Mysore Government was also sought. At the suggestion of the Labour Minister, Government of Mysore, I have agreed to act as the arbitrator in the disputes between the Management of the Indian Telephone Industries Ltd. and their workmen. This has been welcomed by the workers who agreed to give up the strike with effect from 15th December. It has been agreed that the arbitration will be limited to the following two issues:

(1) the quantum of interim relief to be paid to the workmen; and

(2) House Rent Allowance to workmen.

Nothing will be paid to the workers by way of interim relief pending the award of the arbitrator."

**Shri S. M. Banerjee** (Kanpur): After the statement was made by the hon. Minister of Communications, Shri Satya Narayan Sinha, some of the Members like Shri Yashpal Singh, myself and others got a lot of telegrams that the version of the hon. Minister was not based on any definite or certain facts. I would like to know what the condition today is. Are the workers satisfied with the adjudication and arbitration proposal, or is there still some trouble going on?

**Shri Bhagavati:** The workers are satisfied that the disputes have been sent for arbitration by the hon. Minister of Communications. They are satisfied as to that.

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**12.57 hrs.**

STATEMENT RE: DELAY IN LAYING STATEMENT SHOWING ACTION TAKEN ON CONVENTIONS AND RECOMMENDATIONS of INTERNATIONAL LABOUR CONFERENCE

**The Deputy Minister in the Ministry of Labour and Employment (Shri R. K. Malviya):** The hon. Members would recall that on December 7, I had laid on the Table of this House a Statement indicating the action taken or proposed to be taken by the Government of India on the Convention and Recommendations adopted by the International Labour Conference at its 47th Session held in Geneva in June 1963. Some of the members had referred to the delay in the laying of the above Statement and I had promised that I would verify and inform the House of the position.

The procedure concerning examination of ILO Conventions and Recommendations involves consultation with the State Governments, the employing Ministries concerned and workers' and employers' organisations etc. before a Statement on the action taken or proposed to be taken by Government in respect of these instruments is drawn up and placed, after approval by the Union Cabinet, before Parliament. These steps usually take time and it is precisely for this reason that the ILO Constitution permits in the case of countries like India, the time-limit of 18 months for completing these steps. So far as the Convention and Recommendations adopted at the 47th Session held in June 1963 are concerned. this time-limit would expire on December 26. 1964. It would thus be seen that the Statement has been placed before Parliament a couple of weeks in advance of the permissible time-limit.

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**12.58. hrs.**

COMPANIES (SECOND AMENDMENT) BILL—*Contd.*

**Mr. Speaker:** The House will now take up further consideration of the motion to refer the Companies (Second Amendment) Bill to a Joint Committee.

Out of 4 hours allotted, 3 hours have been spent already, and 1 hour remains.

**Shri M. R. Masani** (Rajkot): Perhaps you would be good enough to indicate when you propose to call the hon. Minister to reply to the debate.

**Mr. Speaker:** How long is the hon. Minister likely to take?

**The Minister of Finance (Shri T. T. Krishnamachari):** I shall take about half an hour.

**Mr. Speaker:** I shall call the hon. Minister at 13.30 hours.

**Shrimati Lakshmikanthamma** (Khammam): In general, the people of this country are law-abiding and honest, but it is only a few selfish people who out of their own personal interest disobey the laws and acquire unjustified wealth. The Vivian Bose Commission of Inquiry on the administration of the Dalmia-Jain companies made certain recommendations to amend the Companies Act with a view to prevent the malpractices of the nature observed and to ensure due and proper administration of the funds and assets of the companies in the interests of the investing public. The Daphtary-Sastri Committee also recommended that the Companies Act should be amended. The Bill seeks to implement these recommendations of the Vivian Bose Commission as well as the Daphtary-Sastri Committee. The Bill also strengthens, as has been stated by the Finance Minister, the provisions relating to investigation into the affairs of the companies to provide for more effective audit in cases of dishonesty and fraud in the corporate sector and to simplify some of the procedural requirements which were at present burdensome to the companies.

Clause 13 of the Bill seeks to impose restrictions on the period of the currency of blank transfers, by providing in the Clause as under:

"(1A) Every instrument of transfer—

(a) shall be in the prescribed form obtainable from the prescribed authority who shall stamp or otherwise thereon the date on which it is issued, and

(b) shall be delivered to the company—

(i) in the case of shares dealt in or quoted on a recognised stock exchange within six months from such date,

(ii) in any other case, within two months from that date.".

**13 hrs.**

Now, let us examine what this blank transfer is. As the name implies, a blank transfer is a transfer deed carrying only the signature of the transferer and delivered along with the share certificate; it neither contains the name of the transferee, *i.e.*, the buyer of the shares, nor is it dated.

**श्री हुकम चन्द कछवाय** (देवास) : इतनी महत्वपूर्ण बहस चल रही है, हाउस में, तो कोरम तो होना चाहिये ।

**Mr. Speaker**: The bell is being rung... ....Now there is quorum.

**Shrimati Lakshmikanthamma:** Thus the blank transfer can change hands swiftly and would enable the holder to sell the shares without getting his name registered in the books of the company concerned.

