management.

The tribunal was constituted on 1st July, 1964. Subsequently, the jurisdiction of the tribunal was extended by

amending the Companies Act in 1964 and 1965 and also by issue of a notification under section 10A of the Companies Act whereby some of the powers which were exercised by the Central Government and the Court were also vested in the tribunal.

At the time of setting up the tribunal, it was intended, especially in relation to proceedings under section 388B that the findings of the tribunal, quickly given, would enable the Central Government to remove from office, even before the expiry of the term, persons who had committed acts of fraud, misfeasance or indulged in some other malpractices or irregularities in the management of companies. The very idea behind the tribunal was to protect public interest which largely depends on quick action.

Up till now, only one case was filed under section 388B and that too has been subjected to a stay order by the Calcutta High Court before which a writ petition was filed, and an appeal is pending before the division Bench, and hence the tribunal has not been able to take it up at all. Our experience has also shown that the writ jurisdiction of the High Court is more often than not likely to prevent the tribunal from starting its proceedings or continuing them uninterrupted. Since every finding or decision of the tribunal is appealable on points of law, its procedure has been meticulous and the proceedings long and protracted. Hence it is felt that the tribunal has not been able to achieve the desired objective and to make its impact either by injecting health in the corporate management or by building up a wealth of case law which would lay down standards and norms for the corporate sector of our economy.

Further, in regard to the working of the tribunal, there has been a persistent criticism, particularly in big commercial centres like Calcutta and Bombay, that it is very inconvenient and expensive for the litigant public to pursue their cases before the tribunal whose headquarters are at Delhi.

The Tribunal has no doubt been sitting at outside places in Benches. But such sittings have been few and far between. The suggestion to strengthen the Tribunal by constituting more Benches involves considerable financial expenditure, at least Rs. 6-7 lakhs more annually, and one cannot be certain that sufficient work-load will develop.

15 hrs.

After taking into consideration all these facts and circumstances attending on this question, Government have decided to abolish the Tribunal with effect from 1 July, 1967. The Bill seeks to implement this objective. It is proposed to revert back to the old scheme of jurisdiction vesting in the Central Government or the Court, as the case may be, before the Companies Tribunal was created in 1963. In respect of the new jurisdiction, that is, in court proceedings under sections 388B, 388C and 388D of the Act, it is proposed that the jurisdiction should vest in the High Court who should inquire into such cases, record findings and pass suitable orders of disqualification. The findings of the High Court against directors etc. under these sections shall be binding on the Central Government who shall remove such directors from the management. Trial of these cases by the High Court is likely to cut down writ petitions and will thus probably lead to a more expeditious disposal than by Tribunal.

Incidentally, I may also point out that the proposal does not involve any expenditure; on the other hand, it will result in a saving of approximately Rs. 2,80,000 per year.

Therefore, I commend the Bill for the consideration of the House.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to provide for the abolition of the Companies Tribunal and for matters connected therewith, as passed by Rajya Sabha, be taken into consideration".

The non-official business is to start at 3 P.M. shall we postpone it till 4 P.M. so as to dispose of this Bill?

Shri S. Kandappan (Mettur): The non-official Bill which will be taken up for resumption of discussion is a very important one. We should have more time for that also. This aspect may also be borne in mind. If we do not begin discussion of it now, I think it would be difficult to get through with it.

Shri N. C. Chatterjee (Burdwan): Let us dispose of this Bill first. It may take an hour only.

Shri S. M. Banerjee (Kanpur): This is not going to the Rajya Sabha. It has come from it. Naturally, there is no hurry. The non-official business should not suffer. I do not know what is the urgency for this Bill. The Tribunal will be abolished. But the Bill cannot be finished today.

Shri N. C. Chatterjee: I think it can be finished in an hour.

Shri F. A. Ahmed: The subject-matter of this Bill is, I feel, not controversial. As I have pointed out, the object is to abolish the Tribunal with effect from 1 July, 1967. Today is the 23rd.

Shri S. M. Banerjee: Abolish it on Monday. कोई मुहूर्त का कोई हा है, बड़े को एडवॉलिज का लाना पड़े।

Shri F. A. Ahmed: After it is passed by this House, it will have to be sent to the President for his assent. As hon. Members are aware, the President is leaving the country on Sunday and will be away for some days and will not be back till the 3rd or 4th July. So I crave the indulgence of the House to sit a little longer and help me get through this Bill. I am sure the urgency will be appreciated by hon. Members and they will agree to this proposal.

Mr. Deputy-Speaker: We will try to curtail the debate and finish it.

Shri S. Kandappan: Would it be feasible?

**Mr. Deputy-Speaker:** We will try.

**Shri Sonavane (Pandharpur):** We have agreed.

**Shri N. C. Chatterjee:** It is not a very controversial measure.

**Mr. Deputy-Speaker:** We shall have five minutes to a speaker.

**Shri S. M. Banerjee:** No, no. Kindly read the Bill and then make your suggestion.

**An hon. Member:** We want enough time.

**Mr. Deputy-Speaker:** Do you agree to start the non-official business at 4 O'clock?

**Some hon. Members:** Yes.

**Mr. Deputy-Speaker:** Mr. Chatterjee may begin. Let us see. We will try to finish it in one hour.

**Shri Randhir Singh (Rohtak):** Not more than seven minutes to each speaker.

**Shri Sonavane:** Let the motion be placed before the House by the Chair.

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

"That the Bill to provide for the abolition of the Companies Tribunal and for matters connected therewith, as passed by Rajya Sabha, be taken into consideration"

**Shri N. C. Chatterjee:** I had the privilege to appear in a number of important cases before this Companies Tribunal. All of us know that during the second world war a lot of expansion of companies took place. A large number of companies came into existence, and unfortunately for India, a very powerful industrial oligarchy was built up which controlled a number of companies. Then, after the world war was over, it was detected that a lot of fraud and chicanery and malpractices was taking place in the

company world, and therefore the Bhabha Committee was appointed, the a very powerful committee with experienced men functioned. They took evidence. You know the Bhabha Committee report was well received. It made a thorough good job of its work and they decided that very strong action should be taken in order to check frauds and irregularities and especially malpractices. The greatest difficulty was that the minority of the shareholders was at the mercy of the directorate, the powerful men who control the company. That was the great defect in our company law administration.

