

*Clauses 1 and 2, the Enacting Formula and the Title were added to the Bill.*

**Shri Manubhai Shah:** I beg to move:

"That the Bill be passed."

**Mr. Speaker:** The question is:

"That the Bill be passed."

*The motion was adopted.*

13.26 hrs.

### COMPANIES (AMENDMENT) BILL

**The Minister of Finance (Shri T. T. Krishnamachari):** I beg to move\*:

"That the Bill further to amend the Companies Act, 1956, as reported by the Select Committee, be taken into consideration."

I shall very briefly indicate at the outset the more important amendments recommended by the Select Committee in regard to the five important provisions contained in this Bill.

The first of these important provisions relates to the setting up of a Tribunal. The Select Committee has recommended some changes which are towards improving the character of this measure. According to these, the Chairman of the Tribunal will always be a person who is or has been or is qualified to be a High Court Judge and every Bench of the Tribunal will consist of not less than two persons, one of whom is a person well-versed in law. These changes ensure the Tribunal and its Benches having a pronounced judicial bias. The recommendation regarding the functions of the Tribunal relates to the Tribunal being invested with the powers of a court under sections 155 and 240 of the Companies Act; these relate to powers to direct rectification of the Register of Members of a company and to compel

production of books before an Inspector as well as enabling him to examine a person on oath. As a sequel to conferring these specific powers on the Tribunal, the provision in the Bill which sought to empower the Central Government to notify from time to time the powers of the court which could be conferred on the Tribunal has been removed, and thus the criticism that the Executive could at will enlarge the scope of the functions of the Tribunal has been, if I may say so, more than adequately met. The powers of the Tribunal will, therefore, now be confined to those conferred on the Court under sections 155, 203 for the limited purpose of granting leave, section 240 and 397 to 407 which relate to oppression and mismanagement, besides pronouncing whether a particular person in regard to whom a reference has been made by Central Government to it, is fit and proper to hold a managerial office.

Regarding the second provision in the Bill which relates to the setting up of a Board, the only change that has been effected is to replace the word "entrusted" by the word "delegated" in clause (4) of the Bill.

In the next provision relating to the conversion of loans granted by Government to a company into shares of that company, two important changes have been made. One is to the effect that such conversion will be directed only if in the opinion of Central Government it is necessary in the public interest so to do. The other is in regard to the existing loans which do not contain any terms for such conversion. Such conversion will not be directed unless there has been default in the payment of any instalment of the loan or interest thereon or there has been breach of any other terms of the agreement and the company has been given at least three months' time to remedy such a default.

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\*Moved with the recommendation of the President.

13.30 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

While making the existence of public interest as a condition precedent to the conversion of a loan is a desirable change and one which would provide guidance to Government in invoking this provision, I do not hold the same view in regard to the other amendment regarding retrospective character of the particular provision. There has been some difference of opinion in the Select Committee and the difference of opinion is indicated by the minutes of dissent by two Members. I shall in a few words clarify the scope of this particular clause. It has been mentioned to me and there has been some discussion outside about this particular clause whether the intention of the Government is to include loans issued by corporations over which Government has control, like the IFC and so on. I may at once deny that there is any such intention. The loans that are sought to be covered by this provision are loans directly given by Government and it is not even expected to include the loans given by the National Shipping Board for the purpose of encouraging shipping industry in this country. In fact, according to the information that I now possess, the total number of companies, the loans to which would be covered by this provision would be five, of which one happens to be a company in which Government have partnership of 50 per cent—Oil India. One happens to be a very small company where four lakhs of a five lakhs loan has been repaid. Another happens to be a loan of Rs. 3 crores of which possibly Rs. 50 lakhs have been paid. That leaves only two steel companies as the major concerns to have taken a loan from the Government to whom this clause might apply.

I may emphasise that the amendment that public interest is the criterion which might make Government move in this matter is a very important one. It is extremely unlikely

that in view of this change in the provision and also in the general view of Government as it is today, anything untoward, uncalled for, or improper would be done in this regard. Probably we will discuss this clause almost threadbare when it comes; I do not propose to say anything more on this.

Regarding the trusts some significant changes have been made by the Select Committee. One is the appointment of a person as a public trustee and the second is the new provision 187B whereby the public trustee alone becomes entitled to exercise the voting rights attached to shares held by trusts which fall within the scope of these provisions. The public trustee however is not precluded from granting proxies to the trustee himself and on such a proxy being given the trustee can exercise the rights of a shareholder as though this provision is not in existence but in accordance with any instructions that the public trustee may give. This enables such a trustee who gets a proxy from the public trustee to be not a mere dumb voter as invariably proxy holders are but take an active part in any proceedings of the meetings of the company. Further, the trustee can bring to the notice of the public trustee in writing that the interest of the trusts are likely to be affected and therefore voting rights in respect of those shares which are held by him should be exercised in a particular manner. It will be open for the public trustee to employ the trustee himself or any other Government officer as his proxy and to accept the advice given or not to accept it. But the public trustee would be warned and he will take his decision having in view the given warning.

The last set of provisions relating to the removal of managerial personnel makes it clear now that only persistent cases of negligence or default could be referred to the tribunal by the Central Government. The word 'persistent' has been taken more or

[Shri T. T. Krishnamachari]

less from the Jenkins' committee report where that committee laid stress on 'persistent negligence or default'.