The system of blank transfers provides scope for malpractices such as concealment of the identity of the real beneficial owners behind their nominees, evasion of tax by suppression of secret profits invested in shares on blank transfers, and windo-dressing of company balance-sheets by reshuffling all shares held on blank transfers between companies in the same group with the object of substituting inter-company loans and advances at the time of the closing of accounts by investments. The proposed restriction is designed to curb these malpractices.

The arguments advanced against the proposed restriction are, firstly, that there are various other ways in which secret profits can be invested, for example in currency notes, jewellery, precious stones, Government securities etc., even if blank transfers are restricted. The fact that there are other ways of evading certain provisions of law is no justification for not taking action to prevent the abuses inherent in blank transfers.

Another argument advanced is that blank transfers are freely permitted in USA and continental countries. Therefore, why should we impose restrictions on its currency in India. The example of USA is not relevant to conditions in India. In India, blank transfers are used mainly by big operators for making quick gains, while in the USA it is meant to protect the interests of small investors. I have gone through American cases relating to company law, and I may quote a court judgment in an American case which says as follows:

"All courts will agree that manipulation of corporate assets or the elimination of the dividend will, when intended to mislead shareholders and induce them to sell shares, constitute actionable fraud."

The American law specially lays down that directors have no right to make use of the confidence reposed in them to make private gains.

**श्री हुकम चन्द कछवाय** : अध्यक्ष महोदय कोरम नहीं है । इतनी महत्वपूर्ण बहस के समय कोरम तो रहना चाहिये ।

**Mr. Speaker:** The bell is being rung.....Now there is quorum.

**Shrimati Lakshmikanthamma:** Again, in America, the directors are accountable for profits or losses made in dealing with the shares of their companies. Any secret profit made by a director at the expense of the shareholders belongs to all the shareholders. The right of action to recover losses resulting from a director's negligence belongs to all shareholders.

In spite of the arguments of some of the Members who oppose this Bill, we know how many restrictions there are in countries like America and continental countries. The vast majority of the companies in USA are reported to be declaring dividends quarterly, and that is an indirect check on the currency of blank transfers in that country. There are also far more rigorous controls on the stock exchanges in USA than in India. I may also point out that Clause 13 of the Bill does not seek to prohibit blank transfers, but only to restrict the period of their currency.

Coming to Clause 46, the existing section 370 prohibits a company from making any loan or giving any guarantee for a loan to another company under the same management, unless the transaction has been previously approved by a special resolution of the lending company. As will be observed from the Report of the Vivian Bose Commission, numerous cases came to its notice where loans were made by a company to another company far in excess of the paid-up capital, and even the authorised capital, which was clearly to the detriment of the lending company. It appeared as if the funds of the lending company were meant for the use of the other companies. In the present conditions, it is not very difficult to obtain the sanction of the shareholders by a special resolution. Therefore, in order to prevent the diversion of the funds of one company to another company, and to allow the said funds to be utilised for the proper growth of industries, a proper check is considered necessary. Accordingly, as recommended by the Vivian Bose Commission and the Daphtary-Sastri Committee, Clause 46 seeks to impose certain restrictions on loans given by a company to another, even if both are not under the same management. Apart from the requirement of passing a special resolution, it provides for prior approval of the Central Government before loans in excess of certain limits are sanctioned. It is presumed that whenever a company has sufficient reasons to justify a loan to another company, Government will accord its sanction.

Clause 21 provides that in respect of companies engaged in production, processing, manufacturing and mining activities, which may be specified by a notification issued by the Central Government, proper records relating to utilisation of materials and labour should be kept. A general complaint

[Shrimati Lakshmikanthamma]

has been made that the efficiency of a company is not properly reflected in its audited accounts. It is also a fact that in the absence of this knowledge, the investment-worthiness of a company cannot be fully judged. It will be noticed that the requirement in the Clause does not apply *suo motu* to all companies, but will be made applicable only whenever considered necessary by Government.

It has also been said that auditors have failed to detect some of the malpractices because of the fact that the Act at present does not specifically require them to look into certain transactions. Some of the malpractices brought to light by the Vivian Bose Commission are as under. Loans and advances were made without security and at low interest or no interest to private companies controlled by certain individuals, or to the individuals themselves, to the detriment of the public company. Sometimes facility was provided for repayment in many instalments spread over a long period without interest. Payments for purchases and sales were shown as made in cash although in reality only book entries had been made in the respective accounts. Manipulations were made in the purchase price or sale price of shares held by public companies in order fictitiously to create a loss, and the individuals in control of the concerns in which they were interested enjoyed the benefit.

It is, therefore, considered necessary that certain duties of the auditors should be specifically provided for in the Act itself, so that they should look into the transactions which are likely to be abused.

Along with these restrictions and special powers given to check malpractices in the working of companies, there are also provisions for simplification and liberalisation.

More than twenty clauses which come in the category of simplification of the existing provisions of the Act, seek to simplify and relax some of the irritant provisions of the Act. Clauses 32, 33, 34, 41 and 57 are calculated to eliminate or reduce the periodicity of some of the returns required to be filed by companies and their directors with registrars of the companies.

**Mr. Speaker:** The hon. Member should try to conclude.

**Shrimati Lakshmikanthamma:** I shall conclude in one or two minutes. Most of the time has been taken by the quorum Bell.