Then we tried to have the company law amended. I was associated with the Select Committee, and we sat for one year practically week after week, and ultimately we produced the biggest company law in the whole world, with, I think, we have 658 or 659 sections. We had beaten the Cohen Committee, we had beaten the English law and the other laws in the world, but we have made it more complicated.

With my experience in a number of cases before the Company Law Tribunal, I ought to say this. We had the good fortune of having an eminent Judge of the Bombay High Court as the Judge of this Company Law Tribunal. Possibly you know him, Mr. Justice Gokhale. I must say he was a very patient, very careful, very objective, very courteous Judge, but I must say that none of our objectives had at all been fulfilled, all our cherished desires, all our aims and aspirations were absolutely negated. I take it that the Minister will also agree with me that there is no question of casting of reflection on the Judge himself. There is no question of insinuation against any member of the tribunal. They did their best, but they were bogged by the procedural difficulties.

I remember I was appearing for one company which is associated with a big mill in Bawar in Rajasthan. For two years the preliminary application was pending and it is still going on

from time to time. The entire object has been rendered nugatory and illusory because the main objective was quick decision, to find out the man who has committed fraud and to remove him before his term expires. There is an annual or biennial election. Before one year if you find the man has committed any malpractice, drive him out. But the Company Tribunal goes on from day to day, week to week, and after hearing three or four days the tribunal has to go to Bombay to hear the Bennett, Coleman case or some other case. I was also associated with that and there were interminable proceedings.

The whole difficulty was this. We had unfortunately, put in a clause, that the Civil Procedure Code was applicable under section 10(c) with regard to production of documents, enforcing attendance of witnesses, requiring deposits, and other matters like examination of witnesses, granting of adjournment, issue of commissions and so on and so forth. You know our Civil Procedure Code which is really a copy from another law of a foreign country has been responsible for too many of our law's delays and nothing has been done since Sir George Rankin's commission. In this House I had appealed to Law Minister after Law Minister: for heaven's sake do something; appoint a special commission for the purpose of simplifying the procedural law. Otherwise it will completely frustrate the rule of law; the law's delays are absolutely scandalous in India. This company tribunal functioning under section 10 (c) is completely bogged down by procedural delays. After six months or one year when some preliminary order is made immediately there is an appeal; when some definite order is made immediately there is a mandamus application under 226. Article 226 is still operative; article 32 is still operative. A Judgment is given after good deal of hearing; then an appeal goes to the High Court. Therefore, it is not so much delinquency on the part of Mr. Justice Gokhale or his colleagues but the system which was built up is 928 (A1) LSD—10.

thoroughly inefficient. I therefore say that the Minister is justified in bringing forward this Bill. In the interest of the litigants and in the interest of honest administration of company, law and in the interest of the oppressed minority, it is essential that this kind of a tribunal should cease to function and something better and more expeditious and more effective should be introduced. The Minister is doing two or three things. He says 'time consuming judicial procedures; perfectly correct. He says that the objectives had not been realised. That is also right. He says that all orders are liable to be set aside by appeals. That is also correct. Parliament should be wise enough to accept this Bill. I am not at all happy that the jurisdiction is transferred to the Central Government and I will appeal to Mr. Ahmed who is experienced—he was himself a lawyer and advocate general—and who knows that the Central Government is not an ideal tribunal. So do not replace Gokhale's tribunal by the Central Government which possibly means an Under Secretary or Secretary functioning and disposing of these cases. There should be some machinery evolved which will ensure speedy trial and at the same time see that there is real vindication of the rule of law and the rule of justice.

Shri C. Mathasami (Karur): Sir, I believe it was only three or four years ago that the predecessor of this Government came forward with the Bill and sang the praises of a Tribunal to adjudicate upon company matters. Idea was no doubt a good one but it has been worked so badly that it has now been found to be useless and unnecessary. As you know, Mr. C. H. Bhabha is an authority on Company Law having been the Chairman of a Commission which led to a widespread revision of the company law in 1956. I would like to quote him on the subject:

"The Tribunal idea is not bad at all, but the way they nominate people and use such organisations as avenues for employment and

[Shri C. Muthusami]

power leads to odd and awful results".

They have put on the tribunal all kinds of people regardless of merits and on political considerations. Secondly, Sir, this legislation is based on the general policy of the present Government to transfer all powers from courts, tribunals and adjudicating bodies to themselves. That is only a sign of weakness for a weak Government not sure of its strength and therefore feels like transferring all the powers to itself. I suppose, if they had their way, they would even seek to abolish the Supreme Court and High Courts and try all the cases themselves in their own way. Fortunately for us, there is the Constitution and the recent judgement of Mr. Subba Rao has made it difficult for the Government to proceed in such a high handed manner. It is this attitude or approach or policy of the Government to which we can on this side of the House take strong exception and will not be a party to any proposal which seeks to transfer power even from an executive appointed tribunal to themselves. If the Tribunal has to be abolished, the power to try such cases must vest in a judicial body such as the High Court or a District Court.

I have tabled a few amendments to the Bill which have already been circulated. The object of our amendments is pure and simple. The Government, both Centre and State, are not always impartial in the matter of dealing with cases and disputes of companies. If I say, at times, they behave very much partial and show favouritism to those who were helpful to them at the time of election, I am not at all wrong. I know many muddles were hushed up and justice denied simply because some Ministers or the concerned Government were interested in guilty persons. So, Sir, a High Court or for that matter any judicial body is the proper authority to pass judgement on

this matter i.e., if the Government is not willing to reconsider its decision to abolish the Tribunal. The Tribunal, I am sure, Sir, could have and still can serve a useful purpose if political considerations don't weigh with the Government in the constitution of the Tribunal. It appears to me that the abolition of the Tribunal will lead to further delay at the hands of the Government. As for the courts with thousands of cases pending, disposal of companies cases would take a lot of time, and till such time proceedings against a particular company are pending, their work would be at a standstill.

