

session is very small. Today, we have already spent one hour on other matters, and this kind of thing happens more often than not. Therefore, I am afraid it may not be possible to extend the time. As for the House being extended, we cannot do that also. We have decided that only important and very urgent Bills and matters should be taken up. Unless the House is prepared to sit for late hours, it may not be possible to give more time.

श्री श्रीकारलाल बेरवा (कोटा) : खाद्य मिश्रण की बात मनुष्य के जीवन से सम्बन्ध रखती है।

श्री सत्य नारायण सिंह : कौन कता है कि नहीं रखता ?

Mr. Speaker: I would suggest to the hon. Members that let us have the motion as it is. The House has authority, and when we proceed with the Bill if we feel that the time ought to be extended, we can do it.

Shri Satya Narayan Sinha: This will not stand in the way of that.

Mr. Speaker: The question is:

"That this House agrees with the Thirtieth Report of the Business Advisory Committee presented to the House on the 18th September, 1964."

The motion was adopted.

12.55 hrs.

COMPANIES (AMENDMENT) BILL

The Minister of Planning (Shri B. R. Bhagat): I beg to move:*

"That the Bill further to amend the Companies Act, 1956, be taken into consideration".

I rise to move for the consideration of the Companies (Amendment) Bill, 1964, which was introduced in this House on the 7th September

As you are aware, this Bill seeks to replace the Ordinance which was promulgated by the President on the 5th July last with a view to giving temporary protection against victimization of the employees of any company during the course of the investigation of its affairs, true ownership and other related matters or during the pendency of any proceedings against any managerial personnel of that company before the tribunal constituted by Government under section 10A of the Companies Act.

It has been our experience that investigations of the affairs, true ownership and other related matters of companies under the provisions of sections 235, 237, 239, 247, 248 and 249 of the Companies Act cannot be effectively conducted unless there is full disclosure by their employees of factual information in regard to various matters to be scrutinised by the Inspectors appointed by Government. The employees are normally expected to furnish all the relevant information to Inspectors but more often than not, they are reluctant to disclose the full facts for fear of victimization by their employers. The attention of Government was pointedly drawn to this issue in connection with the current investigations into the affairs of certain companies where the Inspector had to face serious difficulties on account of the hesitation of the employees to give the required information to him for fear of disciplinary action by their employers. Similar difficulties were also anticipated in connection with collection of facts by Government for referring to the tribunal under section 388B of the Companies Act, cases of fraud, misfeasance etc. against the managerial personnel of the company.

Moved with the recommendation of the President.

[Shri B. R. Bhagat]

There was no provision in the Companies Act to meet such an eventuality, and as it was apprehended that some of the companies whose affairs were under investigation might take action against their employees if they disclosed full information to the Inspectors, Government considered the matter carefully and felt that an amendment of the Companies Act in order to provide some measure of protection to the employees of such companies was a matter of extreme urgency. Accordingly, Government promulgated an ordinance as has already been stated by me at the outset.

The amendment of the Companies Act which the Bill seeks to effect is by way of introducing a new provision known as section 635B which provides *inter alia* that if during the course of investigation by an Inspector or during the pendency of any proceedings before the Tribunal a company proposes to discharge, dismiss or otherwise punish any employee, the company shall send to the Company Law Board previous intimation in writing of the action proposed against the employee, and if the Company Law Board has any objection thereto, it shall send notice of objection in writing to the company. If, however, the company does not receive within thirty days of the sending of the previous intimation of the action proposed, any notice of the objection from the Company Law Board, then the company may take the proposed action against the employee. If the company is dissatisfied with the objection raised by the Company Law Board, it may within thirty days of the receipt of the notice of the objection prefer an appeal to the Tribunal and the decision of the Tribunal on such appeal will be binding on the Company Law Board as well as on the company.

I need hardly say that the scope of this Bill is very limited, and I have little doubt that it will find ready acceptance by the House. I may assure the House that the question of the Company Law Board objecting to

the action proposed to be taken by a company against any of its employees will arise only where in the opinion of the Board the reason for the proposed action against the employee concerned might be on account of the disclosure by him to the Inspector or any other officer of Government of information relating to the affairs of the company. Even where the Company Law Board raises any objection to the action proposed to be taken by a company, body or person concerned, the latter has a right to prefer an appeal to the Tribunal and the decision of the Tribunal on such appeal shall be binding on the Company Law Board.

With these words, I move that the Bill be taken into consideration and be passed.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Companies Act, 1956, be taken into consideration."

Shri N. Dandekar (Gonda): I have the honour to move the amendments which I have given notice of jointly with Shri M. R. Masani. . .

Mr. Speaker: Amendments could be moved later on.

Shri Dandekar: As you please.

Mr. Speaker: Now, he might make his comments in the general discussion.

Shri N. Dandekar: Generally, I am in support of the principles of the Bill and the protection that it seeks to give to the employees of companies whose affairs are either under investigation or against whom proceedings are pending, as the hon. Minister has stated just now. I shall speak on one or two small points later on.

Mr. Speaker: He can also make a brief reference to the provisions where he wants to make an amendment.

Shri N. Dandekar: I am not familiar with the procedure yet, and that was why I thought that I had to speak about the amendments later.

13 hrs.

There are, Sir, two or three matters concerning which I feel it is necessary to move amendments. The main purpose is clear enough, that employees of companies who are in a position to give information to investigating inspectors or to tribunals in proceedings under Chapter IV of Part VI of the Act ought to have protection so that they may feel free to give out such information as they may be aware of or may be in their possession. But the difficulty about this kind of overall protection is that we have also to take into consideration the fact that there are not merely "informants" but also informers. This is one of the great difficulties in matters of this kind, that while giving protection to genuine informants, protection is also unwittingly given to what may be called informers who, of course, are quite a menace, whom nobody wants to countenance or protect. The fact is that genuine informants need protection from bad managements of companies who might prejudice their employment and might, therefore, prejudice the investigation. On the other hand, reasonably good employers ought not to be subjected to victimisation by informers, because this is a breed which unfortunately also exists in considerable numbers.

After giving a good deal of thought to this matter, agreeing with the general principles, the purposes of the amendments which I shall move later are these. First of all, I think it is necessary to define with some precision as to when exactly the proceedings can be said to have commenced, and when exactly investigations can be said to have commenced. Secondly, it is necessary with some precision to state when exactly investigations and proceedings have come to an end, so that it is clear both to the employers as well as to the employees

that the period of protection is a specific period commencing from a particular point of time and ending at a particular point of time.

The second principle in the amendments I shall be proposing is concerned with limitation of the duration of this kind of moratorium on disciplinary action against employees. This House has on many occasions and on many other matters always expressed the view that investigations and proceedings or action resulting from investigations must be expeditious. From this particular point of view as well, I feel that the general situation of freezing everybody into his job which is necessary in principle ought, nevertheless, to have a limit as to duration. One of the amendments I have given notice of is concerned with putting an overall limit to this moratorium or embargo on disciplinary action against employees.

Otherwise, the only other comment I have in general about the Bill is this. I said the other day that one of the characteristics of legislation of late has been the ousting of the jurisdiction of courts and the conferring of tremendous powers upon executive bodies and tribunals. Here in this particular case, sub-section (4) of the proposed new section to be inserted in the Act, says that the orders of the tribunals on such appeal shall be final and binding. This is an example of the ousting of the rule of law. I submit there is no justification for continuing legislation of that kind where jurisdiction of courts is ousted, the rule of law is ousted, and we will have powers delegated virtually to what are executive or semi-executive-cum-judicial tribunals. Here the point of principle I have raised is this that I do not think *carte blanche* powers of that kind, from which the subject has no right of appeal to an independent judiciary, ought to be given in punitive legislation of this kind.

Subject to these comments, I am generally in favour and in support of this measure. At the appropriate stage, I shall move my amendments.

Shri Prabhat Kar (Hooghly): As the hon. Minister has stated, this Bill is for a limited purpose. I support it as far as it goes. But I find that the provisions in the Bill fall short of the main object of the Bill. The statement of objects and reasons says that 'investigations of the affairs, true ownership and other related matters of companies cannot be effectively conducted unless there is full disclosure by their employees of factual information in regard to various matters to be scrutinised by the Inspectors appointed by the Central Government'. Here is a categorical statement that any inquiries that might be made may be completely frustrated unless the co-operation,—and co-operation without fear of victimisation—of the employees was forthcoming.

The purpose of giving protection is to see that the investigator is in a position to be in possession of facts about the inquiry he is making. It is common knowledge, that considering the unemployment situation in the country, many of the employees are forced to conceal things or are not strong enough to give out various things, being afraid of losing their jobs. It is the practice of the monopolists with the power of the money they have at their hands to keep in control this honest section of people who otherwise would have come out and given full facts to the inquiring officer. Unless protection is granted to this section of employees, any inquiry will be completely frustrated.

What is being done here? It is a temporary protection sought to be granted. It has got its limitations. An employee gives out a fact. After that, the inquiry is over. The company may be found to have committed a breach and for that it may be punished, to that extent. Shri Dandekar wanted a specific period of protection, commencing at a particular point of time and ending at a particular point of time. After that period is over, after the inquiry as a result

of which the company was punished is over, after the proceedings are over, the company is free to discharge that man—for his having helped the inquiry officer. That right is being granted under this amendment.

What is the intention? The intention is to see that the information comes and must come in such a way that the person giving the information gives it very nicely—Shri Dandekar has put in two words 'informant' and 'informer'—and he is protected. The genuineness of the information was also referred to. All these things have got specific meanings in relation to the information so far as the employer and the employee are concerned. It is just not a word to be understood in the context of the specific dictionary meaning. It has got a specific connotation in relation to labour relations.

Today what happens? There is the Industrial Disputes Act, where 'workman' has also been defined. Today looking into the present state of affairs, the provision, the remedy under the Industrial Disputes Act could not be made applicable in the case of an employee who is supposed to be an officer, a departmental-in-charge or sectional-in-charge, who will be the person who will be in the know of everything, if he draws an emolument of over Rs. 500. So, the union cannot protect him. These are the persons who really are afraid of losing their jobs. They cannot come forward, and no protection is given to this kind of employees who will be most helpful in this sort of enquiry. Once the enquiry is over, these persons can be dismissed or discharged, and nothing can be done. That is exactly the protection that has been given, because it is said that during the pendency of the enquiry, before they can be dismissed or discharged, the company must write to the Company Law Administration.

I was rather sorry to find a defensive statement made by the Minister,

assuring the company managements, the big capitalists, that the Company Law Administration will not interfere with their right to deal with the employees in any manner they like. He made it quite clear that the Company Law Administration will interfere only where it is satisfied that the dismissal is due to the information given to the enquiry officer. You know its importance in any legal proceedings, because the dismissal will be couched in such a manner that it will be very difficult for a third party to find out what the real reason is.

So far as the ordinary employees are concerned, no doubt their union will agitate, and it will not be such an easy job for the employer to dismiss them.

Shri B. R. Bhagat: You have answered your own question.