At present there are 49 categories of relatives specified in schedule IA to the Act, it is now proposed to reduce this to 22 to include only near relatives. This is a welcome measure and will remove hardships and inconvenience to the company management. The varying time-limits for submission of different documents to the registrar is removed by clause 62 which provides a uniform timelimit of 30 days in respect of various documents to be filed with the registrar of companies. The prescribed time-limit of 42 days for annual returns is extended to 60 days. Different periods for different documents was annoying many companies before. Sir, this Bill is a welcome measure and when implemented properly will remove many of the evils and will create a healthy atmosphere in the corporate sector.

**Shri Kashi Ram Gupta** (Alwar): Mr. Speaker, while speaking on this Bill the hon. Finance Minister has said that this Bill has been necessitated because of the rapid changing conditions. Are they changing rapidly due to Government or some other factors? That has to be seen. In my opinion, the main consideration is this. There is the wrong thinking of the Government so far as socialism is concerned. They are experimenting with socialism in a peculiar way in this country. On the one side they are allowing big monopolists to continue; on the other side they are trying to apply the same

laws to small-sized, medium-sized and large-sized industries and companies. It is the root cause of the whole trouble and it is not remedied, things will not improve.

Some of the provisions in this Bill are to be welcomed but there are some which may lead to much harassment of the concerned managements. We say that the managing agency system should go. But we should not forget the way in which the directors and others have to function when there are so many complexities of the law these days. It is these that lead them to take to malpractices in certain circumstances. To plug these loopholes and malpractices, we have to see to these things. In the present context of things, small companies and medium size companies must be treated in a very lenient way. About the large-size companies also, I think we should see whether the present law seeks to put things in a logical manner or not. When we see their remuneration or something else to be paid to the managers or directors of companies, we should see the way in which they have to function and then only come to any decision.

I want to bring to the notice of the hon. Minister a few points. By clauses 21 and 24, the hon. Minister has provided for audit and cost accounting. Government may as a practical measure think of certain companies only where these will take these measures. But law itself should make it clear that this does not apply to medium or small companies. Perhaps the main purpose of this provision is to plug the evasion of tax. But the remedy is more of a harassing nature. Indian companies upto this date have not been able to come to that standard where the cost accountancy can be applied in a very rigid way. That is why I say there should be lenience in respect of small and medium companies. But there are certain aspects which even these cost accountants or auditors will not be able to overcome. There may be certain scarce commodities. The management of mills which produce them will then take to corrupt practices. Cost accountancy or audit will not be able to check these things. Manufactured goods will be billed for a certain amount but they will be sold for a higher price. I do not know how the present law can rectify these things.

There is another thing. Until and unless Government itself removes the confusion about the private sector and its future, things will go from bad to worse. For instance, the Prime Minister has said more than once that in future the textile industry should be in the public sector also. There are various designs, and qualities now because there is open competition. Government-owned mills cannot stand so many designs and types of products as in so many private mills. So, they have to take the whole of the textile industry; otherwise, they will put themselves into great trouble. So also with regard to sugar industry. Government has taken to the co-operative pattern. So, I do not think there is any need for public sector in sugar mills. I have to mention all these points because government declarations lead to confusion.

Now, I come to page 11, clause 26 where it says that the books can be seized by an inspector. There is no time-limit to return the books and so it means for any period as the officer deems fit. This is a lamentable provision. I request the hon. Minister to see that there is some time-limit. It may be said that they will be returned after the investigation. But in practical experience we see that investigation goes on over a number of years. The provision for certified copies may be there; then certified copies of entries can be taken. But I say that certified copies of the whole book cannot be taken; only those which are required for enquiry purposes can be taken. Hence this clause creates difficulties to that extent.

Then I come to page 15, clause 40. It is stated in that clause that if the

[Shri Kashi Ram Gupta]

question is determined earlier, compensation will be paid to the managing agents, that is, an extra amount. But a technical question has now arisen whether such compensation is to be treated as capital expenditure or revenue expenditure. There will be a great effect of this on this decision. If the expenditure is taken as capital expenditure, then the person shall have to lose much. But if it is taken as revenue expenditure, then justice will be done to him. Therefore, it is very necessary that it is clearly defined, namely, the compensation will not be charged as capital expenditure.

**13.21 hrs.**

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

Then I come to the question of the director's age. I am rather surprised whether men of such an old age as 75 years, which has been provided for now, can work so efficiently as directors. My hon. friend Shri Himatsingka may be knowing much better. But in my opinion, when a high court judge or a Supreme Court judge cannot work beyond 65 years of age, it is better that the age of the director is not put at 75. There is also another aspect to this question. After a certain age, a man has to bend his energies towards some other side than to the business side. That has been the philosophy at least of the Hindus. Therefore, in my opinion, raising of the age-limit is neither conducive to the directors nor to the company nor to any other aspect of this matter. The clause prescribing the age as 65 must remain as it is.

Lastly, I have to emphasise one point. So far as the working of the companies is concerned, a comprehensive study shall have to be made in the near future, because the present Bill has been brought only on the basis of the Vivian Bose Commission and the report of the Daphtary-Sastri Committee and it has been based mainly on one company's doings. Therefore, a comprehensive study shall have to be made, and in my opinion, there should be a definite policy regarding the small entrepreneurs and the small companies. They must be encouraged; the medium-size companies must be encouraged. So far as the large-size companies are concerned, if socialism is to prevail, then the Government should take a share in them and a definite policy for the future must be laid down according to the capital of the company and the working of the company.