**Shri M. R. Masani** (Rajkot): The word 'negligence' is not there.

**Shri T. T. Krishnamachari**: I stand corrected; I am grateful to the hon. Member. Another change is that a person who has been removed from the managerial office by Central Government on the basis of the findings of the Tribunal could be appointed to such managerial office before the expiry of the stated period of five years, provided the case is referred to the tribunal and its concurrence is obtained. This gives a chance of reprieve; but the reprieve cannot be exercised by Government by itself; it can only be done on the advice of the tribunal so as to avoid any pressure being brought on the Government to this end.

These are in fact major changes recommended by the Select Committee. Barring the provision in regard to the conversion of the loans into shares, the other amendments are acceptable to Government. My hon. friends Shri Masani and Shri Bade have appended a minute of dissent. Their first objection is to the appointment of a public trustee and to the provisions relating to the voting rights of trusts. I have already indicated that these are aimed at preventing concentration of economic power in the hands of a few and using the trusts for the furtherance of the intentions of those persons. The objection in my view has no significance. I think the modern legal literature has to some extent favoured this attempt to discourage the growing practice of concentration of wealth being used for ends which are not wholly beneficial to the country.

There is another method of doing this or rather safeguarding this particular.

**Shri Bade** (Khargone): He was a Member of the Committee. He could not say now that he does not accept a recommendation of the Select Committee. He could have given a dissenting note.

**Mr. Deputy-Speaker**: You will have your chance.

**Shri T. T. Krishnamachari**: I am told that Ministers do not append dissenting notes. There is the alternative; I am quite prepared to accept it if it is the wish of the House.

**Shri P. K. Deo** (Kalahandi): Sir, the Minister made a statement that it is not the usual practice for Ministers to give a Minute of Dissent. I want to raise a point of order about this. May I know how far it is correct? Is there any parliamentary convention to that effect?

**Shri Morarka** (Jhunjhunu): Sir, may I point out that....

**Shri Bade**: Sir, the point is.....

**Shri Kapur Singh** (Ludhiana): It is for the Chair to decide, and not for the hon. Member opposite to say. (*Interruption*).

**Mr. Deputy-Speaker**: There is no point of order in this. It is the House which ultimately decides.

**Shri Bade**: The report of the Select Committee is always accepted and that is the decorum. I want a ruling whether he can say that he does not accept the report of the Select Committee. He should not say before the House.....

**Mr. Deputy-Speaker**: He can say before the House that he is not accepting it. There is no point of order.

**Shri Bade**: He said usually Ministers do not append any Minute of Dissent.

**Mr. Deputy-Speaker:** It is ultimately the House that accepts or takes a decision. The report of the Select Committee is only to aid the House to come to a correct conclusion.

**Shri Bade:** He was a Member of the Select Committee.

**Mr. Deputy-Speaker:** There is no point of order. I do not agree with you.

**Shri T. T. Krishnamachari:** As I said, if the wishes of the House are such that a provision of this nature is not necessary, but that it favours an imposition by law that the trust should invest all its monies in Government securities and not in equity, I am quite prepared to accept it. Otherwise, I think these provisions in regard to voting rights are necessary in order to prevent....

**An Hon. Member:** A bit louder.

**Shri T. T. Krishnamachari:** I am afraid apparently the microphone is not working properly. I am speaking with my natural voice and I cannot raise it.

**Mr. Deputy-Speaker:** It is quite clear.

**Shri T. T. Krishnamachari:** Therefore, I think it is absolutely necessary to have this provision in order to safeguard the interests of the society as a whole. All that has been done is, it has been safeguarded in the provisions of the Bill as it emerged from the Select Committee, that genuine trusts which want their monies to be properly invested and want a proper return for the purpose of utilising the monies for the intention of the original donor will not in anyway be affected by these provisions.

In the Minutes of Dissent as well as in the various representations received by the Select Committee, it has been urged that the trustee should not be deprived of his voting rights unless his misbehaviour is proved into after

having issued a show-cause notice. As I said, it is not necessary to deal with individual cases. It will be very difficult to deal with individual cases. One has, therefore, to have a blanket protection of this nature, and we are completely covered in regard to the exercise of these powers by this House even by the Constitution.

Regarding the provision relating to the constitutional functions of the tribunal, there is no need for me to elaborate on this subject beyond what I have already done, because the changes that have been introduced by the Select Committee in this regard, I think, are definitely an improvement on the original, and therefore must find unanimous support.

There has also been an indication in the Minutes of Dissent that the tribunal's findings or orders should be appealable not only in matters of law but also in matters of fact. The idea of the tribunal itself is, there should be a finality in regard to some matters when the tribunal goes into this question, and if it is a question of opening up the flood-gates of appeal even in regard to matters of fact, we can very well give up this experiment of having a tribunal.

There had been some objections in regard to the basis on which matters should be referred to the tribunal. All these matters have been fully discussed, and I do not think there is any need for me to go into those questions over again. In fact, they are sufficiently comprehensive, and I think an assurance given by anybody on the floor of the House on behalf of Government would be respected. I shall see that frivolous action would not be taken in regard to any of these matters which are referred to the tribunal. While a comprehensive characterisation of those matters that could be taken to the tribunal is necessary, I have no doubt both the Company Law Administration and the Government would be careful to see that nobody

[Shri T. T. Krishnamachari]

is unnecessarily or vexatiously harassed.