Shri Prabhat Kar: But this section of the employees are not covered by the Industrial Disputes Act. Generally, they are doing ordinary clerical jobs, but with honoured positions and emoluments of Rs. 600 to Rs. 700. These are the persons who will be very helpful in this type of enquiry, and they will be left at the mercy of the employer. Being apprehensive, quite rightly, that the protection is only limited to the period of the enquiry, they will never come forward, because there is no protection thereafter, after the enquiry is over. It is wishful thinking on the part of the Ministry that they will be able to find out the malpractices by these enquiries, with only this much of protection to the employees. Their intention can never be realised.

I may here give one or two examples. This Parliament discussed the Vivian Bose Commission's report, and while speaking on the report, I pointed out certain things. We had made charges against Dalmia who was owning the Bharat Bank, and we had sent a memorandum to the Governor of the Reserve Bank in 1949-50. Having failed to secure justice, we sent a memorandum to the AICC

which was meeting at that time. In my speech I quoted paragraphs from the Vivian Bose Commission's report to show that all the things that we had enumerated in our memorandum in 1949-50 had come out to be true, but because steps were not taken in time, the Bharat Bank has gone into liquidation, and 700 employees are moving in the streets because of the malpractices of one section of the employers. So, today if you want to take steps, you have to give them immunity. They are giving information to the Government, to the inspector, it is an information given in complete secrecy, and if you cannot protect them for all time to come, instead of giving this temporary protection during the pendency of the enquiry, it is not going to help.

I may give another example. Today, so many cases have been filed against H. D. Mundhra for contravention of Foreign Exchange Regulations. This has come about by the action of the employees. Representations were made, and a memorandum was sent to the Governor of the Reserve Bank as early as 1955-56, but no steps were taken, but because Mundhra wanted to have a deal with the public sector and it was found out what type of industrialist or business magnate he was, today you find so many cases going on against him. So, if the Government is serious about the fulfilment of its objective, if it wants that the investigations should be properly conducted so that the misdeeds and malpractices are found out, this protection must be given to the employees not temporarily, but permanently.

So far as the companies are concerned, there is going to be no harm, because the information will be given in secrecy, in private correspondence or in personal talk with the inspector or other officers; it is not going to be publicised, and therefore, it cannot create any difficulties for the company.

So, as I said in the beginning, the Bill is for a limited purpose, no

[Shri Prabhat Kar]

doubt, but this limited purpose will not serve the main objective. It is good so far as it goes, and I support it, but Government must encourage information being given, instead of making defensive statements assuring the companies that they will not be interfered with, because it is for an important purpose. It is not only for an important purpose, it is for a national purpose, because it will do good to the people.

So, full protection must be guaranteed to the section of employees I referred to, who will give information to the enquiry officer.

With these words, I support the Bill.

Shri Heda (Nizamabad): I am glad to note that the Bill has got support from all sections of the House. It was gratifying to find that even the spokesman of the Swatantra Party has given his support, though from the latter part of his speech and the amendments that he is moving, it is quite clear that the support is qualified.

The urgency of this legislation, or these powers taken by the Government, is clear from the fact that it was promulgated through an ordinance on 5th July, 1964. Two and a half months have elapsed. I had made a plea on an earlier occasion that when there is an adequate time lag between promulgation of an ordinance and the Bill coming before the House, it would be good if the Minister gave data to the House by which we could find out how beneficially the legislation or the powers taken by Government had been used, or had become helpful to them. If such information is given, though it may not be full or exhaustive, the need of the Bill would be clear, and no more arguments would be required.

I find that Government generally takes powers, but having taken the power, does not use it fully. Many a time it has been our experience

that Government have taken vast powers, but those powers are not used in the interests of the nation, in discharging their duty towards the country.

13.20 hrs.

[MR. DEPUTY SPEAKER in the Chair]

We feel that taking powers is more a matter of formality. Why do I say so? It is like this: Even under the existing law, Government have got vast powers. We feel that these powers are not being used. It is like a rich woman, having a large quantity of jewellery in the locker in her possession, visiting the jeweller's shop every week and purchasing more pieces of jewellery, knowing that they may not be used at all or they may be used rarely. Just like her, the Government come forward and go on taking the power and do not use it.

When they take the power they should take the precaution that they can use the power adequately and fully. They should see that no lacuna is left or not loopholes are left. When they exercise that power, some other consideration comes in and they say: this we cannot do or that we cannot do and therefore action could not be taken. Even here what Government is doing is also half-hearted in the sense that it is not an appeal to the conscience of the employees to become bold and give information; it has not made them aware of their responsibilities towards the nation in disclosing facts and thereby helping the nation. There are two lacunae which I submit for the hon. Minister's consideration.

Firstly, I do not think that while the investigation is going on any company or any management will go to the Company Law Board with the plea that they would like to take such and such action against so and so employee. They are very intelligent people. They will first try to find the mind of the Company Law Board and if they feel that it is not feasible they

will not approach it at all; they will keep quiet. And when the enquiry or investigation is over and when they become masters again, they might take action and there is no protection to the employee at this stage. The employee is thinking of his own life and he is not thinking of a month or six months period in which the investigation or enquiry will be going on. He would be thinking of his life, particularly in the present hard times when any employment is not so handy, when unemployment looms large on thousands and thousands of educated persons.

Secondly, in the private service already there is no security of service. Therefore, I do not think that government can do it by this type of legislation. Some assurance should be given by the Minister that if any employee is victimised at any stage because he heard the call of his conscience and tried to help the Government or enquiry or investigation and therefore at some stage or the other, maybe, after a year or two years or five years he is victimised, then he should be provided with some alternative job. We have got so many public sector projects. In fact Government itself is coming in the field as one of the big employers in the corporate sector. Some assurance that the interests of employees who help in finding out the black sheep will be kept in view, should be given. If that is done, they will not be so apprehensive of his future in these hard days when employment is not so handy or opportunities are not so adequate.

Shri Dandekar referred to one factor. He has stated that the tribunal's decision was made final and thereby we have taken away the jurisdiction of the courts. This means depriving a company or a private employer from approaching the judiciary and getting justice. I was also feeling on these lines for many years but my own experience is that the private sector is very happy with the tribu-

nals! In fact they feel rather that instead of going to the courts, it is better to settle matters with the tribunals or even at earlier stages. They feel so and in a number of cases such as income-tax and other cases too. Therefore, I do not think there will be any real and valid objection from any company or individual to this provision. By experience hardly we will feel that here was a case where he could have gone to the High Court or even to the Supreme Court.

As I stated earlier, the responsibility of the employees had not been stressed. The Bill is more or less an appeal to the conscience to voluntarily come forward and offer information and help in the investigation. There should have been some provision by which he would have been made aware of his responsibilities and there should be some provision so that he is assured that his interests would be safe and security of service would be safe, not in the same company because it will be difficult for him to work in the same company under the same management even if he is given the same pay and all that. If something of this type is done, then alone the object of this Bill will be achieved.

Again, in the end, I say this. Whenever such a legislation comes, which is based upon promulgation of an ordinance and when there is a good time-lag between its promulgation and passing by this House, in such cases the benefits that accrued and the advantages that the Government got should be mentioned; some idea about them should be given saying: this ordinance was promulgated on such and such date and since then we got these benefits or it helped us in this way and so on. With these remarks, I fully support the Bill.

श्री बड़े (खरगोन) : माननीय उपाध्यक्ष महोदय, मैं इस कम्पनीज (एम्प्लॉयमेंट) बिल को सपोर्ट करता हूँ। इस बिल का मुख्य उद्देश्य

[श्री बड़े]

यह है कि "इयूरिंग दि पेंडेंसी आफ एनी प्रोसीडिंग एगेंस्ट एनी पर्सन कन्सर्न्ड इन दि कन्डक्ट एंड मैनेजमेंट आफ दि एफेयर्स ऑफ़ ए कम्पनी" उस कम्पनी के एम्प्लॉईज़ को प्रोटैक्शन दिया जाय। जब किसी कम्पनी के खिलाफ़ कोई एन्क्वायरी चल रही हो, तो उस अवधि के लिए एम्प्लॉईज़ को प्रोटैक्शन दिया गया है, अर्थात् उन एम्प्लॉईज़ को टैम्पोरेरी प्रोटैक्शन दिया गया है। इस का मतलब यह है कि यह प्रोटैक्शन इम्प्लॉई, नौकर या कामगार के लिए नहीं है, बल्कि गवर्नमेंट ने अपने लिए यह प्रोटैक्शन रखा है, क्योंकि किसी एन्क्वायरी में मजदूर आगे नहीं आते हैं और एसी आशंका पैदा होती है कि उन को विक्रिमाइज़ किया जायेगा—एसे उदाहरण भी मौजूद है—और इस प्रकार गवर्नमेंट हैडीकैप्ड होती है, इसलिए "इयूरिंग दि पेंडेंसी आफ़ एनी प्रोसीडिंग" यह प्रोटैक्शन दिया गया है। उस के बाद क्या स्थिति होगी, इस विल में इस के बारे में कोई प्राविजन नहीं दिया गया है। एक महिला ने भगवान से पुत्र मांगा। पुत्र उसको मिल गया लेकिन वह अंधा, लूला और लंगड़ा था। उस महिला ने भगवान से कहा कि मैंने अंधा, लूला, लंगड़ा पुत्र नहीं मांगा था, मैंने तो अच्छा पुत्र मांगा था। भगवान ने कहा कि तुम ने ऐसा कहा कहा था कि तुम्हें अच्छा पुत्र चाहिये। इसी प्रकार से यह कानून है। जो कानून बनाया जा रहा है, यह लंगड़ा है, लूला है और अंधा भी है। इसके उद्देश्यों में कहा गया है :

"in order to give temporary protection against victimisation."

अगर आप टैम्पोरेरी प्रोटैक्शन ही एम्प्लॉयी को देना चाहते हैं, किसी मजदूर को देना चाहते हैं तो मैं समझता हूँ कि कोई भी मजदूर ध्यान देने के लिए सामने नहीं आयेगा। अगर आप दरअसल में कुछ मजदूरों के लिए करना चाहते हैं, एम्प्लॉयीज़ के लिये करना चाहते

हैं, उनको प्रोटैक्शन देना चाहते हैं, तो आपको देखना होगा कि आखिर उसको निकालने का उद्देश्य क्या है? अगर आज इनक्वायरी चल रही है तो इसके दौरान में तो आप ने उसको प्रोटैक्शन दे दिया लेकिन अगर उसको बाद में जब इनक्वायरी खत्म हो जाती है, उसको निकाल दिया जाता है, तो उसके लिए आपने मजदूर को कहां कोई प्रोटैक्शन दिया है? बाद में भी उसको प्रोटैक्शन मिलना चाहिये। अगर बाद में भी आप उसको प्रोटैक्शन नहीं देते हैं और इनक्वायरी के दौरान में ही देते हैं, तो इससे मजदूर को कोई फायदा नहीं होगा, फायदा केवल गवर्नमेंट को होगा, पूंजीपति का होगा, मिल मालिक का होगा, कम्पनी का होगा। इस कानून को पास करके गवर्नमेंट केवल यह बतलाना चाहता है कि मजदूर के लिए भी वह कुछ कर रही है, लेकिन वास्तव में मजदूर के लिए कुछ नहीं किया जा रहा है।