And so my earnest appeal to Government is to accept our amendments and transfer all the pending cases lock stock and barrel to the High Court and other judicial bodies. The way Government continues to clothe itself with more and more powers is a symptom of dictatorial trends. They should shed such a trend, otherwise it would prove fatal to our democratic way of life.

Shri S. S. Kothari (Mandsaur): Mr. Deputy-Speaker, Sir, with regard to the companies tribunal, I would support the Government in a qualified manner with regard to its abolition. It is remarkable that in 1956, the Companies Act was introduced—a massive document indeed—and it was expected that it would bring about a healthy corporate structure and put a stop to the kind of evils and malpractices that exist in the economy, but despite being such a complicated piece of legislation, it has not met with the amount of success expected. What happens is that the complicated legislation goes on increasing, and the Government is not able to give a correct direction or to administer laws in a satisfactory manner. Time and again, the Companies Act has been amended, but even today it is in a state of flux; and it is said that some amendment or the other will have to be made to the Act.

Now, coming to the tribunal, some-time back the piece of legislation in-creating the companies tribunal was enacted and it was stated that it would result in expeditious disposal of cases, where there were mal practices or mismanagement by company directors. But now the Government comes and says that the tribunal has to be abolished. That means the Government is not clear in its own mind what it wants to do; how it should do it. The result is that you have hasty, ill-drafted pieces of legislation. It is a kind of experimentation, and this experimentation adversely affects the companies, the shareholders and even the directors.

Besides, there were certain advantages in the companies tribunal in that it was not so costly for the people concerned; even the chartered accountants were allowed to appear before the tribunal. But now those proceeded against would have to appear before high courts. There are so many cases pending before High Courts and cases do not come up for a considerable time. I feel that this is not going to expedite matters, but will only lead to further delays. What steps has the Government taken to ensure that cases are disposed of expeditiously? That is the lacuna in this Bill. They have not made clear how things are going to move more quickly.

A considerable amount of money has been spent in setting up the tribunal. It has a library, furniture and all that, involving a lot of expenditure. That becomes infructuous now. This is blatant waste. We are told that one application is pending. Then, where is the delay? It would be a healthy practice if more and more administrative tribunals are created and discretion is taken away from the department. In the department, it is not necessarily the judgment of the Secretary or the highest official. In practice, some small official takes a decision and it

is often rubber-stamped at the highest level.

We find that the matter coming under section 111 regarding transmission and appeals would again go to the Central Government. Why should not that matter also be referred to the High Court?

Even though I am opposed to the Bill, I know it will be passed by the steam-roller tactics of the Government. So, the minister must amend this Bill at least to the extent that all the matters under the jurisdiction of the tribunal should be referred to the High Court and the High Court must be the final authority to decide all those matters. Any exceptions can only lead to a travesty of justice, which should not be allowed.

In conclusion, I would urge upon the Government to be more careful in establishing tribunals and quasi-judicial bodies and to see that this type of infructuous expenditure does not take place by subsequent abolition.

Shri S. M. Banerjee: Sir, on 28th November, 1963, the then Finance Minister, Shri T. T. Krishnamachari, moving the Companies (Amendment) Bill said:

"On the first and perhaps somewhat controversial subject of setting up of a tribunal, I would like to say this that the primary object is to provide for the removal from office or of managerial authority in companies of persons who have been found to have given a sense of insecurity and lack of stability to the institution by the adoption of certain methods in the management of the company under their charge.

It was while considering the report of the Vivian Bose Commission that the inadequacies of the present law, due to which persons who may be said to have acted in

(Shri S. S. Kathari)

an undesirable way in corporate management could not be easily or fairly soon removed from positions of authority, came to light.

.... It is therefore proposed that before Government take any action in this regard, the tribunal will go into the facts of the case and record its findings."

So, Mr. T. T. Krishnamachari convinced this House, despite opposition from all quarters, that the only solution of the problem was to set up a tribunal.

The hon. Minister now wants to convince this House that the only solution is the abolition of the tribunal. In this Bill it has been said that this will avoid delays. He says that only one case went to the tribunal under section 368 and there too a writ has been filed in the Calcutta High Court. I know this particular case of India Belting Company where the directors falsified the accounts, misappropriated money and still no action could be taken by the Company Law Administration. I have another case before me. In Kanpur, the notorious businessman, Shri Ram Rattan Gupta, against whom a case is going on under the Company Law, perhaps it was before the Tribunal, where a poor editor, of Citizen, Shri S. P. Mehra, with all his eloquence, never wanted adjournment of the case even for a day, influenced even the Tribunal and delayed the case to an extent that now the Tribunal is going to be abolished.

There is a lurking fear in the mind of the hon. Minister that this may delay matters. Before setting up the Tribunal it should have been thought of by him that it was open to anyone to file a writ under section 226—natural justice. Supposing we take into account that these cases will go to High Courts for expeditious settlement, what is the position in the High Courts. In Calcutta alone, if I am not wrong, 32,000 cases are pending and in Allahabad High Court there

are 36,000 cases pending. If this is the state of affairs in the High Courts now I do not know, with the addition of election petitions and these petitions, what is going to be the position in the High Courts.

I would like the hon. Minister to give a second thought to it. Let him not commit another mistake—one for formation and another for abolition—and make the people suffer. I fully agree with him that for an ordinary share-holder it is very difficult to go either to Delhi or to Bombay—because the tribunal only moves between Delhi and Bombay—and this may eliminate delays as far as he is concerned. But I say, Sir, that this is again a thoughtless Bill. I wish it could have been referred either to a Select Committee or an informal meeting could have been held with the representatives of all parties here, who are experts in Company Law—we have hon. friends like Shri Dandekar and others who know something about Company Law—and their opinion taken. That would have been better.

With these words, Sir, I again request that the Minister gives a second thought to it and sees that a foolproof, comprehensive measure is brought to plug the loopholes as suggested by the Vivian Bose Commission.