I do not propose to go into the merits of the problem, because I think there is sufficient legal literature now available to justify the intervention of the State in matters like this. Even in a country like the United States, the provisions concerning many of these matters in regard to the concentration of economic power are far in advance than any thing that we have contemplated in this country.

My hon. friend Shri Indrajit Gupta has indicated that it would not be proper for any revision in regard to the sentence or judgment for removing a person from the office of manager for a period of five years. But the safeguards that have been introduced are adequate, and I think in marginal cases where action has been taken in this regard, there must be room to rectify the position provided that the circumstances of the case do not warrant a continuance of the penalty. This more or less brings me to the end of my story. I commend the report of the Select Committee to this hon. House.

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

‘That the Bill further to amend the Companies Act, 1956, as reported by the Select Committee, be taken into consideration.’

Five hours is the time allotted for this debate. Shall we have three hours for general discussion and two hours for clause-by-clause consideration?

**Shri Morarka:** Four hours and one hour respectively.

**Shri M. R. Masani:** I would strongly oppose the suggestion of four hours and one hour respectively, from that side. We find a lot of general speeches are made during the general discus-

sion, and the clauses of important Bills like this which are technical in their nature get rushed through without proper examination. I am sure that if this House wants to do justice to this Bill, three hours will be ample for general discussion, and in order that there should be a proper scrutiny of the clauses, I think two hours is the minimum for the clauses.

**Shri Bade:** One hour is at your disposal. So, my suggestion is let it be six hours: four hours for general discussion and two hours for the clauses.

**Mr. Deputy-Speaker:** It has gone to the Select Committee, and so no further extension of time is possible. We will have three hours and two hours respectively. More Opposition Members from almost every party want to speak. So, if we follow the 60 per cent and 40 per cent rule, one hour and 15 minutes will be for the Opposition and one hour 45 minutes will be for the Congress party. Ten minutes each.

**Shri M. R. Masani:** How can justice to this Bill be done within ten minutes?

**Mr. Deputy-Speaker:** I have to distribute the available time to all the Groups.

**Shri Warior (Trichur):** The Chair is forgetting what happened yesterday and the day before about this Bill. In ten minutes we cannot do any justice at all.

**Mr. Deputy-Speaker:** You may take two or three minutes more depending on the strength of the parties.

**Shri Warior:** The major groups may be allowed as usual 15 minutes each.

**Mr. Deputy-Speaker:** For the Swatantra Party and the Communist Party—15 minutes each.

**Shri Warior:** Sir, I should like to offer my congratulations to the

Finance Minister on the persistent struggle he made to get this Bill through in the original form, although he had suffered much on account of that. Everybody knows it; the country knows it and even my friend, Mr. Masani sitting in front, knows it.

**Shri M. R. Masani:** Birds of the same feather!

**Shri Warrior:** We will flock together.

**Shri M. R. Masani:** You are flocking together already.

**Shri Warrior:** When the Bill was referred to the Select Committee, Mr. Umanath speaking during the discussion said:

"One thing that I would like to make clear to the Finance Minister through you is that this indicates that there is a move between some in the Congress Benches and the Swatantra Party on this side to join together to water down what little benefits will come out of this."

So, the Swatantra Party also can be proud that they have also got birds of the same feather in the other ranks and I do not envy them. (*Interruptions.*)

**Shri Bade:** Spare some feathers for the Congress also!

**Shri T. T. Krishnamachari:** If we were all birds, we would not speak!

**Shri Warrior:** There are three things. One is about the tribunal. The other is about the board. Then there is the trust and loans. Major differences of opinion had arisen in two things, particularly about loan and the tribunal. Who can contest the necessity of a tribunal now, after all that has been said and done in this House and that big epic voluminous report called the Vivian Bose Commission report came before the House? That report was again scrutinised by

the Shastri-Daphtary Committee. What is the essential finding of the Shastri-Daphtary report? It discloses all sorts of crimes known to humanity. Here is the report in which are described all the dealings indulged in and the final culmination is this:

"As to Shri R. K. Dalmia, he has himself never put pen to paper and worked entirely through dummy directors and convenient subordinates. The procurement of any evidence has always been found extremely difficult, though he has been at the back of many transactions, to say the least, of doubtful nature. The Bharat Insurance Company fraud was an exceptional case . . ."

He has already been imprisoned on account of that. If the Government or the authority want to take action, the action must be surprising and immediate. If that is not the intention, I have nothing to say. But if that is the intention, which is put in the Statement of Objects and Reasons, the process must also be attuned to that thing. The machinery set up also must be oiled sufficiently, so that action will be swift and the culprit cannot escape the long arm of the law.

The main finding of the Daphtary-Shastri report is that although all these things are found it, it cannot be put before a court of law because the law is such that they cannot be brought to book. That was the main finding. Although both of them were convinced that crimes had been perpetrated very ingeniously, the arm of the law is not long enough even to bring those people to book. That result of all this was that although this great person Dalmia is in prison now—anybody like us sitting here will go to prison thousand times if the prison life is like that—that apart, it is impossible to catch hold of these people who are actually engaged in this.