आगे प्रोविजन किया गया है कि कम्पनी ला बोर्ड को कम्पनी वाले नोटिस भेजेंगे कि हम फलां फलां आदमी को निकालना चाहते हैं। अगर बोर्ड का जवाब तीस दिन के अन्दर नहीं आयेगा तो इस में प्रोवाइड किया गया है कि कम्पनी उस आदमी को निकाल सकती है। इसका मतलब यह होता है कि तीस दिन तक मामले को पेंडिंग रखा जा सकता है और उसके बाद उस आदमी को निकाला जा सकता है। इस तीस दिन में जो बड़े बड़े पूंजीपति हैं और जिन का प्रभाव शासन पर होता है, वे टेलीफोनिक मैसेज दे कर या किन्हीं और तरीकों से शासन पर प्रभाव डाल कर यह कह सकते हैं कि तीस दिन तक जवाब न भेजा जाये ताकि वे जिन को निकालना चाहते हैं निकाल सकें। अगर कम्पनी ला बोर्ड आबजै-कशन रोज़ करता है और कहता है कि तुम नहीं निकाल सकते हो उस एम्प्लॉयी को जिसे तुम निकालना चाहते हो, तो कम्पनी ट्रिब्यूनल के सामने अपील कर सकती है और वहां पर अगर फैसला उसके हक में हो जाता है तो उस एम्प्लॉयी को निकाल सकती है। मैं चाहता हूँ

कि इसी तरह से अपील करने का अधिकार एम्पलायी को भी दिया जाना चाहिये । उसको अधिकार होना चाये कि वह ट्रिब्यूनल के पास जा कर अपील कर सके, अगर बोर्ड से जवाब नहीं आता है तो ट्रिब्यूनल के पास जा कर कह सके कि चूँकि जवाब नहीं आया है, इस वास्ते उसे निकाला नहीं जाना चाहिये । इस तरह का अधिकार एम्पलायी (मजदूर) को न दे कर उसके प्रति अन्याय किया गया है । अगर वह ट्रिब्यूनल के पास अपील करना चाहता है तो ऐसा कोई प्रोविजन नहीं है जिसके अधीन वह अपील कर सके । जिस प्रकार से कम्पनी अपील कर सकती है, जिस प्रकार से कैपिटलिस्ट अपील कर सकता है, उसी प्रकार से मजदूर को भी अपील करने का अधिकार दिया जाना चाहिये था । अगर कम्पनी ला बोर्ड ने कहा है कि ऐसे कारण विद्यमान हैं जिन की वजह से किसी मजदूर को निकाला जा सकता है, किसी कामगार को निकाला जा सकता है तो पूंजीपति उसको निकाल देगा और उसका यह आर्डर फाइनल होगा और इसके खिलाफ कामगार को अपील करने का कोई अधिकार नहीं रहेगा । कम्पनी ला बोर्ड का जजमेंट उसके लिए फाइनल है । अगर कम्पनी ला बोर्ड आबजैकशन रज करता है तो एम्पलायर के पास अपील करने का रास्ता खुला हुआ है और यह ट्रिब्यूनल के सामने जा सकता है और अगर वहाँ भी उसके खिलाफ फैसला होता है तो वह चीज तब तक के लिए ही फाइनल होगी जब तक इनक्वायरी चल रही होगी । लेकिन उसके बाद अगर मालिक कामगार को किलना चाहे तो आपने उसके लिए क्या प्रोटैक्शन (संरक्षण) रखा है ? इनक्वायरी के दौरान में तो शासन को कामगार की मदद चाहिये और चूँकि वह नहीं मिलती है, इस वास्ते यह कानून आप बनाने जा रहे हैं । एक दो या तीन महीने तक, जब तक इनक्वायरी चलती है तब तक तो वह उसको निकाल नहीं सकेगा लेकिन उसके बाद यह जो कानून है यह स्कैप थ्राफ पेपर होगा, इसका कोई असर

नहीं होगा, और जो पूंजीपति है वह उस कामगार को निकाल सकता है । जो मजदूर है, जो कामगार है, वह कहीं भी अपील नहीं कर सकता है और उसको किसी भी प्रिटेक्ट पर, मिस कंडक्ट के प्रिटेक्ट पर या किसी और कारण से जब चाहे कैपिटलिस्ट (पूंजीपति) निकाल सकता है । चूँकि हमारे जो मिनिस्टर लोग हैं, ये कैपिटलिस्टों (पूंजीपतियों) के इनफ्लुएंस (प्रभाव) में हैं, क्योंकि उनके द्वारा दिये गये चर्दों से ये जीत कर आये हैं, इस वास्ते ये टेलीफोन कर सकते हैं, मैसेजिज भेज सकते हैं कि कोई आबजैकशन न करे, और कैपिटलिस्ट को जिस कामगार को वह निकालना चाहता है, निकाल लेने दो । इस वास्ते मैं कहना चाहता हूँ कि इनक्वायरी (तहकीकात) के बाद भी मजदूरों को प्रोटैक्शन (संरक्षण) दिया जाना चाहिये ।

एक मिल का उदाहरण मुझे मालूम है । मैं आपको बतलाता हूँ कि किस तरह से किसी मजदूर को निकाला जा सकता है । एक मजदूर को इस आधार पर निकाल दिया गया कि उसने यूनियन में जा कर चुगली खाई थी, मनेजमेंट के खिलाफ वह बोला था । लेकिन चूँकि इस आधार पर वह निकाला नहीं जा सकता है, इस वास्ते उसको निकालने का दूसरा ही तरीका सोचा गया । उसके धैले में डेढ़ दो गज कपड़ा डाल दिया गया । जब वह जाने लगा तो गेट कीपर ने उसको पकड़ा और पूछा तुम्हारे धैले में क्या है । जब उस में से कपड़ा निकला तो इस आधार पर उसको पकड़ लिया गया कि उसने यह कपड़ा चोरी किया था । वह बहुत चिल्लाया कि उसने चोरी नहीं की है लेकिन उसकी कोई सुनवाई नहीं हुई । इंडस्ट्रियल कोर्ट में भी वह गया लेकिन वहाँ भी उसके हक में फैसला नहीं हुआ । आप देखें कि असली कारण निकालने का यह नहीं था । चूँकि उसने चुगली खाई थी, इस वास्ते कोई दूसरा ही रास्ता ढूँढ़ कर उसको निकाल दिया गया । अब भी यह कह कर उस कामगार को निकाला

[श्री बड़े]

जा सकता है जिसने इनक्वायरी (तहकीकात) में सरकार की मदद की होगी कि इसने मिमबिहेव किया है, अधिकारियों के पास जाकर झगड़ा किया है, काम नहीं करता है। लेकिन इस सब के पीछे जो मोटिव (उद्देश) रहता है, जिस वजह से उसको निकाला जाता है, वह यह होता है कि उसने गवर्नमेंट की मदद की थी। इस वास्ते मैं कहना चाहता हूँ कि जहाँ आपने एम्प्लायर के लिए अपील का प्राविजन रखा है, वहाँ एम्प्लायी (मजदूर) के लिए भी अपील का प्राविजन आपको रखना चाहिये। अगर कम्पनी ला बोर्ड और कम्पनी किसी कामगार को निकालना चाहें तो मजदूर को हक होना चाहिये कि वह ट्रिब्यूनल के सामने जा कर अपील कर सके।

कानून का उद्देश्य तो अच्छा है लेकिन इसकी जो प्राविजंज है वह टैम्पोरेरी पीरियड के लिये ही लागू होगी, इसका अर्थ यह होता है कि यह लिल उस लड़ते के नमान है जो लंगड़ा, लूला और काना था।

श्री हिम्मतसिंहका (गोडडा) : लड़का भी चाहते हैं और यह भी चाहते हैं कि वह अमर रहे?

श्री बड़े : अच्छा चाहते हैं, सदगुणी चाहते हैं, अमर चाहते हैं।

Shri V. B. Gandhi (Bombay Central South): Mr. Deputy-Speaker, Sir, it seems to be the view of the Government that they are not able to obtain full disclosure by the employees of companies whose affairs are under investigation: the disclosure of factual information. It is, therefore, the proposal of the Government that there should be a provision in the Companies Act to the effect that during the pendency of any investigation and also during the pendency of any proceedings before the tribunal, the company will not take any action such as discharging an employee or punishing an employee, whether by dismissal, reduction in rank or otherwise.

We can have no objection to supporting this Bill as far as it goes, but it does not go far enough. I do not think that this Bill, the way in which it is framed here and offered to us, is the right remedy for the difficulties that Government are experiencing in the matter of obtaining disclosure of full information. What is the object of this Bill? It is to provide some kind of a temporary protection against victimisation by the employers in case the employees disclose to the inspector, information which is not in the interests of the employers. In the first place, if at all there is to be any idea of giving any kind of protection, that protection cannot be worth much if it is only going to be temporary. It must be permanent. I cannot conceive of any scheme under which a permanent protection can be granted to any employee. Therefore, there is a real difficulty as to what action Government can really take.

श्री हुकम चन्द कछवाय : (देवास) :
उपाध्यक्ष महोदय, हाउस में कोरम नहीं है।

Mr. Deputy-Speaker: The bell is being rung—now there is quorum. He may continue.

Shri V. B. Gandhi: In my view, the kind of protection that is being offered to the employees is not going to be very helpful. It is not going to help the employees because, after all, they will be constantly thinking of what is likely to happen to them when the protection is lifted and when the employers have a chance to deal with them for their disloyalty, if it is considered as disloyalty in the view of the employer. Therefore, as I said, I personally do not find any way in which both the things can be met; it is not practical.

The former speaker who preceded me has referred to this point very pointedly. I was expecting to find some kind of a scheme properly made out in the speech of the Minister as

to what kind of temporary protection this is going to be. To repeat, I do not think, knowing human nature as we do, that this kind of temporary offer of protection is going to enthuse the employees. It is only natural that their reluctance is going to continue and they will still be having the fear of victimisation after the protection is over.

It is not as if there is not enough provision in the Act itself to bring out a fuller disclosure of information in the cases of companies whose affairs are under investigation. There is, for instance, a provision in Section 240, which says:

"It shall be the duty of all officers and other employees and agents of the company....

- (a) to produce to an inspector all books and papers of, or relating to, the company...." etc.

It further says: that it shall also be their duty "otherwise to give to the inspector all assistance in connection with the investigation". The inspector also has the authority to examine on oath any of the persons referred to in sub-section (1). The inspector also can declare the failure and make an application to the court to hold an enquiry, if he so decides. There is also provision of punishment for disobeying an order of the court and the inspector. That punishment can be imprisonment or fine or both. These are all fairly adequate provisions which should be properly utilised.

If any person fails without reasonable cause to produce to an inspector any book or paper, the inspector may make an application to the court to hold an enquiry into the case. Then, there is section 240A, which was only recently incorporated in the Act in 1960. That section provides that the inspector has authority for seizure of documents. The inspector can make an application to the magistrate for an order for seizure of books and

papers, enter a place, search a place and also seize books. These are all powers which are quite adequate if they are properly utilised.

As I said, the Bill presents a dilemma that the protection proposed is only going to be temporary and nothing short of permanent protection is going to be of much attraction to the employees. As I said, even though I am not very enthusiastic about the present proposals, I support the Bill so far as it goes.

Shri Umanath (Pudukkottai): Mr. Deputy-Speaker, Sir, this Bill is purported to protect employees coming forward to disclose information from any act of victimisation by the companies whose affairs are being investigated by the inspectors under the Companies Act. The aim is laudable. But the provisions in the Bill show that the Government is not at all serious about protecting the employees, in fact.