**Shri M. L. Jadhav** (Malegaon): Mr. Deputy-Speaker, Sir, I support the measure before the House. The Vivian Bose Commission report was delayed by a number of years. If you look into the Vivian Bose Commission report, you will find that the report was delayed and the enquiry was delayed because a number of books, account-books, papers, etc., were not made available to the Commission. Therefore, the Commission had to proceed with the work against heavy odds because of the difficulties put forth by the company directors and management. Therefore, in order to see that the companies work on proper lines, it is very desirable and necessary that some audit check and inspection are resorted to in these matters. We find that the Vivian Bose Commission's work was delayed, and in order to see that the work of inspecting authorities is not delayed, the measures brought forward in this Bill are very necessary in the interests of the public and of the shareholders. and in the larger interests of the people.

I find that there has been some criticism that Messrs. Sastri and Daphtary are not industrialists, not businessmen and that they know nothing of business. But we must at least admit that they are eminent jurists who have dealt with cases of a number of companies and are men of legal acumen who are not likely to do any injustice to anbody because of any ignorance, and they are persons who are expected to study the matter and come to conclusions.

**श्री हुकम चन्द कछवाय** : उपाध्यक्ष महोदय, हाउस में इस समय कोरम नहीं है। यह आध घंटे में तीसरी मर्तबा कोरम का सवाल उठाया गया है। हाउस को एक घंटे के लिए एडजर्न कर देना चाहिए।

**Mr. Deputy-Speaker:** The bell is being rung. Yes, now there is quorum. The hon. Member may proceed.

**Shri M. L. Jadhav:** So, we can expect these two jurists to have studied the matter and after proper study, and going into the Vivian Bose Commission report, they have placed certain recommendations which Government has been pleased to accept. We will find that these recommendations find a place in the measure before this House

Then, I may point out that in this Bill there is no effort to curb the private sector. I think it is the desire and also the policy of the Government to have the public sector and private sector work hand to hand and that they should both help in the progress of the nation. In the light of that. I think that mention may be made of certain aspects. I think that the same concern, Dalmia-Jain is again in the picture. I find also that in Bombay, enquiry is being made into the affairs of Bennett-Coleman and Co. I know that the matter is *sub-judice*. But we find that matter is lingering for a number of days. We also find that the directors are from the same family. Some directors are practically dummy directors who are not at all dealing with the affairs of the particular firm, and somehow, some outsiders, some persons who are pulling the wires from behind the curtain, are conducting the affairs of this company and such fictitious dealings and cheating of the shareholders are going on in such big firms as Bennet-Coleman & Co.

I find that the measure that is before the House is helping the Registrar to have a better audit and inspection. We note that in these companies undesirable practices are going on. Therefore, it is very necessary that the Registrar should be given wide powers in order that he may be able to check and mend matters and do certain desirable things at the proper time.

Then we find that a provision is made to the effect that the Registrar can inspect and audit without notice the accounts or books of any company and if he finds that a document is very important or necessary or if some manipulations are being carried on, then, in that case, that document can be had and the matter proceeded with. Again, in some companies, dubious practices are being followed. So, some provision is made in this Bill to find out that things that are prejudicial to the interests of the company and to the interests of the shareholders are not being done. The books are kept in such a way that the actual balances and other things which should find a place in the books are found there; the shares and the debentures do show the proper price of those shares and also the shares are sold or transferred at a price which is equitable and not to the detriment of the interests of the companies.

Moreover, certain things found in this measure do put a check on the transfer of shares or change of business. A company may change business and take to some other business without the permission of the shareholders. In that case, the Bill provides that the company has to obtain the permission of the shareholders and then alone it can take to some other business. Some criticism has been levelled against companies working in the public sector. In the public sector. The management is in the hands of Government and there is absolutely no scope for malpractices. We cannot guarantee that in the case of private companies. Therefore, the amendment that the company cannot take to some other business without the pre-

[Shri M. L. Jadhav]

vious consent of the shareholders is a healthy one.

Taking into consideration all these things, I find that these checks and counter-checks are very necessary in the interests of the public, of the nation and of the shareholders. Therefore, I support the measure that is before the House.

**Shri T. T. Krishnamachari:** Mr. Deputy-Speaker, Sir, I have listened with attention and care to what fell from the hon. Members who have intervened in this debate. I have no doubt that many of the criticisms that have been levelled against the particular provisions of this Bill would be gone into carefully by the Joint Committee, which is to be constituted if this House approves of the motion. If you look at the Members representing this House on this committee, it is a fairly long list of people with experience and Government will place all the facts that they have in regard to the reasons for our making these changes in the Companies Act before the Joint Committee.

Even so, I would probably have to refer to some of the criticisms made here. Naturally, the first place in regard to the consideration of criticisms made has to go to the hon. Member opposite, representing the Swatantra Party. I should be grateful, perhaps, to him for his criticism which was not as strong as usual, excepting in a general sort of way that, of course, Government goes on meddling in the affairs of private people and private companies; there is no justification for this Bill and so on. But it is a matter of judgment undoubtedly. In fact, if we can leave people free to do as they like, with this assurance that people will do them in the proper way, I think that would be an ideal state. Unfortunately, Utopia has never been a fact and governments have to rule and have to provide defences against mis-deeds and against what I said some time back, namely, the acquisitive instinct in man.