[Shri warior]

It is reported in the capitalist press that these are general, normal commercial practices. The general, normal, commercial practices are defrauding the public. Essentially, what is the position of the capitalist structure in this country? About Rs. 1400 crores is invested in private enterprise and out of this, they have taken a loan upto 1960 accounts which we have been able to gather through questions and answers in this House, of about Rs. 140 crores. It works out to 10 per cent only, but during the third Plan, what is the amount of loan taken by the private enterprise? That is not there in the information that we have got.

**Mr. Deputy-Speaker:** May I suggest it to the hon. Member that it is more profitable to speak on the clauses?

**Shri Warior:** That would come in the second reading; I have given my amendments also.

**Mr. Deputy-Speaker:** Time is limited. The Vivian Bose Commission's report has already been discussed by this House.

**Shri Kapur Singh:** He is sore about Dalmia.

**Shri Warior:** Not only about Dalmia, but many more also. If the Government's hands are strengthened, I am quite sure that according to this tribunal, many more Dalmias will come to light, who are hiding under the protection of the law now.

There are three things in this. The Minister himself said that the tribunal would have powers to pass interim orders. It is quite essential that if this is to be effective, the tribunal must pass interim orders which are unappealable.

**Shri Morarka:** It is so.

**Shri Warior:** It must be so; it must not be contended by anybody,

but it is also contended. The intention was there, but it did not go into the Select Committee report precisely for some reason. The second thing is, the final order of the Government on the orders of the tribunal should not be, especially as far as facts are concerned, appealable. Finally, if Government orders are passed, why should they be again appealable to any other judicial authority? After the findings of the tribunal, it makes an order. That is appealable and the courts decide one way or other. Then the Government makes an order. That order is also made appealable. I think for such a tribunal, no eminent and self-respecting person will come. No self-respecting person will agree to be on the tribunal hampered at every stage—at the interim stage, final stage and after the orders are passed. So, if self-respecting persons are to head this tribunal, it is essential that they must know that they have ample powers to catch hold of the culprits and bring them to book and their decision will be final, as far as those cases are concerned.

14 hrs.

Then I come to the setting up of the new board for the administration of company law. Till 1956, if I remember correctly, it was run as a department and it was a part of the Ministry of Commerce and Industry. Of course, initially it was in the Finance Ministry but then it was transferred to the Ministry of Commerce and Industry. Without casting any aspersion on anybody, I would say that no department should follow any individual. Now, whenever a Minister changes, the department also go behind him like a tail. Without intending to cast any aspersion on the Finance Minister, I may mention that when he was in the Finance Ministry, the company law administration was with him. When he went to the Ministry of Commerce and Industry, it followed him there. Now he has

come back as Finance Minister, it has again gone back to the Finance Ministry. However much a person may like a department, or a department may like a person, it should not be tagged on to individuals.

In many cases we are copying UK. I am told that in UK the Company Law Administration is under the Ministry of Commerce and Industry. Why can we not have the same thing here also? Not that I am very particular that it should be under the Commerce Ministry, but this change from place to place creates some suspicion in the public mind that although the Company Law Administration is a very important department of the Government, it has no permanent place and it is changed from place to place.

After 1956, the powers of the Department of Company Law Administration were very much reduced. Why? Previously, it was handling capital issues, stock market and co-ordination of activities. Why can the new board not be empowered or clothed with those powers which were enjoyed by the former Company Law Administration?

Then I come to the conversion of loans, which I think is the biggest bone of contention. That dispute has been waged not only behind the scenes but also on the state. Yesterday, we lost two very valuable hours of the House only because of that dispute inside the ruling party. I know what the public sector is but what is it that the private sector wants.

**Shri Kapur Singh:** Fair play.

**Shri Warrior:** They only want play, whether it is fair or not, with the money of the people. They want to run business, not with their own money but with public money, first by shares subscribed by the public, then by loans, then tariff protection, then higher prices on the consumer and then black-marketing. How

much of the money with which they engage in their activities is that of the public? They defraud the workers, they defraud the consumers, they evade taxes, they get protection from tariffs, all with public money. These are not new inventions; these are mentioned in the Report of the Vivian Bose Commission. Even if this Bill is not passed, so far as future lending by Government and governmental institutions is concerned, a clause in the contract can always be inserted that such and such part of the loan will be convertible into shares if certain conditions are not fulfilled. So, the future can always be taken care of. But what about the past? Only the other day, the Minister of Steel, Mines and Heavy Engineering, Shri Subramaniam, said in this House that from TISCO, TELCO, IISCO and some other "cos" Government can get back their loans only if Government give them money! So, anybody can take money from the Government because the repayment will be made by the Government themselves. How can payment and repayment be made by the same person or institution? It is good that Shri T. T. Krishnamachari has just now mentioned that this mainly affects only two concerns, the steel companies. So, all this dust is kicked up only on behalf of the interests of these two concerns. Should that be allowed? All this hubbub has been created and all the noise has been made precisely for protecting the interests of two or more steel companies.