श्री रमचंद्र सिंह : उपाध्यक्ष महोदय, मिनिस्टर साहब ने यह प्रहसन किया है पब्लिक के ऊपर, खास तौर से लिटिगेंट पब्लिक पर, कि उन्होंने यह बिल पेश किया है। इस से दो आदमियों को जरूर नुकसान होगा। एक तो जो बकिल साहबान हैं, जो इकट्ठी बड़ी बड़ी कीलें लेते हैं, और दूसरे जज। खास तौर पर रिटायर्ड आदमी इनमें झुका करते हैं। जज लोग रिटायर होने के बाद ट्रिब्यूनल बन जाते हैं और लम्बी लम्बी तारीखें लगाते रहते हैं एक साल या छः महीने की। जो काम एक महीने में हो सकता है, उस के लिये इतना लम्बा बकत ले लेते हैं। गवर्नमेंट ने यह बड़ी मेहरबानी की है कि

इन को ऐवालिज कर दिया। प्रायः तीर से चाहे एलेक्शन ट्राइब्यूनल हो, चाहे लेबर ट्राइब्यूनल हो, चाहे इन्स्ट्रियल ट्राइब्यूनल हो, चाहे कम्पनी ला ट्राइब्यूनल हो, हर एक ट्राइब्यूनल तपेदिक की बीमारी हैं। जिस तरह से जब मवेशी बेकार हो जाता है तो उस को गीघाला में लाया जाता है, उसी तरह के रिटायर्ड जजों को ट्राइब्यूनल में ला कर उन की तन्त्राहें बांध देते हैं।

मैं इन ट्राइब्यूनल्स के खिलाफ हूँ और मैं बड़ा अहसानमन्द हूँ कि मंत्री महोदय इसको खत्म करना चाहते हैं।

दूसरी चीज यह है कि मैं महसूस करता हूँ कि मैजिस्ट्रेट को इन्होंने तारे केस जो डाइवर्ट किए हैं, इनको उसके पास डाइवर्ट न करके डिस्ट्रिक्ट जज के पास डाइवर्ट करना चाहिये था। ट्राइब्यूनल से जो केस डाइवर्ट हों वे डिस्ट्रिक्ट जज के पास होने चाहिये। ये केस सिविल और सेमी-क्रिमिनल बाबा के पास डाइवर्ट होने चाहिये और वह डिस्ट्रिक्ट जज ही हो सकता है। ट्राइब्यूनल भी ऐसी ही बाडी था। हार्ड कांट की बात भी कहा गई है। पहले प्रोमीजर यह था कि जो एपेलेट पावर्ज थी वे नंतर गवर्नमेंट के पास थीं। चूँकि ये ज्यूडिशल फाइडिग्य हैं इम वास्ते सैट्रल गवर्नमेंट का कोई अफसर बजाय इसके कि मुकर्रर किया जाय, हार्ड कांट के पास ये पावर्ज बैस्ट हीनां चाहिये। सैट्रल गवर्नमेंट के पास अगर आप रखते हैं तो इसका मतलब होगा कि एक हाथ से आप देते हैं और दूसरे हाथ से लेते हैं। बजाय इसके कि सैट्रल गवर्नमेंट इन पावर्ज को अपने पास रखे मैं चाहूँगा कि इनिशियल स्टेज पर ये पावर्ज डिस्ट्रिक्ट जज में बैस्ट करें और एपेलेट पावर्ज हार्ड कांट में बैस्ट हों।

मैं मंत्री महोदय को इसको जाने के लिए नुबारिक-बाब पेश करता हूँ। इससे कभी को फायदा है। जिसे डिफिट्स इनिबटी का भी बैकिलव है का का वह भी इससे पूरा हो

जाता है। जिसे नहीं होगा और जस्टिस जल्दी से इस से मिल जाएगा।

Mr. Deputy-Speaker: The question is . . . (Interruptions).

Shri E. K. Nayanar (Palghat): Sir, our representative did not get even a single minute.

श्री मधु लिमये : मेरा दुःख है कि इस पर अब चर्चा स्वगत रखिये क्योंकि दस माई तीन बज गए हैं। मैं चाहता हूँ कि सबको, जो बोलना चाहते हैं, मौका मिले। मुझे भी बोलना है। इसलिए मैं चाहता हूँ कि इस पर चर्चा स्वगत की जाए।

Mr. Deputy-Speaker: Shri Limaye, I am hurrying up because there are several Members on this side who are very eager to participate in the discussion on Shri Nath Pai's Constitution Amendment Bill, and there is a certain urgency, as the Minister has pleaded in his preliminary remarks, that we have got to pass this Bill as early as possible. So, it is not a question of hurrying up.

श्री मधु लिमये (मुगेर) : हाँ नहीं पाएगा।

Shri E. K. Nayanar: When you have given time to spokesmen of other parties, why not to our party? Why this discrimination?

श्री मधु लिमये : प्रायः कानून बनाते हैं और एक दो घंटे में इसको खत्म करना चाहते हैं। यह कैसे हो सकता है? मैं आपको याद दिलाता चाहता हूँ कि तीसरी लोक सभा में कई दफा यह तय हुआ कि जो महत्वपूर्ण विधेयक आएँ उनको सिलेक्ट कमेटी के पास भेजा जाएगा। रंगा माहव बैठे हुए हैं। उनको मालूम है कि कई दफा ररदार हुकम सिंह के साथ हमारी बातें हुई थीं। इधर मैं देख रहा हूँ कि चौबीस लोक सभा में एक के बाद एक बिल बिना सोचे समझे आप ला रहे हैं। एक दो बिलों को तो आपने वापिस भी ले लिया है। पता नहीं क्यों बिना सोचे समझे अनमाफुल एनिबिटीज बिल



**[श्री मधु लिमये]**

इसी तरह से आप चुलेड़ रहे हैं। साथ ही आप बिलों को वापिस भी ले रहे हैं। इसका मतलब है कि आप सोच समझ कर किसी भी विधेयक को सदन में नहीं ला रहे हैं। अगर सोच समझ कर लाते होते तो उनको वापिस नहीं लेना पड़ता। दो बिलों को आपको वापिस लेना पड़ा है।

यह महत्वपूर्ण मसाला है। मैं भी इन पर बोलना चाहता हूँ। अब साढ़े तीन बज गए हैं। मेरी इच्छा है कि प्राइवेट संस्वरण बिलों पर अब चर्चा शुरू की जाए। प्रायः घंटे में यह खत्म नहीं होगा। हम इस पर बोलना चाहते हैं। आज मैं इन पर तैयारी करके नहीं आया हूँ क्योंकि मैं सोचता था कि यह आज पाम नहीं होगा। मुझे नाथपाई साहब के बिल पर बोलना था।

**Mr. Deputy-Speaker:** Mr. Limaye, perhaps you were not here when this issue was raised and the Minister made a plea in a very cogent manner for the early passing of this Bill.