First of all, the Bill makes it clear that the protection is limited to the duration of the pendency only. The Bill disowns all responsibility to protect the employee, if he is victimised after the investigation is completed. In view of this position, if any employee, innocently relying on the strength of the provisions of this Bill, discloses any information, first of all he will be black-listed for life. The management will lie low and the moment the pendency is over they will pounce on the employee with all fury and dispense with him under one pretext or another. And, pretext is a commodity which is never in shortage as far as our country is concerned. At that time, the helpless employee will be like a mouse in the paws of a lion while the Government will be simply looking on.

This has been my experience, as a trade unionist, in the field of industrial relations, where a ban on action against employees was conferred by the Industrial Disputes Act during the pendency of any dispute before

[Shri Umanath]

a Tribunal. There it is a question of a worker having to face it inevitably in defence of his union and his demand. But here it is meant to attract voluntary disclosure of information by the employees. Let me make it clear that no employee or officer would bargain for this fate. Let not the Government strike a snake and leave it; if you strike, then strike it to the finish.

The so-called provisions of protection even during pendency are illusory, because if we read section 635-B(b) (i) and (ii) it says:

"(a) during the course of any investigation

(b) during the pendency of any proceeding against any person concerned in the conduct of and management of the affairs of a company under Chapter IV A of Part VI,

such company, body or person proposes—

(i) to discharge, or

(ii) to punish, whether by dismissal, removal, reduction in rank or otherwise."

What it seeks to prevent is "actions by way of punishment". Actions which are not by way of punishment fall outside the purview of this clause. There are thousand and one ways in which the workers can be victimised and yet escape the provisions in this clause. For example, a management can suspend an employee pending a domestic enquiry. The courts have invariably held that such suspension pending enquiry is not a punishment and cannot be interfered with. The action that may be proposed after the enquiry alone constituted punishment. Under these circumstances, the company can keep an employee under indefinite suspension under the plea of pendency of enquiry, thus subjecting him to semi-starvation and demoralisation, and yet escape the provisions of this Bill saying that the question of punishment or no punishment would arise only on the completion of the

domestic enquiry, which they would purposely prolong. They can effect transfer of such employees to far off places and from place to place, not as a measure of punishment but under the pretext of administrative reasons. The purpose of victimisation would be successfully served, and yet there is no provision in this Bill to protect the employee.

Shri Himatsingka: The Industrial Disputes Act will give them protection.

Shri Umanath: I will come to that. The employee can be overlooked in the matter of promotions, not as a punishment but under the false plea of unsuitability, and yet the provisions of this Bill will not be attracted. Lastly, he can be retrenched, not as a measure of punishment but on some false plea of administrative requirement and yet the provisions of this Bill will not protect him.

It may be said that the Industrial Disputes Act lays down the principle "last come first go" and that the concerned employee has remedy. But let it be remembered, Sir, that it cannot be raised as a dispute under the Industrial Disputes Act if a union does not take it up—it must be collective and no individual can take it up. Large sections of employees and officers who possess the facts required by the inspectors have no unions and as such they will be condemned once for all, even if the retrenchment is illegal. Even if they have legal remedy it will mean a long time to get through the dispute. It will mean unemployment and poverty for the duration and legal expenses, all of which such employees will never bargain for.

All this can happen during the pendency of the investigation under the Companies Act, and this Bill permits all these actions of victimisation since they fall beyond the purview of the word 'punishment' specified in the Bill, and yet the Government wants us to believe that the Bill seeks to protect the employees.

If the Government were not aware of these methods of victimisation at the time of drafting of the Bill, they could have consulted the representatives of central trade unions in this country, who are in the know of things, and taken them into confidence. By this conduct, the Government has turned its so-called appeals for labour co-operation into a sheer farce.

Replying to the No-confidence Motion, the Prime Minister declared that his Government stands for extending benefits of their socialism to the weaker sections, namely, workers, peasants and middle class. Yet his Government is not prepared to extend even the benefit of consultation to the employees even in a matter, which they proclaim, is meant to protect them from victimisation. Is it not clear from this that the Prime Minister's declaration has been demagoguery pure and simple? Perhaps this Bill is meant to be a jewel in their crown rather than real protection to employees. But let it be realised that it is artificial diamond and is bound to lose its lustre before long.

Shri P. C. Borooah (Sibsagar): Mr. Deputy-Speaker, Sir, the purport of this Bill is the insertion of section 635B in the Companies Act, 1956. The purpose of this section is to give protection to employees having information about company's affairs which is necessary to the Company Law Board for successful investigation.

It is true that the investigation of the affairs of a company, investigation of its true ownership and of such other relative matters, cannot be effectively conducted unless the employees co-operate and make full disclosure of their factual information before the investigating officers. So it is very necessary that protection is given to the employees from being victimised, and it is only in the fitness of things that such a provision should be there in the Company Law Act itself.

In the Statement of Objects and Reasons it is said:

"In order to give the employees of the affected companies temporary protection against victimisation in such cases it has been considered necessary to make a suitable provision in the Companies Act that no company can discharge or take any other action against any of its employees during the investigation of its affairs . . ."

It reveals from the Statement of Objects and Reasons that the proposed measure has a limited purpose of protecting an employee from victimisation for his disclosing the factual information to the investigating authority and not for other acts of indiscipline, misconduct etc. But the Bill as worded does not remain there. It goes beyond the Objects and Reasons of the Bill. In substance, the Bill states:

"If such a company proposes:—

- (i) to discharge or
- (ii) to punish, whether by dismissal, removal, reduction in rank or otherwise,

any employee, the company, body or person, as the case may be, shall send by post to the Company Law Board previous intimation in writing of the action proposed against the employee . . ."

This means the company will not have any power to take action against an employee for any offence he may have committed. Cases of gross indiscipline, violence, theft etc., and other misconduct arise from time to time in companies and the management concerned is required to take immediate action. In such cases, the management should be given a free hand to take action themselves at the first instance and then refer the case to the Company Law Board, whose decision should be made binding on both the employer and the employee. Similar

[Shri Umanath]

procedure is now being followed under the Industrial Disputes Act, where protection is given to employees during the pendency of dispute before the Tribunal.

14 hrs.

Cases of retrenchment which are apparently not in the nature of punishment to an employee should not be covered by this Bill. The employer has the right to order retrenchment. Only, the principle of "last come first go" has to be followed. The provisions of the Industrial Disputes Act are sufficient to take care of any case where the employer acts *mala fide*.

The Bill as at present worded, takes away this right of an employer, which is not in accordance with the objects of this Bill. I, therefore, would request the hon. Minister to see if it would be possible to exclude cases of retrenchment from the purview of this Bill. For that purpose, I suggest that after the words "to discharge" in sub-clause (i) in line 20 of the first page of the Bill, the words "other than by way of retrenchment" may be included. If that is done, I think the right of the employer to retrench workers will be retained, while meeting some of the objections raised against the Bill.

This is a very good Bill and I support it. I am sure it will be supported by all sections of the House.

श्री बागड़ी (हिसार) : उपाध्यक्ष महोदय, असल में सरकार एक नीति बना कर चलती है। जहाँ तक इस प्रॉविडिंग बिल का सम्बन्ध है उस में जो ऐम्स ऐंड प्रोबिजिक्शन्स बतलाये गये हैं वे अच्छे और स्वागत योग्य हैं लेकिन इस बिल की वर्डिंग को देखने से ऐसा प्रतीत होता है कि हर अच्छे काम को इस ढंग से करके पेश करो, इस ढंग से वह प्रचलित हो कि उस का नतीजा खराब निकले। सरकार कहती तो है कि वह चाहती है कि गरीबों का भला हो किन असल

में भला होता है अमीरों का। बिल में यह बतलाया गया है कि हिन्दुस्तान के अन्दर यह कम्पनियाँ जो एक किस्म की खुली हुई लूट का एक एक भड्डा हैं और अमीरों द्वारा गरीबों का बुरी तरह शोषण किया जाता है और उन अमीरों की ऐसी गलत और नाजायज हरकतों को पकड़ने की इस में चिंता प्रकट की गई है इस के लिए गवर्नमेंट उन कम्पनियों में कर्मचारियों काम करने वाले कर्मचारियों से मदद चाहती है कि वे सब उन पूंजीपतियों का कच्चा चिट्ठा उन के सामने रखें ताकि व उन को पकड़ सकें। इस के लिए उन कमरों को उन कार्यकर्ताओं को जो कि सरकार को इस तरह का भेद देंगे उनको मालिकों के विरुद्ध संरक्षण और टैम्पोरेरी प्रोटेक्शन देने की भी इस बिल में चर्चा की गई है। लेकिन मेरा कहना यह है कि यह टैम्पोरेरी प्रोटेक्शन जोकि ऐसे कार्यकर्ताओं को देने का सुझाव है वह बिलकुल नाकाफ़ी है। इस बिल में यह कहा गया है कि उन एम्पलाइज़ को जिन्होंने कि सरकार को भेद दिया है, अपनी अपनी कम्पनियों का कच्चा चिट्ठा बतलाया है, उन को जब तक कि उन कम्पनियों के बारे में इनवेस्टिगेशन चल रही है, ट्रिब्युनल के सामने प्रोसीडिग्स चल रही हैं उस वक्त तक उन्हें उनके मालिकान के विरुद्ध टैम्पोरेरी प्रोटेक्शन दिया गया है। लेकिन उस के बाद उन के लिए कोई संरक्षण नहीं रहन वाला है और वह अपने मालिकान के रहम पर छोड़ दिये जायेंगे और जो नतीजा होने वाला है उसे आप बखुबी सोच सकते हैं। अब मान लीजिये एक कर्मचारी के मन में हीसला है, देशभक्ति है और वह अपनी कम्पनी में की जा रही चोरियों के बारे में सरकार को इतिला देता है तो मालिक लोग उसे बर्शाने वाले थोड़े ही हैं। वे उसे डरायेंगे, धमकायेंगे और कहेंगे कि अच्छा बेटा हम तो इधर, उधर दे दिला कर लक्ष्मी पूजा कर मामला रफ़ा दफ़ा करायें लेते हैं लेकिन तुम्हें मामला दब जाने के बाद ठीक कर देंगे।

कम्पनियों में धन की चोरियां और बेईमानियां रोज ब रोज इस कदर बढ़ती जा रही हैं और इसी का यह परिणाम है कि अंग्रेजी राज्य के अन्दर जो कम्पनियां दो, दो और चार, चार लाख की होती थीं आज करोड़ों और अरबों रुपयों की हो गयी हैं। इसलिए सिर्फ कागज़ पर कानून बना देने से ही सरकार अपनी घोषित नीति में सफल नहीं हो पायेगी बल्कि उसे अमल में जाना पड़ेगा और यह देखना पड़ेगा कि उसके द्वारा बनाये गये कानूनों पर सही और सख्ती के साथ अमल भी हो। सरकार को अपने अमल से यह सिद्ध करना पड़ेगा कि इस देश में जबर लोगों पर, धनी मानी लोगों पर भी अंकुश लगाया जा सकता है और गलत और बेजा हरकतों व चोरियों के लिए उनको सजा दी जा सकती है। यह नहीं कि सरकार जिससे नाराज़ है उस के ऊपर ही कदम उठा सकती है और उठाती है बल्कि सही मायनों में जो दोषी हैं भले ही वे कितने बड़े क्यों न हों, उन के खिलाफ भी कदम उठा सकती है।

अब बिड़ला की ही बात ले लीजिये। देश में पूंजी का सब से ज्यादा दुरुपयोग और काला पंसा अग्रर आता है तो पूंजी के दुरुपयोग से ही आता है, तो वह बिड़ला खानदान का ही आता होगा जिसकी कि दो लाख तो ईमानदारी की आमदनी बतलाते हैं और इस ईमानदारी की तह के अन्दर कितनी बेईमानी की आमदनी दबी पड़ी है, वह तो शायद खुदा भी न जानता होगा। दो लाख रुपये रोज की उस की बेईमानी की आमदनी होती है और न जाने कितनी होती होगी वह ठीक, ठीक तो शायद खुदा भी न जान पाता होगा क्योंकि देश का खुदा बिड़ला का पुजारी है। दुनिया का खुदा कैसे जानगा, यह समझ में नहीं आता ?