**Shrimati Renu Chakravartty (Barrackpore):** But they are very powerful companies.

**Mr. Deputy-Speaker:** He should conclude now.

**Shri Warrior:** Then I will refer to one point about trust.

**Mr. Deputy-Speaker:** He has to conclude now if his party is to get two more chances.



**Shri Vasudevan Nair** (Ambalazhuzha): Sir, ours is the biggest single opposition group.

**Shri Warrior:** Sir, you should not go mechanically. Some discretion should be used.

**Mr. Deputy-Speaker:** I have to accommodate more members.

**Shrimati Renu Chakravartty:** Why can the time not be extended? This is a very important Bill.

**Shri Warrior:** I am leaving out all the references; I am only referring to the points, without even elaborating them.

**Mr. Deputy-Speaker:** He has to conclude now if two more of his colleagues have to get opportunities.

**Shri Kapur Singh:** 15 minutes is quite sufficient.

**Shri Warrior:** I will now refer to the Report of the Direct Taxes Enquiry Committee. I consulted Shri Tyagi and he referred me to this report. It is only then that I came to know that such a thing has been mentioned in this Report. I have not gone through it before. That is a fact. What is the state of affairs of the trusts? This report makes interesting reading. The trusts are exempted from income-tax. Up to how much? 70 per cent. How long will it take to make this 70 per cent? We can calculate it ourselves. Not more than five years. So, in five years, from income-tax exemption alone one can get the trust money. If the trust money is invested in Government securities, or some other bonds or debentures, what will be the position? Of course, that question is not dealt with in the Report. But what is actually done? Actually, they invest the money in private equities and they vote there and take part in the business. By taking part in the business and holding equity shares there, they become very powerful individuals, not in the interests of the trust but in their own interests. Then there is inter-locking. This Report is giving all those facts. Our leader in the other House, Shri

Bhupesh Gupta, mentioned only the other day about the trusts of Nizam. There have been innumerable cases like that relating to charitable and family trusts which have been brought to the Bombay High Court under the Trust Act. So, Government should have power at least to rectify the mistakes. In those cases where the trusts entrusted to some people are not carried on in the proper manner, according to law and according to the interests of the trust, I think Government must have sufficient powers to deal with the situation. Since innumerable cases of this nature are reported every day, I think this amendment requires the support of all hon. Members.

**Shri M. R. Masani:** Mr. Speaker, Sir, this morning Members of the House awoke with a shock to know that the decision of the Select Committee of this Lok Sabha and the decision of the Executive Committee of the ruling Party by a thumping majority of 17 votes to 2 had been reversed by the diktat of one man.

Before I go on to consider the tragic implications of this development, let me just take five minutes to explain what is the issue between the Select Committee and the Finance Minister. The issue is a very narrow one. Even the press does not seem, judging by today's papers, to have understood the issue. The issue is not whether the Government should be entitled unilaterally to convert itself from the position of a creditor to a share-holder in respect of past loans. The Select Committee's Report itself arms the Government to so convert itself even with regard to past loans subject to one condition—that the debtor has gone into default in some respect. If there is any default on the part of the borrowing company then, even if the loan was taken twenty years ago or ten years ago, this clause will become operative. The power is given to Government subject only to this—that there is default and three months' notice is given to the defaulting company to put itself right.

Even this is a variation of the original contract entered into between the creditor and the debtor. And it is one of the pillars of the rule of law that we should respect the sanctity of contract. When two people enter into a transaction, the basis should not be changed except by consent. Even this is a unilateral departure. I made myself a party to that departure because I wanted to go along with the majority of my colleagues from the Congress Party, to meet them half way, so that something equitable, something in the interest of the country should materialise. Therefore, I accepted that clause as a compromise between my position of sanctity of contract and their position of making some reasonable modification.

The issue between the Select Committee and the Finance Minister is this. He wants to have that power to himself unconditionally. Even in respect of a debtor company which fulfils all its obligations, he wants power to scrap that contract to which his signature and that of his predecessor has been put and unilaterally, by use of police power, to vary that contract and to treat it as a scrap of paper. That is the issue.

I do not know whether my colleagues who took this view along with me are going to be free to express themselves later or to be gagged in view of this Fascist diktat that has been issued this morning. But in case they are gagged, let me explain, as I understand it what motivated them. They are perfectly free to contradict me if I am wrong. I think, what motivated the Select Committee in accepting this proviso was that India's credit, the credit of the Government of India, the reputation of the Government of India, the prestige of the Government of India at home and abroad will be smashed if this infamous clause is carried through.

Upto now, India's prestige has been high. Whatever one may think of the policies of the Government, one thing one must say that till this day, till

Monday, till the President gives his assent to this clause, there has not been a single breach of faith by the Indian Government since Independence. I say, as a citizen of India, I am proud of this. Only two months ago, addressing the Economic Club of Detroit, in the presence of a large collection of industrialists, I said: "I am a critic of the Government at home. But let me record this fact that my Government, with which I quarrel, has not had to its credit a single breach of faith. It has played fair with people at home and it has adhered to its contracts with people abroad." I regret to say, after this, neither I nor any honest Indian will be able to claim this on behalf of this Government. It is because of that that the Select Committee modified the Bill.