श्री मधु लिमये : कानून क्या इन तरह से पाम होते हैं। यह तो मजाक हो रहा है। इस पंद्रह मिनट में आप बिलों का पास कर रहे हैं। इनको अब आप स्थगित करिये और एक घंटा, बाद में इसके लिए दीजिये। अगर यह आज पाम नहीं हुआ तो कौन मकड़ घाने वाला है, कौन सा असमान टूटने वाला है।

**Mr. Deputy-Speaker:** I felt then that the sense of the House was that we should take up the Private Members' Bill at 4 O'Clock.

**Shri Ranga (Srikakulam):** This Bill can be taken up later on, some other day.

**Shri S. Kandappa:** If the Government can set up the Tribunal in a hurry and abolish it also in a hurry, it is a bad day for the country. We must give some thought to its provisions leisurely and calmly.

श्री मधु लिमये : इस सरकार को ही जल्दी से एनालिस करना चाहिये।

**Mr. Deputy-Speaker:** I am not eliminating any Member.

**Shri E. K. Nayanar:** Yes, you are eliminating.

**Mr. Deputy-Speaker:** There were on slips from any other group that they also want to participate in the discussion.

**Shri E. K. Nayanar:** What was the necessity for sending slips? Government could have passed it even without coming before Parliament. That would have been better. Now, our party should also get some minutes to have their say on this Bill. Since you have given time to other groups, our group should also be given at least two minutes.

**Mr. Deputy-Speaker:** I will give them even 5 minutes. Shri Madhu Limaye has raised the point that this discussion should be adjourned. I am in the hands of the House.

**Shri S. Kundu (Balasore):** I would appeal to the Minister to agree to the adjournment of the discussion rather than hustle it like this.

**Shri F. A. Ahmed:** My hon. friend, Shri Limaye, was not here when this matter was discussed. It was the understanding that this Bill would be given about one hour's time within which, as Shri Chatterjee said, it could be completed because the Bill is not controversial. I am very sorry that instead of confining observations to the Bill, the hon. Members are actually taking time in discussing extraneous matters. I will request hon. Members to give if they have any suggestions to offer in another 10 or 15 minutes that we have. I have expressed the difficulty for which I have asked for the indulgence of the House to see that this Bill is passed today.

**Mr. Deputy-Speaker:** I have pleaded and expressed your urgency. But

Shri Limaye stands on his own right and I am helpless in this regard because it is time for Private Members' Business. With their consent only, I can accept this.

Shri F. A. Ahmed: That was accepted by the House.

Mr. Deputy-Speaker: But now he has raised a new question.

श्री मधु लिमये : मेरा मोशन है । नियम 109 के मानहत में स्थगन प्रस्ताव रखता हूँ ।

Shri Banga: Let them come later.

Shri M. Y. Saleem (Nalgonda): Sir, the discussion on this Bill was started after taking the concurrence of the House. When the House agreed to postpone consideration of Private Members' business then only this discussion was started.

Mr. Deputy-Speaker: I have followed your argument. Because there is a half-an-hour discussion we were to start Private Members' business at 3 o'clock. With their concurrence I said that we would give one hour to this Bill and we will sit one hour extra.

Shri M. Y. Saleem: The concurrence of the House was obtained.

Mr. Deputy-Speaker: At that time some hon. Members were silent. Now there is a formal motion for adjournment of debate on this. What can I do?

श्री मधु लिमये : कार्य सूची जो बनती है उसको क्या इस तरह में बदला जाता है ?

Shri Ramdhir Singh: Concurrence once given cannot be withdrawn.

Shri M. Y. Saleem: In view of the urgency expressed by the hon. Minister you placed the matter before the House and the concurrence of the House was given that one hour should be devoted for the discussion of this Bill. Having got that concurrence you called upon Shri Chatterjee to express

his views on the Bill. Every Member who wanted to express his views on the Bill was given an opportunity. Because the hon. Member was not present at that time..... (Interruption).

Mr. Deputy-Speaker: Now six Members from this side say that they want to participate in this debate.

Shri Ramdhir Singh: Give them two or three minutes each.

Shri M. E. Masani (Rajkot): The Bill could not be passed by 4 O'clock, it is obvious, without doing violence to the House. You cannot pass this Bill and get it to the President by 4 O'clock, as it is. So, you can postpone it, because even otherwise it will have to go over the weekend.

Mr. Deputy-Speaker: How many Members will like to participate in this debate?

Some hon. Members rose—

Shri M. Y. Saleem: Only two hon. Members are anxious to express their views. Let them do so.

Mr. Deputy-Speaker: He has made a formal motion. Unless he withdraws it, with the consent of the House, I cannot proceed further.... (Interruption).

श्री तुलसीदास जाधव (बारामती) :  
उपाध्यक्ष महोदय, आप मेरी बात भी सुन लीजिए ।

उपाध्यक्ष महोदय : मुझे का सबाल नहीं है ।

We are wasting time now. The Private Member's Business was to start at 3 O'Clock and we decided to postpone it by one hour. Now, a formal motion has come forward and I will have to put it to the House.

Shri Viswanatha Menon (Ernakulam): Why not have more time? Let them wait.

**Shri F. A. Ahmed:** I would humbly submit that what was agreed upon cannot be changed now. Actually, with the approval of the House, one hour's time was given for the consideration and passing of this Bill. The hon. Member was not present at that time. He now comes and says, "I do not want to agree with that." How can that be allowed?