इसी सदन के अन्दर एम्बेसेडर कारों के लिए बड़ी चर्चा हुई कि कारें नहीं

मिलतीं। अब कारें मिलें तो कैसे मिलें ? आज उन के शोयर्स की कीमत जो बाजार के अन्दर 10 रुपये थी आज वह सैंकड़ों तक पहुंच गयी है। यही कारण है कि सरकार आज बिड़लाओं के ऊपर हाथ नहीं डाल सकती है। आज देश व समाज के अन्दर एक चीज़ प्रचलित हो गई है, उन के दिमाग में यह बात बैठ गई है कि सरकार जो है वह आज बिड़ला से नीचे है। जहां पर बिड़ला की ईकाई सरकार के ऊपर रहे जाहिर है कि उस सरकार का कानून देश में चल नहीं सकता। जिस दश व समाज में कानून किसी व्यक्ति से नीचे रहेगा उस देश में वह कानून कैसे अमल में आ सकता है ? ऐसे कितने ही कानून हमारे देश में बने हुए हैं जोकि महज कानूनी किताबों में लिखे भर रह गये हैं और उन पर अमल नहीं होता है। शारदा एकट का उदाहरण आप के सामने मौजूद है। इसी तरह से छुआछूत का कानून आपकी कानूनी किताबों में लिखा पड़ा है लेकिन वह अमल में नहीं आ रहा है। इसलिए मैं आप की माफ़त निवेदन करूंगा कि इस बिल के अन्दर यह तसल्ली दें कि किसी भी कार्यकर्ता को, किसी भी वर्कर को कोई भी कम्पनी इस नाते से बुरा नहीं कर सकती, परेशान और विचि्टमाइज नहीं कर सकती कि उस ने गवर्नमेंट को उस कम्पनी विशेष के बारे में भेद दिया है। इतना ही नहीं उसे यह भी विश्वास हो कि जिस तरह से पुलिस वाले, हांलाकि वे छोटी अक्ल रखते हैं लेकिन वे अपने मुखबिरो को खासतौर पर सहूलियत वगैरह देते हैं उसी तरह से सरकार भी ऐसे कम्पनी के मुलाजिमों को प्रोटेक्शन देने के अलावा: सहूलियत, एनकरैजमेंट आदि भी दे।

यह बिल कहता है कि जो व्यक्ति हमें सही इत्तिला देगा थोड़े दिन हम उस की हिफ़ाजत करेंगे, उस की मुहाफ़िज़ सरकार बनेगी लेकिन क्या सरकार ने यह

[श्री बागड़ी]

भं: सोचा है कि उस के बाद उन का क्या ह्रा होने वाला है? वह बड़े बड़े सेठ बाद में उन कार्यकर्ताओं को एक, एक करके झटके दों और तरह तरह से विन्दिमाहू करेंगे। इसलिए मैं सरकार से जोरदार लफ्जों में निवेदन करूंगा कि ऐसे लोगों को आप पूरा प्रोटेक्शन देने की व्यवस्था करें और इस तरह का भेद देने के लिए उन को इनकरैज भी करें। बरुरत इस बात की है कि सरकार अपने कानूनों का सही तौर से और सक्ती के साथ अमल करायें।

हम ने देखा कि अभी हाल में बम्बई में कुछ नाचने और गाने वालों के वहां तलाशियां ली गईं। यह हो सकता है कि उन लोगों ने किसी आप के बड़े आदमी की नाराजगी हासिल कर ली हो और वक्त पर उन्होंने उन को अपना खेल् व तमाशा न दिखाया हो और इसलिए उन को इस तरह से झटका दे दिया गया हो। लेकिन मैं पूछना चाहता हूं कि कौन नहीं जानता कि बिड़लाज के द्वारा कितना काला मनी अर्न किया जाता है? क्या बिड़लाज के वहां भी कभी तलाशी इस सरकार ने लिवाई कि वहां कितनी धन की चोरी हो रही है? मद्रास के अन्दर क्या गोइनका इंडस्ट्रीज के बारे में सरकार ने तलाशी ली अथवा पता लगाया कि वहां कितना गोलमाल चल रहा है? यह सरकार जब तक उन पूजीपतियों से दबेगी और उनकी बड़ी बड़ी बैलियों से प्रभावित रहेगी तब तक देश के अन्दर अष्टाचार नहीं मिट सकता है। मैं आप की माफत सदन के अन्दर गवर्नमेंट से यह कहना चाहूंगा कि अगर बाकई वे इस देश के अन्दर से अष्टाचार को मिटाना चाहते हैं तो उन लोगों को छोटे गरीब लोगों को अपने विश्वास में लो, उन्हें प्रोटेक्शन दो जोकि आज इस अष्टाचार और बेईमानियों से दुखी व पीड़ित हैं और इस के विरुद्ध हैं और जाहिर है कि वह वर्ग इस देश का केमरा वर्ग है, छोटे कर्मचारियों और मजदूरों आदि का वर्ग है। इस देश में अष्टाचार को जन्म

दने वाला जो पूजीपतियों का लुटेरा वर्ग है उस को सरकार सक्ती के साथ पकड़े और कानून के मुताबिक सजा दिलवाये तभी अष्टाचार इस देश से जा सकता है। यह लुटेरा वर्ग देश में पूजीपतियों और उन बड़े बड़े ठेकेदारों का वर्ग है, बिड़लाज और गोइनकाज सरीखे लोगों का है। बिड़ला की आज तक कोई भी कम्पनी में सरकार ने पकड़ नहीं की, उस की किसी कम्पनी के खिलाफ इनक्वायरी नहीं की। आज तक उस का कोई आदमी जेल के अंदर नहीं दिया गया.....

Mr. Deputy-Speaker: Order, order, he should not say such words. He should not use names. He should please withdraw these words.

Shri S. M. Banerjee (Kanpur): Sir, I rise on a point of order.

Mr. Deputy-Speaker: [He says 'robber class'. Such words should not be used.

Shri S. M. Banerjee: Could we not mention the House of Birla?

Mr. Deputy-Speaker: No names should be mentioned. Let us carry on with the discussion in a dignified manner.

Shri S. M. Banerjee: Kindly guide me; otherwise, it will be difficult for me. We are discussing the Company Law amendment.

Mr. Deputy-Speaker: He has mentioned Birla House any number of times; but he should not call anybody robber.

Shri S. M. Banerjee: That is a different matter.

श्री बागड़ी : मैं जनाब की खिदमत में अर्ज कर रहा था कि जैसे के० के० बिड़ला, गोइनका, ऐलनबरी इंडस्ट्रीज के खिलाफ...

Shri S. N. Chaturvedi (Firozabad): They are individuals, not the House.

Shri S. M. Banerjee: There were searches.

श्री बागड़ी : आप उन के प्रतिनिधि है । . . .

Shri Heda: Sir, I rise on a point of order. The hon. Member on my left was referring to individual members of a house and another hon. Member on my right objected to it to which this hon. Member says that he is a representative of the Birlas.

Shri S. M. Banerjee: He did not say that.

Shri Heda: He did say it. I am pointing out to the procedure that is followed in the House and submitting that the dignity of the House should be maintained. When an hon. Member is discharging his duty, is it right for this hon. Member to question the *bona fides* and intentions of the hon. Member?

श्री हुकम चन्द कछवाय : उपाध्यक्ष महोदय, मेरा व्यवस्था का सवाल है ।

Mr. Deputy-Speaker: No hon. Member should make any allegations against any other hon. Member by saying that he is a representative of anybody else.

Shri S. N. Chaturvedi: Sir, I was only concerned with the level of the debate. The decorum and dignity of the House must be maintained. We should not level charges indiscriminately against persons who are not present in the House to defend themselves.

Mr. Deputy-Speaker: I have already indicated to hon. Members that such charges should not be made.

श्री बागड़ी : उपाध्यक्ष महोदय, मैं आपकी खिदमत में अर्ज करना चाहता हूँ कि अगर कम्पनियों में से लूट-खसोट के धन्धे को बन्द करना है, तो सब से पहले इसमें यह व्यवस्था कर दी जाये कि चुनाव

में किसी भी पार्टी को चन्दा नहीं दिया जायेगा ।

श्री हुकम चन्द कछवाय : कांग्रेस को छोड़ कर ।

श्री बागड़ी : अगर यह व्यवस्था नहीं की जायेगी, तो इस प्रकार के बिल से कोई फायदा नहीं होगा ।

इन शब्दों के साथ मैं अपनी बात को खत्म करता हूँ ।

श्री हुकम चन्द कछवाय : यहाँ पर पचास से ज्यादा सदस्य हैं बिड़ला के ।

Shri G. N. Dixit (Etawah): Sir, I am anguished to peruse this Bill. In 1956 this Parliament passed the Companies Act. Then the Sastri Committee was appointed and later on we amended this Bill in 1960. After 1960 there was the Bose Commission Inquiry into the conduct of Dalmia-Jain concerns. As a result of that inquiry....

श्री श्रींकार लाल बेरवा (कोटा) : जब बिड़ला के नाम पर आपत्ति की जाती है, तो फिर माननीय सदस्य डालमिया का नाम को क्यों ले रहे हैं ?

श्री हुकम चन्द कछवाय : वह खास लोगों में से हैं ।

Shri G. N. Dixit: I am naming Dalmia-Jain because the statement of objects and reasons of this Bill which is being considered by this House lays down that this Bill is the result of the Bose Commission of Inquiry.

श्री बागड़ी : बिड़ला कोई कम जिम्मेदार नहीं है । उस रिपोर्ट में उनका भी नाम है ।

Shri G. N. Dixit: In the statement of objects and reasons it is laid down:

[Shri G. N. Dixit]

"In pursuance of its terms of reference, the Commission of Inquiry on the administration of Dalmia-Jain Companies made certain recommendations".

This Bill is the result of the Bose Commission's report. Thereafter the report of the Bose Commission was referred to the Attorney General and Shri Visvanatha Sastri over again. Both things being considered the Government has brought forward this Bill. Therefore it is very necessary to refer to whether this Bill meets the requirements that were necessitated by the Bose Commission Report.