Today the Government wants to be able to cheat as a lender. It wants to break faith as a lender. It is much easier for a debtor to cheat. I shudder to think what the World Bank would think about it. I shudder to think what foreign Governments will think about it because a man who cheats as a creditor is much more likely to cheat as a debtor, because the pressure on him to cheat is much more. This is why we opposed this clause and why we modified it upto a reasonable extent. We wanted India's name to be saved. If this clause goes through, India's name will be mud in the counsels of the nations.

The entire responsibility for this will fall on the shoulders of two guilty men, the Prime Minister and the Finance Minister. They have contributed to violating two very important conventions of our Constitution and of our parliamentary democracy. Those two conventions we took from the British. Until this day, whatever Party we belonged to we have respected them. One convention was that in a Select Committee, there are no party whips. We leave our party labels behind us. We go there to sit together, 15 or 20 honest people, to try and arrive at a fair decision. There is such a

[Shdi M. R. Masani].

thing as a consensus and that consensus comes out in the Select Committee. Therefore, the first convention which has been respected till this day has been that Members do not take party whips into the Select Committee.

Sir, I as a Congressman have exercised this right to differ from the Government when the infamous Lquat Ali Budget was introduced in 1947 with the support of the present Prime Minister. I and Mr. K. C. Neogy and ten or twelve other Congress Members of Parliament put in a minute of dissent defying that Budget and the Government's proposals because we were free Congressmen exercising the rights of free parliamentarians. Today, I find that the Prime Minister has blamed Members of his Party who were doing an honest job for the country, for not having bowed to the whip in advance. So the first convention that is being violated today is the convention that in a Select Committee party whips do not operate.

The other convention that is being broken is that the Government bows to the decisions of the Select Committee. Only a few months ago, or a year ago, when the Law Minister found himself at logger-heads with the Select Committee on the Fifteenth Amendment of the Constitution, he was democratic enough to his credit, to bow to the majority of the Select Committee and let that Select Committee have its way in this House.

This is an unsporting spirit: heads I win, tails you lose. After this, every Select Committee will be a farce. What is the point of this House appointing a Select Committee if everything is to be rubber-stamped by the Minister and the Select Committee is going to act as a group of robots—at least a majority of them. Uptill now, we went to the Select Committee hoping that by give and take, we could convince each other. Here is a Bill which has come back in an improved form in two respects. Out of that, one improvement

would be struck off because of this unsporting attitude of never taking a defeat democratically. We on the Opposition side accept defeat every day. We bow to it. We do not try to reverse it by arbitrary methods. Here, the Finance Minister has overruled defeat. He and the Prime Minister cannot stand it. So, they have to bully their own Party to dragoon this House into accepting a clause which it does not want, and at the diktat of one man it is reversed.

Now, the Prime Minister has given an explanation for his support. According to this morning's *Indian Express*, at the Party meeting he said: "Two or three years ago, he himself suggested that Government should have power to convert its loans to companies into equity shares. Hitler had adopted such a course in Germany. Nevertheless, the Party's Executive Committee had decided otherwise." The Executive Committee's crime was it did not follow Mr. Nehru into Hitler's camp.

So far, our Prime Minister has been known as a blind devotee of that monstrous tyrant Stalin. He adjourned this House when that horrible man died with all his crimes which Mr. Khrushchev has now retailed. Now, the Prime Minister has, it seems, become a devotee of Hitler along with Stalin. This is where the country is being taken today. That is why I think, more important than the clause, important as it is for India's honour and prestige abroad, this attempt to truncate our parliamentary democracy is even more important. Mr. Anthony two days ago appealed to the Prime Minister to stop this steady recession of democratic conventions and processes which were going on. If I may say so, he is wasting his breath. It is India's misfortune that it has had as the first Prime Minister a half-baked Marxist, and we know Marxism cannot co-exist with parliamentary democracy. This is a tragedy for this country.

**Shri Warrior:** You were also a half-baked Marxist.

**Shri M. R. Masani:** I was once; I am cured now.

**Shri Warrior:** Completely?

**Shri M. R. Masani:** Now, I want to come to the second most objectionable part of the Bill and that is in regard to Trusts. Clauses 7 and 8 of the Bill deprive all trustees of all trusts automatically of their right to exercise the rights as shareholders in a company in respect of the shares held by the trust. No charge has to be preferred against a trustee; no case has to be made out against him. His right to cast his vote as a member of the joint stock corporation is being taken away from him. He is being expropriated without anything being alleged against him. This was not the intention of the Bill when it was introduced. The Statement of Objects and Reasons is very clear. Paragraph 2 says:

"In order to prevent the use of voting rights attached to shares held by trusts for the advancement of the personal interests of the donors, it is considered necessary to regulate the exercise of such rights in suitable cases."

In other words, when a trustee misuses his voting power to work for himself or for the donor and not for the charitable or other objects of the trust, he may be removed and his voting rights may fall to the public trustee. That was an understandable proposition. I was prepared to go along with it. I am prepared to table an amendment in the House for the object stated in the Statement of Objects and Reasons attached to the original Bill. But, again, the Finance Minister has shifted his ground. He comes to the House trying to carry it by giving a reasonable object in the Statement of Objects and Reasons, but when he comes to the Select Committee he opposes an amendment in the very terms of the Statement of Objects and Reasons. Nowadays, one finds that the Statement of Objects and Reasons has very little relation to the operative clauses of the Bill.