**Mr. Deputy-Speaker:** When he makes a formal motion, I am helpless.

**श्री जटल बिहारी बाजपेयी** (बल-रामपुर) : उपाध्यक्ष महोदय, इस विधेयक पर 4 बजे तक बहस जारी रखी जाये। यह विधेयक स्वीकृत तो नहीं हो सकेगा। लेकिन 4 बजे तक इस पर बहस करने का फैसला सदन ने किया हुआ है, इस लिए हम उस का पालन करें।

**Mr. Deputy-Speaker:** We stick to 4 O' Clock.

**Shri M. R. Masani:** We consider it till 4 O'Clock and adjourn it.

**श्री तुलसीदास जाधव :** उपाध्यक्ष महोदय, आप ने 4 बजे तक का डिमिजन किया हुआ है।

**Mr. Deputy-Speaker:** It was the decision of the House, not the decision of the Chair. I have to take a decision with the concurrence of the House.

**Shri Narendra Singh Mahida (Anand):** I rise on a point of order. Rule 108 is very clear. It says:

"At any stage of a Bill which is under discussion in the House, a motion that the debate on the Bill be adjourned may be moved with the consent of the Speaker."

So, your consent is necessary.....  
(Interruption)

**श्री जयू लिंगके :** वह किस आधार पर इन्कार कर सकते हैं। कोई शार्ज तो होना चाहिए।

**Mr. Deputy-Speaker:** We are encroaching upon the time of the Private Members' Business.

**श्री जटल बिहारी बाजपेयी :** उपाध्यक्ष महोदय, प्राइवेट मेम्बरों बिजिनेस के लिए डार्क बंटे का समय निश्चित है। हम प्राइवेट मेम्बरों बिजिनेस को 4 बजे लेंगे और वह साइडे छः बजे तक चलेगा। इसलिए प्राइवेट मेम्बरों के समय के प्रतिरक्षण का सवाल नहीं है।

**उपाध्यक्ष महोदय :** हमें ज्यादा देर तक बैठना होगा।

**श्री जटल बिहारी बाजपेयी :** हम ने ज्यादा देर तक बैठने का तय किया है।

**Shri Viswanatha Menon:** Mr. Deputy-Speaker, Sir, the first point that I would like to make is that this manner of passing the Bills will not do any good to this country. They want to pass this Bill in a hurry. That should not be done. Three years back, they came forward with this Tribunal Bill and got away with that. Now, they come and say that they do not want a Tribunal and that they want a High Court. Why? He has not explained that. His explanation in the Objects and the Reasons of the Bill is not clear at all. Somehow or other, they want to pass this Bill and they want to do it in half an hour. We come to Parliament not for the sake of simply raising the points of order. We come here to discuss serious and important matters. But when a serious matter like this comes up in the House, it is sought to be got through within half an hour or so. This is a very bad precedent. This manner of passing the Bills must be stopped. I do not mind whether it is passed today because they have got a majority but this will not do. I am sure, they are going to come forward with another amendment to this Bill. Even this Bill is not sufficient. In the name of giving powers to the High Courts, they are, actually, taking powers for the Central Government. They want the Central Gov-

ernment to deal with everything and they are giving certain powers to High Courts. I have not the optimism of my learned friend, Mr. N. C. Chatterjee. Even in the case of High Court, there will be delay. It will first go before a single judge and then to a Bench and then there is the Supreme Court. In the name of avoiding delay, they are taking powers for the Central Government and they want to save certain big sharks in the country. That is the point behind this Bill and that is the principle behind this Bill. If Government do not want delay and they want to do something good for the people then they should have set up tribunals in every State. They could have tackled the issue in that way instead of merely setting up a tribunal in Delhi and asking everybody to come over to Delhi. The tribunals could have been set up in Bombay, Calcutta and other State capitals too. Instead of doing this, Government are doing all kinds of other things and they have come forward with a Bill of this nature. Clause 3 clearly indicates that the powers are sought to be taken by the Central Government. They want to save certain big businessmen and that is why this Bill has been brought forward.

My humble submission is that this Bill must be reconsidered, and for that purpose, it must be referred to a Select Committee consisting of Members like Shri N. C. Chatterjee, Shri A. N. Mulla and Shri N. Dandekar and others and it must be fully discussed there and then only it should be brought forward here. In the absence of such a thing, I submit that this Bill must be thrown out.

Shri S. Kesdu: I do not dispute in principle the fact that tribunals are better forums than the High Court. I am aware of the fact that the Frank Committee set up in England has said that always in such matters, the High Courts are a better forum but the question is whether the object for which this Bill has been brought for-

ward will be achieved in the High Court. It is a fact that even writ petitions within the jurisdiction of the High Courts have been pending for years. I know particularly of the Orissa High Court where writ petitions have been pending for the last three or four years, whereas they ought to have been disposed of in six months. Therefore, I feel that when these cases will also come before the High Court, instead of the High Courts constituting a better forum, it will add to the burden of the High Court.

Further, original jurisdiction is sought to have been given to the High Court. This means that the High Court will just sit like an ordinary first class magistrate and examine witnesses and so on. I should feel that it is due to the clique of somebody that in 1963 this provision was introduced and now again it is sought to be taken away. I feel that the Department must be hauled up for this, and the Minister ought to be charged for this. Why did they put the entire nation to such a suffering by bringing forward a measure without putting their heads to it? I think that the heads do not work but the muscles work much faster than the brain. This is indeed a shocking thing. I feel that the hon. Minister should put in a provision in this Bill to the effect that these cases ought to be disposed of by the High Court within a certain time-limit.

When these new Ministers took the charge of this Department, we thought that the entire affair of company law would be put on a proper basis by means of a new comprehensive Bill. Charges of corruption and malpractices have been alleged on the part of the directors and so on. This Bill is a very poor remedy for eradicating all that. Merely by changing the form without changing the entire structure, we cannot hope to remove the corruption which has been alleged on the part of the company law administration or the managing agency system as a whole. We have been demanding

[Shri S. Kundu]

that the managing agency system should be abolished, but Government have not said anything about how they are going to abolish the managing agency system.

Then, the Report of the Monopolies Commission has come. It is a staggering thing to know that in a democracy like ours, during these few years, huge monopolists have come up who are controlling entire industrial establishments and also influencing political parties with huge donations. We want that some legislation should be brought forward to amend the company law so as to check these monopolists. We also want that the donations given to the political parties by these big monopolists should come to a halt, and the Act should be suitably amended for that purpose. But we do not find any such thing being done at all.