My submission is that it was a big matter for which the Bose Commission was appointed. After very hard labour the Bose Commission gave its report. For several hours this House considered that report. The purpose of this Bill is that you are going to remedy these evils for the future. How can you remedy the evils for the future if the evils that were perpetrated cannot be undone and large sums of public money to the tune of several crores of rupees that were eaten up are not refunded? The inquiry was conducted; the whole country was agitated and if after that agitation we cannot refund those sums to the people from whom that money came, how can we guarantee? The guarantee for the future can only be by the past conduct. If by this Bill we can create a situation that all those funds which came from the people and went to certain pockets can be given back to those people, certainly a climate will come up and in future also it will become impossible to defalcate public money.

My submission is that in the 1956 Act itself there was ample provision by which much funds coming from the people and going to some people by tricks could be refunded back. It could have been all right for the Government to bring forward this Bill if they found from the report of the Attorney-General that there was some difficulty. According to me,

there was no difficulty whatsoever. Section 398 of this Act was sufficient to meet such challenges. But if the Government thought, according to the report of the Attorney-General—I do not agree, with due respect to that Attorney-General—that there was a question of limitation and that the remedy was time-barred, then to section 390 and the continuing sections the Government could have brought forward necessary amendments. But here I find that to all those sections there is no amendment whatsoever which will meet the situation of those defalcations which have been made.

Shri Umanath: The portions that he has read are not from this Bill which is under discussion; they are from a Bill which is to come up later on. Perhaps, he has misunderstood.

Mr. Deputy-Speaker: He seems to be speaking on some other Bill which is not before the House.

Shri G. N. Dixit: I am speaking on the Companies (Second Amendment) Bill, 1964.

Mr. Deputy-Speaker: We are on Bill No. 53. Shri Kashi Ram Gupta.

श्री हुकम चन्द कछवाय : उनका ध्यान घर की तरफ होगा । उन का ध्यान यहाँ नहीं है ।

श्री काशीराम गुप्त (प्रलवर) : उपाध्यक्ष महोदय, वैसे तो "ना" से "हाँ" हमेशा अच्छी होती है, और

एक माननीय सदस्य : और "हाँ" से चुप अच्छी होती है ।

श्री हुकम चन्द कछवाय : उपाध्यक्ष महोदय, हाउस में बबोरम नहीं है ।

Mr. Deputy-Speaker: The bell is being rung... Now, there is quorum. Shri Kashi Ram Gupta may continue his speech.

श्री काशीराम गुप्त : उपाध्यक्ष महोदय, मैं निवेदन कर रहा था कि "ना" से "हां" हमेशा अच्छी होती है। किन्तु वास्तव में देखा जाये, तो इस बिल की शब्दावली ऐसी नहीं है कि जो सुरक्षा हम किसी भी कर्मचारी को देना चाहते हैं, वह इससे पूरी प्रकार से मिल सकती हो। साधारणतया जो ऐसे प्रश्न पैदा होंगे, जिनमें वे आदमी न हों, जिनके खिलाफ कम्पनी बदले की भावना से काम करना चाहती हो, तो वह इस अवधि में ऐसे लोगों के नाम लायेगी ही नहीं, क्योंकि वह जानती है कि वह तो बाद में भी, हमेशा ही, ऐसा कर सकती है। इसलिए यह स्पष्ट है कि इस बिल के तहत कम्पनी जो भी जांच करके पेश करेगी, वह ऐसे लोगों के खिलाफ होगी, जिनसे वह बदला लेना चाहती है, जिनको वह सजा देना चाहती है, क्योंकि उन्होंने किसी काम को पूरा करने के लिए सरकार को मदद दी है। प्रश्न यह है कि क्या इस बिल के द्वारा उन लोगों को भविष्य की सुरक्षा दी जा सकती है। मैं समझता हूँ कि इस बिल में तो वह सुरक्षा नहीं दी जा सकती है। यहां तो इतना ही हो सकता है कि इस बिल में वे बातें और बढ़ा दी जायें, जिनसे कम्पनी को बोर्ड के सामने रखने के लिए यह बहाना न मिले कि आपने जो बातें लिखी हैं, उन के अन्तर्गत हमारी बात नहीं आती है। इतनी बात इसमें बढ़ाने की आवश्यकता है। मैं मंत्री महोदय से निवेदन करूंगा कि वर्तमान शब्दावली नाकाफी है। उसमें और बातें जोड़ दी जायें, जिनके बारे में मुझ से पहले बोलने वाले माननीय सदस्यों ने सुझाव दिये हैं।

किन्तु उन लोगों का क्या हो, जो सरकार के इंस्पेक्टरों के सामने उन भेदों को खोलने के लिए तत्पर होते हैं और इतना बड़ा खतरा उठाते हैं ?

जाहिर है कि उन लोगों को सुरक्षा प्रदान करने के लिए और कोई व्यवस्था करनी

होगी। हम आशा करते हैं कि मंत्री महोदय इस सदन को विश्वास दिलायेंगे कि उन लोगों की सुरक्षा के लिये यथासंभव जल्दी से जल्दी दूसरे उपाय करने के लिए कोई संशोधन विधेयक इस सदन में उपस्थित किया जाएगा। अगर ऐसा नहीं किया जाता है, तो मैं नहीं समझता हूँ कि केवल मात्र इतना कर देने से हमारा जो मंशा है वह पूरा हो जाता है। इसका परिणाम यह होगा कि कर्मचारी सामने नहीं आयेंगे। इसके कई कारण हैं। प्रथम तो यह है कि यह बहुत कठिन बात है कि कोई कर्मचारी अपने मालिक के खिलाफ आसानी से आगे आवे। वही कर्मचारी आगे आयेगा जो बहुत ऊंचे चरित्र वाला होगा, जो देशभक्त होगा, जो निडर होगा। अगर इस प्रकार के व्यक्तियों को उचित सुरक्षा प्रदान नहीं की जाती है तो फिर ये भी सामने नहीं आ सकेंगे। जो भावनायें व्यक्त की गई हैं वे बहुत ही उचित हैं और क्या क्या प्रश्न पैदा हो सकते हैं, इन पर भी आपको सोच विचार कर लेना चाहिये।

जो कुछ भूतकाल में हुआ है, उसको अगर देखा जाये तो ऐसा नज़र आता है कि जिन कम्पनी के मालिक लोगों के खिलाफ कार्रवाई की गई है, उनके समकक्ष और जो लोग हैं, वे सब सतर्क हो गए हैं और उन्होंने दांव पेच सोचने शुरू कर दिये हैं। यह तो स्पष्ट है कि उनके पास कानूनी दिमाग होते हैं और उन पर वे रुपया भी खर्च करते हैं। अभी से उन कम्पनियों के लोगों ने दांव-पेच सोचने शुरू कर दिये हैं जिससे किसी की हिम्मत न हो कि उनके खिलाफ जाकर कोई गवाही दे सके। बागड़ी जी ने एक हाउस का नाम लिया। मुझे इस हाउस के बारे में कुछ नहीं कहना है। मैं तो यह कहना चाहता हूँ कि जितना भी मोनोपोली कैपिटल इस देश में है और जो इस वक्त यहां काम कर रहा है वह जब भी कोई कानून इस सदन में लाया जाता है तभी से सतर्क

[श्री काशीराम गुप्त]

हो जाता है और उस कानून का जो असर उस पर पड़ने वाला है, उसको देख कर अपने कानूनी सवाहकारों के जरिये ऐसे उपाय सोचने लग जाता है जिससे सरकार का जो कदम है, वह नाकामयाब हो जाए। यह कदम भी सरकार का नाकामयाब हो जाए, इसलिए उन लोगों ने ग्रभी से दूसरा रास्ता सोचना शुरू कर दिया है और मुझे डर है कि कहीं यह जो कानून है, इसको भी वे नाकामयाब न बना दें, इसको भी वे प्रभावहीन न बना दें। उनके हाथ आपके हाथों से अधिक मजबूत हैं। वे आपसे आगे क्यों चल सकते हैं? इसका कारण यह है कि आप तो रेंग कर चलते हैं और उनके निहित स्वार्थों पर जब चोट पड़ती है तो वह जल्दी है और तत्परता के साथ वे आपका मुकाबला करने के लिए तैयार हो जाते हैं। बाकायदा आपसे मुकाबला करने की उनकी निश्चित नीति हो चुकी है और बाकायदा तरीके से मुकाबला करने के तरीके वे सोचने लग गये हैं। एक ही तरीके से नहीं, अनेकों तरीकों से। जो हालात चल रहे हैं, जो परिवर्तन हो रहे हैं, उन परिवर्तनों को देखते हुए यह बिल बहुत ही नाकामी है।

मैं आशा करता हूँ कि इसके बाद भविष्य में इस प्रकार उन कर्मचारीगण को संरक्षण प्रदान करने के लिए जो संशोधन आवश्यक हैं, वे शीघ्र ही लाये जायेंगे जिससे जो हमारा असली तात्पर्य है, वह पूरा हो सके और वे आदमी जो सेवा करना चाहते हैं, जो देश-भक्ति दिखाना चाहते हैं जो देश की सेवा के काम करना चाहते हैं, उनको पूरी सुरक्षा मिल सके।

Dr. Sarojini Mahishi (Dharwar North): Mr. Deputy-Speaker, Sir, the Company law underwent radical changes a few years back. The number of sections has practically doubled and the bulk and the size of the companies law has increased. But in spite of all these things, the company law could not contain this particular amendment which ought

to have been thought of by the Government in their own interest. The particular amendment that is before the House is, I think, from the point of view of the Government, in their own interest, to get better facilities in conducting the investigation, as has been made clear in the Statement of Objects and Reasons:

"As it was apprehended that some of the companies whose affairs were under investigation might take action against their employees if they disclosed full information to the Inspectors the amendment of the Companies Act on the lines indicated above was considered to be a matter of extreme urgency...."

Therefore, this particular amendment has been brought forth.

Sir, this particular amendment wishes to add a few clauses to section 635A of the Companies Act. The protection given to the employees is only temporary and it is a very weak protection. I wish to keep before this House and before the hon. Minister also what risk the employees would take in disclosing the information by incurring the displeasure of his superiors. If they are not assured of any subsequent protection—under article 311 of the Constitution, Government servants have been given certain protection—these workers in the companies, unless, of course, if they are assured of certain subsequent protection also, will not come forward. Secondly, if an employee is a member of the trade union and if his case can be brought forth by the trade union under the Industrial Disputes Act, then alone, of course, he can seek further remedy in the matter in case he is punished or in case he is suspended or in case he is removed from service. In case where the employee is neither under the contractual terms of service nor is he a member of the trade union—in that case he can seek a further remedy under the Industrial Disputes Act—what is

the remedy open to him? Therefore, in this case, you should think of these things also. Not only in the interest of getting better facilities for conducting the investigation but also at the same time in the interest of the employees also who should have the encouragement and incentive to disclose information to the Government, certain provisions must be added.