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The hon. Finance Minister gave an assurance just now that these powers that are being taken will not be lightly or frivolously used. This country will give no weight to his assurance. The word of this Government, which is proposing to cheat, this Government which is proposing to break faith with people inside India and outside India is worthless from now onwards, and they will not accept that word. No assurances will do. We want the language of the law to be clear.

Thousands of trusts, big and small, are going to be expropriated in this manner. The instinct of charity, which is part of our Indian tradition, is being attacked as if it was some evil. People should be encouraged to form trusts, not punished as if they are criminals.

Talk goes on of aggregation of power, and concentration of power. Yes, there is concentration of power, but in the hands of these people opposite. That is the only concentration of power known to this country.

Sir, let me give the statistics from the hon. Minister's own department. The number of people with small incomes goes up, and the number of people with big incomes goes down; here are the figures from the tax statistics. Individuals with an annual income not exceeding Rs. 15,000 a year have increased by 95 per cent between 1956-57 and 1961-62. Their income has increased by 75 per cent. Let us see what happens in the case of those horrible gentlemen about whom these gentlemen behind me on the right have nightmares. On the other hand, the number of people with incomes exceeding Rs. 2 lakhs a year declined by 16 per cent, and their income had fallen by 26 per cent during the same period. What is the trend? The trend is towards dispersal of share-ownership; the trend is towards dispersal of wealth and income.

Our biggest giant enterprises in India are mere toys compared with third class companies abroad. The Finance Minister reads as much as I do, he is

[Shri M. R. Masani]

a very avid reader, and he knows that the biggest Indian company does not figure in the list of the first 450 joint stock corporations in the world published by *Fortune* magazine. This shows how tiny and puny we are, and it is these pigmies they worry themselves about,—the brave people behind me on the right.

A Reserve Bank study has shown that the share ownership of Indian enterprises is in the hands of a large number of small people, and that the number is going up all the time.

This catchword of concentration of power is valid, but the only concentration is in the hands of this Government. Whenever economic and political power gets concentrated in the hands of two or three people on those front benches then liberty is in danger, just as the liberty of the Congress Members has been violated overnight at yesterday's meeting, that liberty is in danger. I know that the vast majority of the Congress Party do want liberty to go . . . .

**Shri Shivaji Rao S. Deshmukh** (Parbhani): We do not look upon you as our liberators.

**Shri M. R. Masani:** I know that the Congress Party does not want liberty to go. I know that most of them are as good democrats as I am, and I pay tribute to them. But there is a handful of loud-mouthed fellow-travellers of the Communists who have successfully infiltrated into the Congress Party and, supported by Mr. Nehru, Mr. Krishna Menon and Mr. Malaviya, they are subverting the freedom of the Congress Party. I want to ask them how long they will stand for this. . . . (Interruptions) . . . . bullying.

**Mr. Deputy-Speaker:** Now, Shri Tridib Kumar Chaudhuri.

**Shri Tridib Kumar Chaudhuri** (Berhampur): I would like to take my chance, but I would submit that there are only five minutes today, because at 2.30 p.m. Private Members' Business will start. I have already informed the

Speaker that I would not be here on Monday, and I had made a request to him that I may be allowed to complete my speech today.

**Mr. Deputy-Speaker:** If the House agrees, I shall give him five more minutes after 2.30 p.m. so that he can have his say today itself.

**Shri Tridib Kumar Chaudhuri:** I do not want to waste my time unnecessarily. There have been unseemly controversies over certain provisions of this Bill as they were originally proposed before this House and subsequently as they were amended by the Select Committee. We have seen during the last few days how big business lobby has moved to bring pressure over the Members, particularly, over the members of the ruling party.

**Shri M. R. Masani:** We know where the pressure comes from.

**Shri Tridib Kumar Chaudhuri:** But what surprised me most was that the provisions of this Bill attracted comments even from a foreign diplomatic personage, and I read in the papers that the British High Commissioner in India speaking before the Associated Chambers of Commerce in Calcutta lately had commented that the proposed changes in the Companies Act had aroused apprehension in the minds of British vested interests which he represents. Although the Finance Minister is not concerned with that aspect of the matter, I would submit that it is highly exceptionable that such comments about our internal matters should emanate from foreign diplomatic personnel.

**Shri M. R. Masani:** We only want to pocket their money.

**Shri Tridib Kumar Chaudhuri:** No, I want to spurn their money.

**Shri M. R. Masani:** This Government is not spurning it. This Government wants their money.

**Shri Tridib Kumar Chaudhuri:** Since my time is limited, I would not dilate

much on those aspects of the Bill which have aroused controversy. I am at one with Government so far as the provision about the conversion of loans and debentures advanced by Government to companies into equity capital is concerned. There, we agree with the Government, but I am very sorry that Government have bowed down to big business pressure by whittling down and limiting the powers of the proposed tribunal. But what I am particularly concerned with is a matter which has not aroused much controversy or has not attracted much attention in this House, that is about the administrative arrangement regarding Company Law matters.