The very reason why we provide these regulations in the Companies Act is to give him freedom subject to those regulations. Naturally, nobody who is doing nothing wrong has any reason to be afraid. I agree with one thing that this Companies Act has to control companies. And, companies are what you may call normally joint-stock enterprise. That is controlled. Unless somebody comes forward to collect money from people and people are willing to subscribe money, and he starts a business, the Companies Act would not be called upon at all to interfere in his activity. In regard to certain acts that a person does by getting money from other people, naturally it is the duty of the Government to see that those monies are properly spent and companies are properly managed. So, it is something which is certainly a logical consequence of that freedom given to the people to use the company method of running business.

It is a matter of valued judgment whether that freedom should be unrestrained or restrained subject to good behaviour. That is probably where the hon. Member opposite and I differ. In fact, it is not intended to kill the companies. If it is intended to kill the companies, we can say, there can be no companies and each person must act individually.

**Shri M. R. Masani:** The intention may not be that, but the result will be that.

**Shri T. T. Krishnamachari:** As I said, it is a matter of valued judgment. His ideas and our ideas must necessarily be different. Otherwise, he would be on this side of the House. It is because of the mere fact that he differs from us that he has taken all the trouble of getting elected and come prepared to attack the Government and hold it up to ridicule or condemnation as the case may be. This is normal parliamentary warfare, if you would call it, and I have no quarrel at all with the hon. Member for

objecting or even to some extent putting a check on whatever Government wants to do. But where I differ from him is in his representation of facts as being otherwise than what they are, and also importing certain intentions.

**Shri M. R. Masani:** That is also a matter of opinion.

**Shri T. T. Krishnamachari:** This question whether the Companies Act is good enough as it is or it should be amended to make it less restrictive is again a matter on which there is considerable difference of opinion. I remember in 1955-56 when this Act was being enacted by this House, these matters were constantly mentioned. I do not know if the hon. Member opposite was here at that time; possibly not. An hon. Member, who is an extremely competent authority on company law and company management, referred to the Jenkins Committee report. Even at the time when the initial report was made about the operation of company law—the 1913 Act—in India by a committee presided over by Mr. Bhabha, they had made a departure from the British practice. I remember the law as it existed in 1948 after the committee went into it in Great Britain. There, the British Committee felt that all they have to do is merely to publicise every act done by a company. In fact, the Bhabha Committee itself did not take that view. The amendment of the 1913 Act which was undertaken in 1955-56 certainly departed from the view as held by people in Great Britain and one should recognise that the Jenkins Committee could only report on what was an accepted fact in Great Britain and not on what was a law in India. There may be some analogy; I do not say analogies are completely ruled out. But the approach to the problem is completely different. It may be that you have an enlightened body of shareholders who are active and all that needs to be done is to have something like the U.K. law here, namely, allow for the maximum amount of publicity and leave the rest in the hands of the shareholders. Unfortunately, the presumption here is the other way about. The shareholders are usually dumb and there should be somebody to speak for them.

I do not mind confessing that the only time I owned shares in any joint-stock concern was when I was a party to go and attend an annual meeting. I had qualifying shares for that purpose. Having attended that single meeting I lost interest in it. I do not own any shares nor do I have interest in any company. It is possible that a person may buy a share and attend a meeting probably to do something right or to create trouble. But that kind of aberration does not normally occur. We have heard of people attending a meeting and giving trouble. But normally most of the companies are not subject to this kind of scrutiny.

Therefore, the approach as to how a company should be administered, how far the company administration should be a matter of scrutiny and what kind of scrutiny should be made is something in which we have completely departed from the U.K. tradition, and the Act as it stands today, the amendments that have been made to it from time to time and the amendment that is now sought to be imported into this Act are motivated by considerations slightly different. It is that there is need for a check because the shareholders are not in a position to look after their interests. Apart from the shareholders' interest, there are certain things which a company can do and which will have an anti-social effect. Therefore, there is a little more in regard to the intentions behind this Companies Act and its various amendhents than what can be found in the law as it stands in the United Kingdom. That, Sir, is my justification for coming here with an amendment of the Companies Act and also for reference of this measure to the Joint Committee.

[Shri T. T. Krishnamachari]

Of course, the point raised by the hon. Member opposite was that you cannot quote the Vivian Bose Committee's report or the sequel to it—the Daphtary-Sastri Committee's report as an authority for the reason that the first report was made on certain facts which came ino being before the Companies Act was amended in 1956. Of course you cannot say the same thing in regard to Daphtary-Sastri Committee's report; excepting, a sort of, to say that there is no need for the report. As I said, it is a perfectly legitimate argument to put forward, but that does not mean that the mere fact that the Vivian Bose Committee found that the law as it stood in 1956 provided certain safeguards against occurences prior to that law being amended shows that the law need not be amended further if need be. Certain positions which were appreciated by the Vivian Bose Committee Report might have been dealt with if the law had been amended earlier. But since the law was amended later there are also certain things which could not be wholly dealt with by the amended law, and that is the justification for further amendments.