The hon. Minister has said that the tribunal's work has not resulted in speedy action. I would submit that the report submitted by the tribunal speaks of quick disposal. The hon. Minister himself may verify it if he wants. From the report given by the tribunal we find that there has been speedy disposal of cases in the tribunal. I do not know how the hon. Minister says that the disposal has been delayed and, therefore, the case should now be sent to the High Court for disposal.

There is also that nagging section, namely section 111 under which the Central Government have reserved to themselves the jurisdiction and power to sit as arbitrator and judge on some of these important matters. So, it is not the High Court which is going to decide everything finally. Once the decision of the High Court is given, it is for the Central Government to take follow-up action.

Another point that has been made is that after the High Court gives a decision on a writ petition, it cannot go up in appeal. I do not know on

what basis this view has been expressed. So far as I know, if a single Judge disposes of a writ petition, there can be an appeal to a Bench of two Judges of the same court. In any case, under this Bill speedier disposal of cases is not going to materialise. On the other hand, my fear is that after two or three years, the Minister will again come to the House and say that this procedure has failed, it has led to further delay, so we are bringing forward another Bill revising it.

I charge the Ministry in charge of this Department for not having bestowed enough thought. My suggestion is that a group may be constituted from all political parties to go into this Bill and suggest what is the real way to bring about speedier disposal of cases. Without that, only changing the structure or the form for that matter will not achieve the objective.

As I have said, I am for speedier disposal of cases, but my fears, which I believe are genuine, is that mere change of forum is not going to achieve it. Again the Minister will have to come to the House saying that they have not been able to realise this objective.

Therefore, I would suggest to the Minister to take it back and remit it to a Select Committee or some other committee to give more thought to it and recommend a workable solution. There is no hurry. There are so many things one has to speak on this. As time is short, I do not want to take it up clause by clause. I have touched only on the general principles. If the Minister is willing, I am prepared to discuss with him and point out the real lacunae. He has expressed a real desire to speed up disposal of cases. But this Bill will actually land him in a wrong alley. Therefore, let him take the Bill back and reconsider it as I have suggested.

की जगह लिखें : मैं ने तो पहले ही कहा था, मैं भी इस पर बोलूंगा। अब आप इस को धीरे टालते तो मैं तैयारी कर के आता। लेकिन अब मेरे मन में जो बातें हैं वह मैं बता देना चाहता हूँ . . . . (अबबबब) . . . . अब मधुर होगा या नहीं, यह आप की रुचि पर निर्भर करेगा।

अध्यक्ष महोदय, इस विधेयक के जो मकसद हैं वह इन्होंने विधेयक के साथ दिए हैं, और इस में उन्होंने कहा है कि इस का ट्रिब्यूनल निर्मित करने में उद्देश्य था कि :

" . . . . persons who have committed acts of fraud, misfeasance or indulged in malpractices and irregularities in the management of companies."

को दंडित किया जाय।

उद्देश्य तो बहुत अच्छा था लेकिन आपने यह कहे हैं :

"The Tribunal has not been able to make any impact either by injecting health in the corporate management or by building up a wealth of case law which could lay down standards and norms for the corporate sector of our economy as was hoped for when it was created".

अध्यक्ष महोदय, सब से पहले मुझे यह कहना है कि कम्पनी कानून विभाग जिस तरह से चल रहा है उस से मुझे बड़ा असन्तोष है। पिछले कुछ वर्षों से हर मंत्री के साथ यह विभाग बदलता रहता है। कृष्णमाचारी साहब के जमाने में यह किस मंत्रालय के साथ था। उस के बाद जब श्रीलाल श्रीवती बिल मंत्री हो गए तो पाठक साहब को यह बिना गया।

अब यह उद्योग मंत्रालय के साथ है। हम को तो ऐसा लगता है कि यह घूमता रहता है। नतीजा यह होता है कि कम्पनी कानून पर ठीक से ध्यान नहीं हो रहा है। इन्होंने कम्पनी ट्रिब्यूनल के काम में जो खिलाई हैं या जो बिलम्ब होता है उस का जिक्र किया। लेकिन मैं एक व्यापक सवाल उठाना चाहता हूँ कि यह जो पूरा कम्पनी कानून का मंत्रालय है यह इतना रही हो चुका है कि इस के सामने जितने मामले मैं ने पिछले तीन सालों में रखे हैं एक भी मामले को इन्होंने हल नहीं किया।

मुझे याद है सब कम्पनियों को मैं नहीं जानता लेकिन 1965 के अगस्त महीने में डेकन स्टेट्स को मामला मैं ने उठाया था। लगातार हर्ट समय में मैं उस पर सवाल देता हूँ और मुझे उत्तर मिलता है कि मंत्रालय जांच कर रहा है। अभी तक इस की जांच पूरी नहीं हुई। इसी तरह गैमन इंडिया कम्पनी है। जब पाठक साहब कम्पनी कानून मंत्रालय को उनके पास मैं ने इनकी एक वार्षिक रपट भेजी थी और उस रपट में आडिटर ने कहा था कि दस लाख रुपये की विदेशी मुद्रा एक घंटे से इन्होंने इंग्लैंड में रखी थी लेकिन कभी इस के जो हिस्सेदार हैं या कानून मंत्रालय है, रिजर्व बैंक है, इन को कभी इन्होंने इस का पता नहीं लगने दिया। बाद में जब आडीटर्स ने एतराज किया तो उस के बाद उन्होंने कबूल किया कि इस विदेशी मुद्रा को छिपाया गया था। तो इस की वार्षिक रपट के साथ सारा मामला मैं ने पाठक जी के पास भेजा था। अब पाठक जी भी चले गए; अब नये फलबहिन भली साहब धार्ये हैं। तो मैं यह जानना चाहता हूँ कि जब कम्पनी ट्रिब्यूनल के काम के बारे में यह खोज करने लगे हैं और यह विधेयक लेकर धार्ये हैं तो क्या और बुनियादी बातों पर भी सोचेंगे। और कम्पनी कानून मंत्रालय का जो सारा काम है उस के बारे में कोई विचार करेंगे। कभी कभी कुछ दिन पहले एक कां