The hon. Finance Minister, both in his opening speech and also in his closing speech when we considered this Bill first in the House, wanted to convey the impression that the powers of the Company Law Administration as it was functioning or as they were when it was recently transferred back again to the Finance Ministry will be delegated to the proposed board.

But may I draw the attention of the House to section 637 of the Companies Act as it originally stood and as it has been amended by the proposed Bill as it has emerged from the Select Committee? We find that under that section the board will not be able to in the proposed section 637 fall under as many as 52 sections of the Companies Act. The powers under these 52 sections which have been enumerated in the proposed section 637 fall under seven categories. They are as follows:

1. Approval of appointment and remuneration of Managing Agents, Managing Directors, etc. and change of constitution of Managing Agents;

2. Approval of inter-company investments, and loans to Managing Agents, Directors and their associates;

3. Preventing undesirable persons from taking over control of a company, and permitting reinstatement of direc-

tors disqualified on grounds of criminal offences, bankruptcy, etc.;

4. Exemption of certain companies from provisions requiring termination of disproportionate voting power, standardised presentation of accounts, and disclosure of interest in subsidiaries, and related matters;

5. Preventing directors from voting at board meetings on matters in which they are interested;

Inspection, investigation and prosecution of companies on the initiative of shareholders or Government itself; and prevention of oppression of minority shareholders;

6. Prohibition of appointment of managing agents in specified industries; and

7. Presentation of an annual report on the administration of the Act to Parliament.

I find that even such a power as the appointment of Registrars cannot be exercised and will not be exercised by the Board, because those powers cannot be delegated under Section 637 of the Act to the proposed Board. The proposed Board, as has been noted by one shrewd observer recently, will only do high-level clerical work. So, instead of integration of the company law administration with other departments of the Government which deal with allied subjects like capital issues and all that, we find that there has been atomisation and all the major powers of the Government will be exercised by the Finance Ministry, and in the last resort by the Finance Minister himself.

So the appointment of this proposed Board would not at all improve matters. We will have a number of bodies dealing with matters relating to company law, and instead of leading to integration it will only lead to atomisation and personalisation. I am very sorry that that aspect of the matter has not aroused much attention. But

[Shri Tridib Kumar Chaudhuri]

I think the House on some subsequent occasion should give its serious consideration to this administrative aspect also, because after all the regulation and control of the corporate sector of our economy also needs a proper integrated all-comprehensive organisation. Otherwise what I feel is that the work that was done over so many years by a competent body of officers who have been in charge of the administration of company law and have done excellent work, will be totally nullified.

**Mr. Deputy-Speaker:** We will now proceed to the next item of business.

14.34 hrs.

#### COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

##### THIRTIETH REPORT

**Shri Hem Raj (Kangra):** Sir, I beg to move:

"That this House agrees with the Thirtieth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 9th December, 1963."

**Mr. Deputy-Speaker:** The question is:

"That this House agrees with the Thirtieth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 9th December, 1963."

*The motion was adopted.*

14.35 hrs.

#### RESOLUTION RE: AGRICULTURAL PRODUCTION—contd.

**Mr. Deputy-Speaker:** The House will now proceed with the further discussion of the following Resolution moved by Shri P. Venkatasubbaiah on the 29th November, 1963:—

"This House recommends that a Committee consisting of Members of Parliament, agricultural experts and progressive farmers be constituted to go into the causes of failure in agricultural sector and make recommendations for better co-ordinated efforts of official and non-official agencies in the agricultural front to increase the agricultural production so as to reach the desired targets."

The time allotted for this resolution is two hours out of which we have already taken one hour and twenty-five minutes. Thirty-five minutes are left.

Shri Sivamurthi Swamy may now continue his speech.

**श्री शिवमूर्ति स्वामी (कोपल) :** उपाध्यक्ष महोदय, पिछली बार मैं कह रहा था कि एग्रिकल्चर का जो डिपार्टमेंट है, इसका सम्बन्ध दूसरे डिपार्टमेंट्स से बिल्कुल नहीं है। दूसरे डिपार्टमेंट्स जिन का इस डिपार्टमेंट से ताल्लुक है, उन से यह अपना कोई सम्बन्ध नहीं रखता है, इन डिपार्टमेंट्स में कोई कोओर्डिनेशन नहीं है। यह बहाना किया जा सकता है कि एग्रिकल्चर स्टेट सब्जेक्ट है, इस वास्ते इस मामले में कोई बहुत ज्यादा सेंटर का हस्तक्षेप नहीं हो सकता है। मैं आपके सामने बहुत सी मिसालें पेश कर सकता हूँ जो कि केन्द्र से ताल्लुक रखती हैं और अगर केन्द्र ने सही नीति अपनाई होती तो खेती के काम को बढ़ावा मिल सकता था। ऊपर के लेवेल पर एग्रिकल्चर के साथ जो हमदर्दी दिखाई देती है, कैबिनेट लेवेल पर जो दिखाई देती है या मंत्री महोदय के लेवेल पर जो दिखाई देती है, वह नीचे के लेवेल पर बिल्कुल नहीं दिखाई देती है, वहां पर हालत इसके बिल्कुल उल्टी है। दिल्ली को आप छोड़ दीजिये। आप देखें कि दूसरे राज्यों में कितनी इरिगेशन फैसिलि-