Sir, while I cannot say I feel ashamed of bringing forward these amendments.... (*Interruption*). No matter whether an eminent lawyer, who happens to be also a friend of mine, has said that we bring forward two amendments every year, which of course is somewhat of an exaggeration which is permitted when people speak in public; I think every amendment that we brought forward is something which is necessary. In fact, it gives me no pleasure just to bring forward amendments for bringing amendments alone unless some necessity is pointed out.

The hon. Member opposite mentioned certain matters about which I referred in a meeting of the regional company law officials. It was not a public meeting, but it may be that somebody reported it. I do not deny it. I was speaking to people who are in charge of the administration of company law. I was also speaking to people who were making some research in that administration. In fact, what I said to them in regard to managing agents is not an *obiter*, because there is an obligation so far as Government is concerned that in August 1965 certain things will happen. If those things should not happen as the law indicates that it would or it should happen, well, we have to find out whether we should have an amendment, whether that amendment should be that some of the companies might have managing agents and others may not, whether some new companies might have them and others need not and whether certain industries which are developed to some extent need the support of the managing agents and others do not. Therefore, it is not intended to scare anybody because the market can be scared by the law as it stands today. The law says that on a particular day in the year 1965, unless otherwise indicated, the managing agents will have to go.

**Shri M. R. Masani:** That is not what it says. It says that there should be a committee to study the matter.

**Shri T. T. Krishnamachari:** Yes, there should be a committee of inquiry if necessary, if these things have got to be phased out. I thought if I had taken note of something that is to happen, it was not to scare people but it was something about which everybody knew. People who are functioning as managing agents know that in 1960 the Act was amended, otherwise this would have come into being in 1960. Therefore, I felt I was probably doing a service to ask these people who are in charge of the administration of company law to prepare a paper that may be necessary for the purpose of consideration of the whole issue, undoubtedly by a committee. It may be that that committee might invite evidence or it might take a narrow view of the situation—what it would do I do not know. But I think what I did is perfectly right, perfect-

ly logical, perfectly within the limits of whatever powers that I have and something that is also necessary. It is not something which I just mentioned merely for the sake of mentioning. Naturally, some decision will have to be taken by Government and everybody knows about it. There is no threat at all. The hon. Member may feel assured that the Government is not threatening anybody; certain facts will happen and the people have to be prepared for that.

The other thing he mentioned was—of course it has no relation to the companies' affairs at all—that I did something in 1957 and that was dropped. He asked whether something on those lines would be needed. Yes, it is true. I feel that there are certain companies which we do not allow to expand for the reason that they have reached the limits of expansion or that individual companies cannot expand for some reason or another. What shall we do about it, or what shall we do about their resources? Either you permit them to invest in other companies—cross-investment as you call it—or you advise some other method by which that money can be used. In fact, if I could only share my thoughts with the hon. Member, probably the hon. Member might applaud me and that will be objected to by other people. That is why I do not go further into the matter. The only point I want to mention is that while the hon. Member is perfectly right in holding up Government to ransom for anything that they may have said in matters not wholly germane but distantly, remotely related, I feel that that by itself—my having said a few things in other circumstances—need not make the House take a decision that this should not go before a Joint Committee.

Much was made by the hon. Member about blank transfers. I would like the hon. Member to read again what I said in my opening remarks. While the amendment has been tabled in regard to blank transfers, I said that there are two points of view. One condemns the move that we have made and the other condemns the somewhat halting action which we have taken and says that blank transfers should only be made in the case of depositing shares of certain recognised orphan institutions and not otherwise. So it is a matter in which I would like the Joint Committee to take a view. Personally, there is no denial of the fact that blank transfers, whatever may be the benefit that might accrue in the matter of convenience, is certainly a method of abuse. Blank transfers are virtually like bearer bonds. I have been told very often that if Government is persuaded to issue bearer bonds all the money that is secreted would come out. I do not know. But it is something which we do not relish, for one reason, a man who is honest is mulcted by taxation and a dishonest man is allowed to bring back into circulation his money in the form of bonds and earn some interest thereon. I think the question of bearer bonds is on all fours with blank transfers. A transfer has to take place and you do not know who gets the money and then you make a blank transfer. My hon. friend, who is certainly an expert on company management, knows that this question of bond-washing which has been the fashion in certain sections of our own economy, is something which deprives the exchequer a considerable amount of money. I do not believe for one moment, whatever might be my hon. friend's differences with Government, he wants people who really cheat the exchequer of its dues to be encouraged. I think he is one with everybody else in the country that everybody should pay tax so that the honest man's burden will be a little less. I should like him to look at it from that point of view, this question of bond-washing. I can single out parties—of course, I should not mention them in this House—who hold enormous amounts in stocks and shares but do not pay any tax thereon, because the dividends are drawn by somebody else; so, they do not come within the clutches of the law. It may be I have

[Shri T. T. Krishnamachari]

been foolish in allowing a little more concession in prior taxation of dividends last year. I should go back to the old idea that we should get the maximum tax first and then let the person come and make a claim for refund. That is one way at any rate of mitigating the benefits that a bond-washer gets. So long as these practices are followed, we have to devise some checks, and every check is an inconvenience. But there is no other way of doing it.