I also say at the same time that these provisions giving protection to the employees should not be misused. Proper precautions must be taken. There is the side of the employer also. He may think that this protection, if given to the employees, may be misused and it may encourage indiscipline and insubordination amongst the employees. There is the other side of the employee. Of course, he does not get anything by disclosing the information. He may have a mental satisfaction that he has disclosed certain information which was against injustice, which was against certain indiscipline and which was against some irregular matter. But what is the subsequent protection that he has been assured of subsequent to this investigation? As was rightly put by some of my friends on this side and also on the Opposition side, what is the protection given during this period? What is the protection, financial and otherwise also, that has been assured to him subsequent to this investigation? Therefore, I request the hon. Minister to consider both sides of the problem, the proper protection to the employee and also certain protections to the employer. I am not pleading on behalf of the employer. But in case these provisions are misused in order to bring the employer also into prejudice with the Government or to bring him down in society, then proper protection must also be given to the employer.

Therefore, Sir, the problems that may arise in consequence of this particular amendment, though the

amendment is very small, are very great and complicated. I hope the hon. Minister will take into consideration the problems that may arise in consequence of this particular amendment and bring in an exhaustive amendment to this Companies Act and not insist on this particular amendment.

Shri Sham Lal Saraf (Nominated—Jammu and Kashmir): Mr. Deputy-Speaker, Sir, while supporting this Bill, I feel some of the points that I wanted to touch now have already been covered. But one thing that strikes my mind is of knowing something about the working of a company and how business concerns are run. If it could be possible under the law, each and every concern, whether it is a corporation or a company or an individual concern, should authorise person or persons to reveal matters to the Government. If that is so, it will minimise a number of things that might arise hereafter. That is the first thing.

Secondly, as far as the present law is concerned, I think the security of the employees is secured as it is under the law which is on the statute-book and with this amendment, I feel, it is fully secured. With your permission, Sir, I would like to bring one or two things to the notice of the hon. Minister. Only last month, two things have come to my notice which I have personally witnessed. On the one hand, while we are very very particular to see that the services of the employees are secure, at the same time it is equally the duty of the Government to see that the proprietors the concerns, are not unnecessarily harassed. Sir, this may not have a full bearing on the subject but I will seek your permission and seek the indulgence of the House to allow me to refer to these things. I have visited a few such concerns only about two weeks back to make certain purchases. The firm proprietors got some summons from perhaps the Income-Tax Department. He told me—I knew the man; an honest man

[Dr. Sarojni Mahishi]

—that unfortunately, whenever we want to work honestly what happens is that we are harassed. "And the result is" that they said, "either we have to be dishonest or we have to adopt methods that can never be said to be honest methods by falsifying our accounts". These are our books, and anybody can go through the same and see how clear and clean our accounts are. We have shown the profits, the gross receipts and the net profits. On that we say that the income-tax may be assessed. But unfortunately, sometimes a double assessment is made, which is incorrect. This will lead to two things. There will be firstly, adjudication and spending of lot of money; secondly, spending a lot of time and thirdly, we are now forced either to change this entire course of honesty and keeping honest accounts or we have to show, accounts that cannot be said to be honest.. We won't do it, but we will be forced to do it." This is what they say.

In Dehra Dun I saw the other day a concern which is also a manufacturing company. They pointed out that some of the excise officers had come there. They had placed a nice verandah with chairs for them to use. Sir, I would request the hon. Minister to listen. I am giving an instance how the honest business people are harassed by these officials. This was in Dehra Dun. It may not have a direct bearing on this very Bill, but these things do happen. Because, I get an opportunity to come to know of these, and I am drawing the attention of the House and of the Government to these things and requesting them to see that some relief is given to the harassed businessmen and their management.

As I was saying there they had reserved a very nice verandah with a few chairs for the use of the excise officers. The excise officers have to spend some time there, jotting down the particulars for making assessment.

And they wanted to have a separate bath room. The proprietor showed me the bath room and said "This is the bath room I am using, a flush-type bath room, it should be enough for them".

श्री काशीराम गुप्त : उपाध्यक्ष महोदय, मेरा एक व्यवस्था का प्रश्न है। माननीय सदस्य जो कुछ कह रहे हैं वह बहुत अच्छी बात है और बहुत काम की भी है, किन्तु इस बिल से उसका सम्बन्ध किसी प्रकार से है या नहीं, यह वह नहीं समझा पा रहे हैं। जब तक वे यह न समझा दें कि इस बिल से उनकी बात का सम्बन्ध बनता है तब तक मैं समझता हूँ कि उनकी बात उचित नहीं बन सकती है।

Shri Sham Lal Saraf: I am thankful to my hon. friend. I am telling in a minute. I wish he had a little patience.

श्री काशीराम गुप्त : व्यवस्था उपाध्यक्ष महोदय देंगे, उन्हें देने दीजिये।

Sir, my point of order is that it is not a relevant thing in the context of this Bill. You will please give your ruling on that only, and let him speak then.

Mr. Deputy-Speaker: He is showing that it is relevant.

Shri Sham Lal Saraf: Sir, my submission is that after all the laws and the implementation of these laws are inter-connected. That is what I am placing before the House.

And what happened there? I saw two or three nasty letters written by one of the high-ups of the very same Department. Whether it is a question of giving protection to the small men, the employees—I am one with that....

Shri B. E. Bhagat: He is referring to some nasty letters. Written by whom?

Shri Sham Lal Saraf: By that officer.

Shri B. R. Bhagat: It is a vague. Which department, which officer?

Shri Sham Lal Saraf: Central Excise Department.

Mr. Deputy-Speaker: We are not concerned with the Central Excise Department but with the Company Law.

Shri Sham Lal Saraf: Mr. Deputy-Speaker, I crave your indulgence and also that of the House. My point is this, that whatever be the law, whether it is this law or any other law concerning taxes, where this House agrees and the law is passed, at the implementation stage two things have to be seen, whether there is proper implementation of the law and also, where we need that the people should be secure, while we are implementing these laws we should see that the real purpose is served. I hope the hon. Minister will bear in mind these points. That is all the submission I wanted to make.

Shri B. R. Bhagat: Mr. Deputy-Speaker, I am extremely grateful to the hon. House in that it gave a unanimous support to this measure. The point raised by hon. Members can be sub-divided into two categories. One point is that the Bill does not provide enough safeguards against victimisation of the employees. The other point of view is that the Bill should be sufficiently clarified so as not to put a bona fide employer, who acts or takes action against his employees for some sufficiently good reason, in any difficulty. I think that both these points are misconceived in the context of the limited objective of this Bill. That is what I propose to explain.

As for the point of view that the Bill should be sufficiently clarified to prevent any tripping up by a bona fide employer, I would say that the

amendment proposed by the hon. Member, Shri Dandekar, seeks to clarify it by defining, if I may say so, the words "course of investigation". He says that either when an inspector is appointed under the relevant section for investigation, the investigation should be deemed to start, or when a requisition for information is called for under the other relevant section, section 248 or so, the investigation should be deemed to start. His fear was that any information called for by the Registrars or others under section 234 will amount to investigation, and a bona fide employer may get into difficulties.

I think his fear is unwarranted, because the Chapter "Investigation" in the Act begins from section 235. Before that is the heading "Investigation". And it spells out various sections, section 235, and it goes on to a number of other sections when finally this Chapter closes on investigation where all the processes are explained. So the Act itself does not give any scope for confusion. He pointed out section 234 where power is given to the Registrar to call for information. But this is outside the Chapter on "Investigation". So any information called for by the Registrar, requisitioning balance sheet or in regard to any inaccuracy or other things under this section will not in any eventuality form part of an investigation. Therefore I think his fear is unfounded. He may have a genuine fear, he has a good deal of experience of the administration of some of these companies. I do appreciate it. But I would like to point out to him that any bona fide employer will not come under this difficulty because action under some other section is taken. So the Investigation sections are fairly clear.

Also, this concept "during the course of investigation" or "during the pendency of any proceedings", these are, I am told, I am advised—I am not a

[Shri Sham Lal Saraf]

law expert, but I have sufficient authority of legal advice to say—that these are very clearly defined concepts in law, and therefore the question of any difficulty arising from this source does not arise.

Also, if we accept the amendments just to clarify the position—I said it largely covers that, it means what he says—but if we accept it in that form, it will leave sufficient lacuna in the period under certain sections when requisition for information pending investigation, is made. That section is also under the “Investigation” chapter. If we call for information and if the Board finds there is a case for appointment of inspectors, well, again, another order goes for inspectors. But if the amendment in the form in which he wants it is accepted, in that period any dishonest employer may try to dismiss the officers and other who have supplied the information. And I know that he would certainly like to help the *bona fide* employer and not protect the dishonest ones. Already there is no dearth of dishonest employers. I am aware of one particular case in which a day before the ordinance there was a case of dismissal of an employee, because somehow or other that particular company got the information that some such ordinance was going to be issued. Although I agree with the sentiment of the hon. Member, I would submit that the wording has got to be so accurate that there is no scope for abuse or evasion of this section.

Now, I come to another set of points. Although I am in agreement with the sentiment expressed by the hon. Member that the law should sufficiently provide for protection, and I would very much like that no such employee as offers to give information voluntarily is wrongfully discharged even after the pendency of the investigation, that is, even after the investigation is over, I would

like to ask what the remedy for this is.

I entirely agree with the Lady Member who asked how even though the Companies Act had been amended twice and it had increased in volume, Government could not think of providing for such ordinary safety for the employees. My answer is that like all institutions, human beings also are imperfect, and we could only realise it when we were faced with a situation where in actual operation the investigation was being thwarted not only by various legal subtleties or other devices but also because of the fact that we were not getting the co-operation of the employees just because of the fear that they had that they would be victimised. It was when this fault glared before our eyes that we woke up and realised that such a remedy was needed. The remedy thought of is that at least during the pendency of the investigation such victimization should not take place, and the employees should volunteer to give information. There is no compulsion on them, but if they have information they should co-operate. I may assure the House that after the issue of this Ordinance, during these few weeks, the co-operation has been very good, and satisfactory too, which was not forthcoming before that.

Shri Bade: Why give only temporary protection? Why not give permanent protection?

Shri B. R. Bhagat: I am coming to that. My hon. friend is a lawyer and I would suggest that he should consider in what shape it should come here. The point is that there is difficulty in giving legal expression to the idea of protection for all times. There is also some practical difficulty in this matter. Although I entirely agree with the hon. Member on the point made by him, I would submit that these practical difficulties are there.

श्री काशी राम गुप्त : आपसे निवेदन किया गया है कि इस बारे में आप अपने कानूनी सलाहकारों से और ज्यादा गहरा विचार करें और विशेष रक्षा का प्रबन्ध करने का विचार करें ।

श्री ब० रा० भगत : उस का मौका आएगा । उसके लिए कोई अभी समय बीता नहीं है । मैं तो अभी बिल्कुल इस बिल के बाबत बात कर रहा हूँ ।

There are employees who will be protected under the Industrial Disputes Act. On this point, two hon. Members have differed. Both have experience of trade unionism. One says that trade unionism can protect the employees while the other says that it cannot protect them.

Shri Umanath: The point is that officers drawing salaries beyond Rs. 500 are not covered by the Industrial Disputes Act.

Shri B. R. Bhagat: As regards those who come under the Industrial Disputes Act, it is all right. But, apart from that, trade unionism also cannot protect them because there are so many ways in which this can be done. But my own feeling is that trade unionism should be strong enough and I want it to be so strong that it can give protection to the employees.