## [श्री प्रभु सिन्घे]

बागान कम्पनी के बारे में मैं ने लिखा था और इन्होंने पाकिस्तान को सारे शेयर्स बेचने के नाम पर, जो हिस्सेदार लोग हैं उन को नूटा है। उस के बारे में कोई न कोई न्याय मिलना चाहिये। तो इस विधेयक के बारे में मैं इतना ही कहूंगा कि ट्रिब्यूनल को कायम करने के लिये हम ने नहीं कहा था, यह घाप ने कायम किया। घाप समझते हैं कि यह गलती हुई, उस को सुधारने के लिए घाप यह काम कर रहे हैं। तो दूसरी जो घाप को पचासों गलतियां हैं कंपनी कानून को लेकर क्या उस में भी सुधार साने को कोशिश करेंगे? जैसे राजनीतिक दलों को पंसा देने का मामला हम में है। उस में घाप सुधार करने का आवश्यकता नहीं समझते हैं। जो कि राजनीतिक भ्रष्टाचार का मूल है? तो उस को भी घाप खत्म कीजिये। कम्पनी कानून में जितने दोष हैं उन सभी दोषों को खत्म करने के लिये और कंपनी कानून मंत्रालय के काम को सुधारने के लिये कोई घाप डेम सुझाव देंगे तो उन पर हम हमदर्दी के साथ विचार करेंगे वरना इस तरह के बिल जल्दबाजी में पास करने का कोई नतीजा नहीं होने वाला है।

Mr. Deputy-Speaker: Now it is almost 4 O' Clock. Would you like to reply, because we have to take up the other business.

Shri M. Y. Saleem: Kindly consider rules 26 and 26. That will solve the difficulty. Only 2½ hours are allotted for private business. If the House continues till 7 O' Clock, till 4.30 you can proceed with this Bill.

Mr. Deputy-Speaker: Once, taking the sense of the House, I extended the time till 4. Now I do not think it will be proper. I would request the Minister to reply.

Shri F. A. Ahmed: Practically all the hon. members who were anxious to participate in this debate have taken part in it. I would have certainly liked to reply to many of the

observations made, but as my time is limited, I shall not deal with those matters at this stage. I would, however, like to correct the wrong apprehension in the minds of the hon. members that by bringing this amending Bill we are trying to take the power to the Government. That is farthest from our thought. Practically all the powers enjoyed by the tribunal are being handed over to the High Courts. I will appeal to the House to give me ten minutes. After all, ten minutes of my time was taken and so I request that ten minutes may be given.

Shri V. Krishnamoorthi (Cuddalore): He has already taken one minute. He should not take our time.

Shri Surendranath Dwivedy (Kendrapara): That is unusual so far as non-official business is concerned.

16 hrs.

Mr. Deputy-Speaker: I will request the Opposition that after the non-official business is over, the House will sit for half an hour.

Shri V. Krishnamoorthi: What is the urgency? Let him have it on Monday.

Shri F. A. Ahmed: Then, Sir, I have spoken; I shall not speak more if the motion is put to vote.

Mr. Deputy-Speaker: We will take a vote on this and finish with it.

Shri S. M. Banerjee: The practice is that when we take clause by clause consideration and if somebody wants to speak on the clauses, he should be given a chance. We should not be hustled. Otherwise, we can discuss it in the Central Hall. What is the use of discussing it here?

Shri V. Krishnamoorthi: We are going to have division.

Mr. Deputy-Speaker: If they demand a division, what happens? I would request the hon. Minister that

this can be taken up later on. We will take up non-official business now.

16.01 hrs.

**COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS  
FIFTH REPORT**

श्री हर प्रसाद देवगुण (पूर्व दिल्ली) :  
उपाध्यक्ष महोदय, मैं प्रस्ताव करता हूँ कि यह सभा गैर-सरकारी सदस्यों के विधेयकों तथा संकल्पों संबंधी समिति के पांचवें प्रतिवेदन से, जो 21 जून, 1967 को सभा में पेश किया गया था, सहमत है।

Mr. Deputy-Speaker: The question is:

"That this House agrees with the Fifth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 21st June, 1967."

The motion was adopted.

Shri S. M. Banerjee (Kanpur): The resolution of Mr. Nath Pai should have more time.

Mr. Deputy-Speaker: When we take it up for discussion, we shall see if it could be done not now. Bills to be introduced.

16.02 hrs.

**SALARIES AND ALLOWANCES OF MEMBERS OF PARLIAMENT (AMENDMENT) BILL\***

श्री नीतिराज सिंह चौबरी (होशंगाबाद) :  
उपाध्यक्ष महोदय, मैं प्रस्ताव करता हूँ कि संसद-सदस्यों के वेतन तथा भत्ते अधिनियम, 1954 में धार्मिक संशोधन करने वाले विधेयक को पेश करने की अनुमति दी जाये।

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the

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Salaries and Allowances of Members of Parliament Act, 1954."

The motion was adopted.

श्री नीतिराज सिंह चौबरी : मैं विधेयक को पेश करता हूँ।

16.03 hrs.

**CONSTITUTION (AMENDMENT) BILL—contd.**

(Amendment of article 368) by Shri Nath Pai

Mr. Deputy-Speaker: We take up Mr. Nath Pai's Bill now. Somebody wanted to raise a point of order.

Shri Lobo Prabhu (Udipi): I am raising a point of order.

Shri Nath Pai (Rajapur): You should not invite it. He should have risen.

Mr. Deputy-Speaker: He did. He has given notice.

Shri Lobo Prabhu: Sir, I raise a point of order that this Bill is ultra vires this House; it is against the Constitution; it is against the interpretation of that Constitution very recently in the Supreme Court. I would like to establish that the Bill is ultra vires by five propositions. My first proposition is that the Member in his Statement of Objects and Reasons states that confusion and doubt have arisen from this particular judgment. I wonder if the Member has perused the majority judgment which is quite clear and which lays down that....

Shri S. M. Banerjee (Kanpur): Sir, on a point of order. My submission is that he cannot raise this point of order now.

Mr. Deputy-Speaker: I think we must hear him first. He is on a point of order. I will give Shri Banerjee an opportunity. Have a patient hearing.