**Shri Nambiar** (Tiruchirapalli): What is the objection to banning blank-transfers?

**Shri T. T. Krishnamachari:** As I said earlier, there is a limitation to it. I would refer the hon. Member again to my opening remarks namely, that in regard to financial institutions blank transfers would be necessary. If you are going to pledge your shares with a financial institution, then you have to transfer your share to that institution or give them a blank transfer. Because, that is one of the methods by which people raise money and you cannot put people under restraint. Because, every person who owns shares would like to make some money thereby if he has some difficulty. So, we cannot altogether ban it. I have posed the question whether we should impose a little more restrictions. I leave it as it is.

One other question raised by my hon. friend, Shri Morarka, was the question of the commencement of business. Well, it looked as though our action could be held to ridicule. It is not so bad as that. I am quite prepared to consider any amendment that may be suggested. It is a fact that notwithstanding the very liberal powers given under the articles of association to any company, the shareholder would like to know what is being done after the first meeting. Any further expansional activities, even though permitted according to the articles of association, he would like to know about them. I am quite open to have this matter examined by the Joint Committee and if we could perhaps narrow it down by getting either a special resolution or even a general resolution in regard to any departure from the known activities of the company, the initial activities of the company, I am quite prepared to consider the matter.

But my hon. friend, Shri Morarka would not, I hope, object to my pointing out to the House that he made the Government look very ridiculous by reading from the articles of association of Government companies.

**Shri Morarka** (Jhunjhunu): No, I did not want the Government to look ridiculous. I said that the general scheme of this clause has proved very effective and that it has the making of historical experience. So, it cannot be abused like this. Even though the House of Lords had criticised it, they also recognised the effectiveness of it. That is what I said.

**Shri T. T. Krishnamachari:** I am glad that he has corrected my own understanding. The only thing I would like to mention is, so far as Government companies are concerned, if you say how or why a steel company should start restaurants or go into the timber trade, I suppose it is a question of taking power for doing everything that is necessary. Of course, steel companies do run restaurants, and I am told that in more civilised countries big steel companies do several other business besides those which are mentioned in the articles of association. Anyhow, I am glad for the correction.

**Shri Morarka:** My objection was to the usage of the term "doing business of" for the main object if ancillary things are done, that is a different matter. But here you say "company shall engage in the business of running a canteen". That is what I was pointing out.

**Shri T. T. Krishnamachari:** As a matter of fact, I have done a little research in a field about which I have been singularly ignorant, namely, the question of memorandum of association of various companies and I have got with me here the memorandum of association and other documents of seven private companies. So, I say that the Government is in very good company. If we have been stupid, we have been stupid like other people; if we have been wise, we have been wise like other people. I agree that Government cannot claim any originality in this matter. For example, I find Usha Refrigeration industry want to do working of ore business, spinners and dyers. I do not know whether refrigeration also wants to do dying. I merely want to say that if Government errs, it errs in very good company.

**Shri Nambiar:** The Usha sewing machine requires thread. Therefore, they are spinning threads

**Shri T. T. Krishnamachari:** I was referring to Usha Refrigeration,—not Usha sewing machine—putting people in cold storage.

In fact, I have been telling the people who are in charge of this administration that we should try, as far as possible, even if necessary by an amendment of the Act, to get most of the information that we require from these companies put in the annual report. Even now they are going to the registrar of companies, but when they are sent to the regional registrars sometimes they get lost and we have to go to the research department to get at them; so it is much better that we get once a year as much information as possible in the annual report.

The other point which was objected to is the question of cost audit. Well, I think we could probably take care to see that that information is not normally passed on to a competitor; unless it is absolutely necessary for the purpose of taking action against an erring company, the information need not be passed on to a competitor. I do not know, because spying seems to be so common even in government circles, I am perfectly sure that a competing company is able to get all the information that it wants from the other companies through perhaps the people who work there. Even so, I think some kind of safeguard could be there that unless penal action is called for the reports should be kept confidential. That is a matter which the Joint Committee might consider.

Another matter which was mentioned was about the chambers of commerce being consulted. I would only mention this. This Bill was introduced in the last session. It was before the public, and the chambers of commerce are extremely alert about these matters; they have their research sections and they have many eminent personalities. They have been studying it and I think they have also sent a memorandum for the consideration of the Joint Committee. It is not something which we are rushing through. It is not as if it was introduced day before yesterday, passed today and becomes law day after tomorrow. We are doing it in a very leisurely sort of way and so we should meet with the approval and even the approbation of the chambers of commerce.

**14 hrs.**

Then, my hon. friend Mr. Banerjee who is not here raised certain matters of individual companies. I think that does not fall part of this. I think the work of those individual companies neither justifies the passing of this Bill nor can it stand against the passing of the Bill. Some of these matters, I think, were also raised by him before and he has got answers by way of answers to his questions. I should not refer to them now. The only thing is this. If any matter comes before the Company Law Board or the Commission that it has, naturally it is being dealt with in a proper way. Sometimes, I agree, it may be

[Shri T. T. Krishnamachari]

a rather restricted view taken about it. But if it ever comes before the Minister, we try to put a sort of check on people taking an unduly restricted view. I for one would agree if my hon. friend Mr. Masani says, "By what yardstick do you judge that a particular person should be paid Rs. 2500 and not Rs. 4000?" I quite recognise this. These things change. We should not take an unduly restricted view on these matters unless it be that somebody in going to pay something for nothing. That is where we are asked to intervene. I do feel and I have told my officers frequently that we are not in a position to say that a man is only worth Rs. 4000 and not Rs. 5000 and whether paying Rs. 4000 more per month is going to make the company lose. These are all necessary in the case of small companies and very many small companies are private companies with which we do not interfere at all. I quite agree that there is room for considerable liberality in interpreting the sections of the Act. I for my part, so long as I am here, would urge on my officers to take a more liberal view of this aspect of their powers.