श्री बागड़ी : पहले आप तो मजबूत बनें, बिड़ला ब्रादर्स को कपड़ो

श्री ब० रा० भगत : माननीय सदस्य को बिड़ला ब्रादर्स का हीम्रा है, मुझे तो नहीं है ।

श्री बागड़ी : उसका हीम्रा कैसे हो, वह तो बड़ा है

Shri B. R. Bhagat: I can deal with them. *Mujhe koyee howah nahin hai.*

The question of the higher executives, that is, those who are not covered by the Industrial Disputes Act comes up next. I know that that is a difficult question. After the investigation is over, if the employer is rash enough—I do not think that he would

be so rash enough..certainly he can resort to measures for wrongfully dismissing them. For protecting them also, this is not the way.....

Shri Prabhat Kar: So far as the higher executives are concerned, Government will get almost no co-operation from them because they are part and parcel of the administration. It is the people in the middle rungs who are not covered by the Industrial Disputes Act and who are not so high up as to form part and parcel of the executive and part and parcel of the misdeeds, who require protection and these are the persons also who will know much more than the persons at the lower level and therefore, their information would be very useful. If we could provide protection to this section of the people, then the purpose of the present Bill will be served.

Shri B. R. Bhagat: I agree with the hon. Member but it is difficult to provide for any permanent measure of protection at this stage at least, I shall certainly keep this suggestion in mind and I shall consult my legal advisers and see if it is possible to do so. But the difficulty is that it will have other connotations, and, therefore, we shall have to think over the pros and cons.

But I submit that ultimately the defence of such people as give information for public purposes has to rest on something stronger, namely the general climate and public opinion. If they have contracts of service etc., then the general law would apply against wrongful dismissals; and the necessary legal provisions can be invoked for the purpose. But ultimately it is a strong public opinion and a strong public sentiment alone which can protect them.

With these words, I move.

Shri Prabhat Kar: If Government finds that there is some difficulty to provide for this, just at this particular moment, I would submit that we can sit with the hon. Minister and make suggestions to Government, and if they have got an intention to pro-

[Shri Prabhat Kar]

vide for this matter in a better manner, this difficulty can be solved when we take up the next amending Bill.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Companies Act, 1956, be taken into consideration."

The motion was adopted.

*Clause 2—(Insertion of new sub-heading and section after section 635A of Act I of 1956)

Shri Dandekar: I beg to move:

(i) Page 2, after line 8, insert—

"*Explanation.*—(1) An investigation shall be deemed to commence on the date of the receipt of intimation by a company of the appointment of an inspector under sections 235, 237, 239, 247, and 249 (1) (a) or on the date of receipt of a requisition to furnish information to Government under sections 248 and 249(1)(b).

(2) An investigation shall be deemed to end on the submission of the report of the inspector under sections 235, 237, 239, 247 and 249 (1) (a) or on submission of the information required under sections 248 and 249 (1) (b):

Provided that in each case this section shall be operative only up to a period of twelve months from the commencement of the investigation." (1).

(ii) Page 2, lines 20 and 21, omit "be final and". (2).

I have listened with great respect to the hon. Minister's exposition of the reasons why he thinks that these amendments are not necessary. I was hoping not to have to take the House through the tedious process of a consideration of this matter section by section, but now this is unavoidable.

My first amendment which says that explanations 1 and 2 be inserted after line 8 at page 2 was merely intended to indicate with some precision what the commencement of an investigation was and what the ending of an investigation was. I would submit that anyone who is going to be placed in jeopardy for an action which he might take ought to know the date from which the liability or the embargo or moratorium or whatever it is, begins; the party who is going to be placed in jeopardy ought to know the date from which this liability not to take action against the employee begins,—in regard to the merits of which I have already said that I am entirely in agreement with the principle of it—and the date on which this liability ought to end.

I have tried to find out whether it is possible by reading these sections themselves to understand when the liability or embargo begins. Possibly, the hon. Minister is right,—and I say only 'possibly' because he has more competent legal advisers than I have, possibly he is right in saying that under sections 235 and 237 of the Companies Act, the embargo begins from the date of the appointment of the inspector. My proposed "Explanation" was concerned with saying that it should commence from the date on which the company concerned knew about the appointment of the inspector.

In other words, there is bound to be a lacuna in time from the date of the order of appointment of an inspector under section 235, and similarly the date of appointment of an inspector under section 237, and the date on which the company comes to know about such appointment. I agree with the Minister that the investigations under these sections do begin with the appointment of an inspector. The amendment I have by way of Explanation(1) says that the disability as regards action against an em-

ployee should begin from the date on which the employer is informed or advised of the appointment of the inspector. That seems to me so plainly necessary namely to know of the appointment of an inspector, before anybody can attach a liability to the employer company. That position in terms of the date on which the company concerned is informed of the date of appointment of the inspector, would seem to be the least that would be necessary in the circumstances.

But I would go a little further and ask the Minister to consider section 239(1) which says:

"If an inspector appointed under section 235 or 237 to investigate the affairs of a company. . . ."

let us call it company X—

"thinks it necessary for the purposes of his investigation to investigate also the affairs of"

another lot of companies,—they are all described there in that section—then those companies are also under the disability that they may not discharge or otherwise punish their employees. How is anybody to know that this inspector "so thinks." In respect of certain of the sub-sections there, there is perhaps adequate protection because action cannot be taken by the inspector except with the prior sanction of the Central Government. Sub-section (2) of sec. 239 of the Companies Act makes it clear that in case of certain types of companies which the inspector may think necessary should be investigated, no such action can be taken without the prior approval of the Central Government; and the Central Government have to give prior notice to the company concerned. In these types of cases, the receipt of a notice to show cause would act as a warning as to the date of commencement of this particular embargo. But what about the other companies, the other bodies corporates or persons,

namely, those in sub-section (1)(a) of sec. 239:

"any other body corporate which is, or has at any relevant time, been the company's subsidiary or holding company or a subsidiary of its holding company or holding company of its subsidiary"—

It does not make sense to me; but it is there,—and similar in section 239(1) (b) (i)—

"any other body corporate which is, or has at any relevant time, been managed,

(i) by any person as managing agent or as secretaries and treasurers or as managing director or manager who is or was. " etc. etc.

I have been a managing director. Some other companies quite unknown to me may now be under investigation, some other companies altogether. The inspector may "think" in that connection that my affairs have got to be investigated. In my case, when does the embargo on disciplinary action against my employees begin? I just do not know. When am I supposed to be committing an offence involving dire consequences—financial or perhaps by way of imprisonment; I have not gone into it in detail, but you see, sir, how absurd it is?, Am I supposed to be committing these offences without any means of knowing that I am in jeopardy as from a particular date? Or am I just to hope for the best? If I am running my present business and dealing with my employers properly in respect of disciplinary matters, am I just to hope for the best that I am not committing any offence?

In order to get this clear beyond doubt, I have suggested that a definition with some precision be incorporated. If an alternative way of expressing the same thing with some

[Shri Dandekar]

precision were indicated to me, I would very gladly accept it.

My point is this. Everyone concerned, who is going to be in jeopardy for contravention of a new law, for commission of a new offence that is now being created, must know when his liability in terms of this particular punitive provision begins. Similarly there are investigating sections, sections 248 and 249 (1) (b) which are concerned simply with asking companies for information. I see no reason why it should not be specified that in regard to a company, of whom information is being asked, the embargo on action against its employees begins from the date on which it receives the requisition to give information. It seems to me the simplest possible terms in which to indicate when a particular specific liability that is geared to a specific situation of an investigating character begins.

The second "Explanation", which is a part from the first amendment, concerns the other end of this whole process. When does this embargo end? When am I free of the moratorium or embargo on punitive action against employees? Am I just to assume it goes on for days and days, months and months and years and years? Or is there a point of time at which I can say I am out of this jeopardy? Therefore, I have suggested a very specific definition as to the point of time at which it ceases.

The third part of my first amendment is concerned with merely indicating that there has got to be an overall time limit on this sort of thing. It should not be indefinite. So I really must move these amendments. I am sorry, but I think they are very necessary in the interest of these people who are most concerned.

The second amendment which I have proposed concerns the question of appeal. I do not think it is proper to go on and on with this sort of massive legislation investing non-judicial authority with final decisive power.

I would say with great respect that the rule of law ought not to be so lightly brushed aside. Therefore, the amendment No. 2 which seeks to omit the words 'be final and' in page 2, lines 20 and 21 is necessary.

Shri B. E. Bhagat: I have already dealt with the substance of the amendments of the hon. Member. But since he has elaborated his arguments, I would like to supplement only this much. It is not as if only during the period of investigation the company will not take action against its employees but it has to send to the Company Law Board the reasons for taking action against them. The company must know when such liability begins. I think in ordinary cases all these sections provide, but he says that the liability should be there only when the notice reaches. But as I pointed out a case, only a day before the Ordinance action was taken. Somehow or other, they come to know. Information through other ways and sources is not unknown. But these can be marginal cases in which not the *bona fide* of a concern but the *mala fide* interest is involved. In all *bona fide* cases, no difficulty will arise. It is not the intention of this measure to put a liability upon the employer or company when they have no means of knowing it.

Then he has objected to the finality of the appeal provision. But here it goes to the tribunal whose decision will be final. So there are so many remedies open to the company. He has said that the decision of the tribunal should not be final. I may tell him that even earlier, when the section was framed the Act provided that appeal from the tribunal can be only on points of law and not on points of fact. Therefore, on that basis, these matters are not matters of law; they are matters of fact, they cannot be matters of law. Therefore, the decision of the tribunal has been made final.

15 hrs.

He has raised another point, which is also in the body of his amendment, that a period of twelve months should be there for the investigation. I was looking through the actual investigations that are in operation, and in all the cases the period of twelve months is very inadequate, not for the reason only that it is not physically possible to complete the investigation, but because often times the co-operation from the company is not forthcoming, and they go to courts for writs etc., and the matter is kept pending for two or three years. That is the reason why a period of twelve months cannot be accepted. When, an investigating body is appointed, the period is already given. Therefore, I am sorry I am not able to accept the amendment.

Mr. Deputy-Speaker: I put amendment No. 1 to the vote of the House.

Amendment No. 1 was put and negatived.

Mr. Deputy-Speaker: I put amendment No. 2 to the vote of the House.

Amendment No. 2 was put and negatived.

Mr. Deputy-Speaker: The question is:

"That Clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Mr. Deputy-Speaker: The question is:

"That Clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Mr. Deputy-Speaker: The question is:

"That Clause 1, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

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

Shri B. R. Bhagat: I beg to move:

"That the Bill be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

श्री राम सिंह (बहराइच) : उपाध्यक्ष महोदय, इस समय क्वोरम नहीं है ।

श्री बागड़ी : व्यवस्था का प्रश्न है । इस वक्त क्वोरम पूरा नहीं है ।

Mr. Deputy-Speaker: Now there is quorum.

15.03 hrs.

DEMANDS* FOR SUPPLEMENTARY GRANTS (GENERAL), 1964-65.

Mr. Deputy-Speaker: Now, we take up discussion and voting on the Supplementary Demands for Grants in respect of the Budget (General) for 1964-65.

DEMAND No. 53—DELHI

Mr. Deputy-Speaker: Motion moved:

"That a supplementary sum not exceeding Rs. 50,00,000 be grant-

*Moved with the recommendation of the President.