A mention was made about inter-company loans. Again, it is a matter which the Joint Committee will go into. But broadly, as regards inter-company loans—of course, my hon. friend Shri Morarka mentioned this question of loans by managing agencies—I do not think private companies would be affected by that.

**Shri Morarka**: Also public limited companies.

**Shri T. T. Krishnamachari:** I do not know whether the public limited company managing agencies will remain after August, 1965. But in a way it may be that in certain cases we should know what is happening. This question of using funds for lending even for short-terms is there. Sometimes it happens that they lend for a period of time and if you say, "All right, let us see the annual assessment", he might perhaps repay it on the 31st March so that there will be no debit. So, some kind of scrutiny is necessary in regard to these inter-company loans unless specifically permitted.

My hon. friend, Shri Morarka, mentioned an obvious anomaly of the Company Law doing something which is directly the opposite of what the fiscal device does. It does happen. By way of fiscal device, we give certain concessions in regard to inter-corporate investment. On the other hand, the the Company Law does not encourage it. I quite see there is room for rationalising this attitude somehow or other and, maybe, as I said, some other methods might be devised by which inter-corporate investment could be made through an agency. This is what I have in mind. I did not want to re-introduce my somewhat half-baked measures, as my hon. friend, Mr. Masani, put it, that I had in mind in 1957 which themselves were leading to something else. This question of inter-corporate investment cannot be regularised through some channel. I would like Mr. Masani to consider it and maybe we might be able to help. But this should be known. Therefore, I feel that the present amendment is justifiable. If the Joint Committee has something to say about it, naturally Government will certainly give a lot of thought to it.

Then, my hon. friend, Mr. Dwivedy's support was solid and I am very grateful to him. He mentioned one fact saying, "It is all right, you can pass laws but you should implement them". That is the intention. Otherwise, why should I take all this trouble if I had no intention of implementing them? Maybe somebody else later on, some years hence, may not do so.

**Dr. M. S. Aney** (Nagpur): I hope that will not happen.

**Shri T. T. Krishnamachari:** We had some powerful support from some of the lady Members of the House. (*Laughter*). It is not a matter for

laughter. It merely shows that the fair sex thinks in advance of us. Certainly, I have found that on one or two other measures also I got support from them because they are more progressive and the acquisitive tendency, I believe, is less in a woman than, I think, in a man. I am very grateful for the support I got from Shrimati Renuka Ray, Shrimati Mukerjee and the hon. Member from Andhra on this matter.

My hon. friend, Mr. Gandhi, and the hon. Member opposite spoke about the various provisions. I will have all these placed before the Joint Committee.

So far as the point of teeth is concerned, there is only one thing, that my hon. friend Mr. Nambiar made a slight error. You might say, these are worn-out teeth which probably I have but they are certainly not milk teeth because nobody even in a second childhood does get milk teeth. The teeth may not be strong enough, they may not bite, there may be loopholes somewhere, but they are teeth nevertheless.

**Shri Nambiar:** If they are old, they should have been used in biting earlier. There was no occasion to do so. That is why I said they must be child's teeth.

**Shri T. T. Krishnamachari:** My hon. friend knows we gulp our food. It is only later on we are told that we should chew our food and masticate it and then eat it. That kind of wisdom comes a little later in life and it might come to me just now.

Sir, I am very grateful to the hon. Members who have made many suggestions and I shall have these suggestions tabulated and put before the Joint Committee. I do hope that when the Bill comes back to this House, it would perhaps be modified in such a manner as would satisfy the desires of the majority of the hon. Members of this House.

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

"That the Bill further to amend the Companies Act, 1956, be referred to a Joint Committee of the Houses consisting of 45 members, 30 from this House, namely:

Shri S. V. Krishnamurthy Rao; Seth Achal Singh; Shri A. Shanker Alva; Shri Ramchandra Vithal Bade; Shri Rajendranath Barua; Shri Bali Ram Bhagat; Shri Dinen Bhattacharya; Shri N. C. Chatterjee; Shri Sachindra Chaudhuri; Shri N. Dandekar; Raja P. C. Deo Bhanj; Shri Bhaskar Narayan Dighe; Shri G. N. Dixit; Shri Gajraj Singh Rao; Shri Prabhu Dayal Himatsingka; Shri Cherian J. Kappen; Shri R. N. Yadav Lonikar; Shri Madhu Limaye; Shri Ghanshyamlal Oza; Shri Shivram Rango Rane; Shri J. Ramapathi Rao; Shri R. V. Reddiar; Shri Era Sezhiyan; Swami Ramanand Shastri; Shri Digvijaya Narain Singh; Shri Sivamurthi Swami; Shri Radhelal Vyas; Shri K. K. Warior; Shri Nagendra Prasad Yadav and Shri T. T. Krishnamachari;

and 15 from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the last day of the first week of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."

*The motion was adopted.*

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