[Mr. Speaker]

लिए रख लें । लेकिन तीन दिन के अलावा वक्त नहीं दिया जा सकता । तीन दिन इसको सामने रख कर दिया गया था ।

Shri M. R. Masani (Rajkot): No Sir. It should not be split up.

Mr. Speaker: I am also of that opinion. But that had been included in the three days.

श्री ज० ब० सिंह (घंसी) : इसके लिए दो दिन रखे जाएं, यह बहुत अहम मामला है । सिचुएशन बहुत सीरियस है ।

श्री ओंकार लाल बेरवा : फूड के लिए दो दिन अधिक रखे जाएं ।

12·29 hrs.

COMPANIES (SECOND AMENDMENT) BILL—*Contd.*

Mr. Speaker: The House will now take up further consideration of the following motion moved by Shri T. T. Krishnamachari on the 18th August, 1965, namely:—

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

Shri Himatsingka may continue his speech.

Shri Himatsingka (Godda): Yesterday I was referring to some of the provisions of the Bill.

I was referring to a number of provisions which have removed a lot of difficulties that were being experienced by the companies in their day-today working. But there are a number of sections which still create a lot of difficulties for the companies. Also, I am sorry to find that some new provisions in the amending Bill are such that they will add to the existing troubles of the companies. In that connection, I would like to refer to some of the clauses over and above what I have referred to yesterday.

Clause 20 which seeks to amend section 209 provides that books of account and records are to be preserved for eight years. Eight years is a long period. It was not necessary to preserve small vouchers for that period. But now, according to the amendment proposed in clause 20, things will be required to be preserved for eight years. Even if it is a voucher for two paise, it will have to be preserved. Therefore, the amendment moved by one of the Members that it should be restricted at least to sums exceeding Rs. 1,000 is a suggestion that should be accepted.

Another provision is with regard to blank transfers. At present, purchasers or holders of shares keep them on blank transfers for any length of time. Now it is being restricted to six months at the most. Sir, different States have raised the stamp duty on transfers. If a share is sent for registration it will cost more than one rupee per cent in the transfer. If shares are required to be registered for every transaction, the stamp duty should be lowered. But, that rests with the States. Therefore, unless the States agree to reduce the stamp duty on transfer, it will be a very costly business. Therefore, I feel that the amendment that has been suggested by my hon. friend, Shri Morarka, will meet to some extent the difficulties that will otherwise be encountered by persons dealing with these shares.

There are certain other provisions in the Bill which will make the position very difficult. As you know, on account of the various difficulties existing at present in the country no new companies are being formed, and as a result the existing companies have got the position of more or less monopolies, a thing which the Government has been trying to remove.

Only very very big people who have got a very big reputation and financial position will be able to float companies. People who in 1960 and 1961 were able to float companies will not be able to do that now. The result is that new entrepreneurs cannot go into business or start new industries, production is falling and the prices of various commodities are going up. There is money in the country, in the villages, but on account of the very bad condition of the financial market, the stock market, money is not forthcoming for investment.

Therefore, the Finance Minister who understands these things very well should take steps whereby the money that is lying in the country all round can be attracted and brought in for investment purposes. It will improve the condition in the country and add to the existing industries. Thus there will be increase in production on which will help in reducing the prices of every commodity.

Shri N. Dandeker (Gonda): Mr. Speaker, with your indulgence, I want to make a correction by way of personal explanation to what I said yesterday. I said in the course of my speech yesterday that the Minister, Shri Bhagat, did not reply to a letter which I had sent. On going back and looking up my papers I find I was in error. He did reply to my letter.

Shri Hari Vishnu Kamath (Hoshangabad): What has happened to the Seeds Bill?

Why has it been taken off the agenda?

An hon. Member: It was postponed yesterday.

Shri Hari Vishnu Kamath: I know it. But is it held over indefinitely? And, Sir, would you not be deciding that point of order today?

Mr. Speaker: I will see. Now Shri Bade.

श्री बड़े (खारगोन) : अध्यक्ष महोदय, यह जो कम्पनीज (सैकंड अमेंडमेंट) बिल हाउस के सामने पेश है और जिस पर कल से बहस चल रही है यह ज्वाएंट कमेटी के पास से हो कर आया है । कम्पनीज एक्ट 1956 कई मर्तबा पहले भी अमेंड हो चुका है और सन् 56 से 65 तक इसमें चार अमेंडमेंट्स हुए हैं । करीब-करीब हर साल एक, एक अमेंडमेंट इस पर आ जाता है । आखिर क्या आपने कभी यह भी सोचा कि हर साल इस में संशोधन करने का कारण क्या है ? कम्पनीज एक्ट की बीमारी क्या है और जब से 1956 से यह पास हुआ है तब से यह ठीक से क्यों नहीं चलता है और क्यों बार-बार इसमें संशोधन करने पड़ते हैं आखिर इसका मूल कारण क्या है ? इनमें विवियन बोस कमिशन का नाम दिया हुआ है लेकिन मैं बतलाना चाहता हूं कि विवियन बोस कमिशन के सिवाय इसमें और भी संशोधन किये गये हैं । यह कहने की जरूरत नहीं है कि अगर देश में मिक्स्ड एकोनामी चलानी है तो प्राइवेट सेक्टर और पब्लिक सैक्टर यह दोनों साथ साथ चलने चाहिए । इसके लिए जब तक एक कोआपरेशन और विश्वास की भावना कम्पनियों के जो संचालनकर्ता हैं उनमें वह पैदा नहीं होती है तब तक वह चल नहीं सकती है । आज शासन के प्रति घृणा पैदा होती जा रही है । जल्दी जल्दी जो इसमें अमेंडमेंट आते जा रहे हैं उससे शासन के प्रति लोगों में विश्वास कम होता चला जा रहा है और मैं समझता हूं कि लोग अपना धन इनवैस्ट करने के लिए तैयार नहीं होंगे । मैंने देखा है कि 1956–57 में, 57–58 में और 58–59 में जो इनवैस्टमेंट हुआ और जितनी कम्पनियां बनीं उसके मुकाबले अभी गये तीन, चार साल में कम्पनियों का निर्माण कम होता चला जा रहा है। इसका कारण यह है कि हमारे वर्तमान वित्त मंत्री जी ने सन् 1956 में देशमुख साहब की जो इस बारे में पालिसी थी उस पालिसी को उन्होंने बदल कर अपनी एक अलग नई पालिसी अख्तियार की है । ऐसा

[श्री बड़े]

करने का यह कारण हो सकता है कि चूंकि छोटी छोटी कम्पनियां कांग्रेस को डोनेशंस नहीं देतीं इसलिए ऐसा किया गया है । और भी कोई ऐसा कारण होगा । ऐसी कम्पनियों को हार्म करने के लिए यह अमेंडमेंट किया जाता है । यह पांचवें दफ़े का पैंचवर्क का अमेंडमेंट उन खास खास कम्पनियों को नुकसान पहुंचाने के लिये किया जा रहा है कि कांग्रेस पार्टी की गुड बुक्स में नहीं हैं । मैं इसके उदाहरण अभी थोड़ी देर बाद हाउस में दूंगा ।

प्रधान मंत्री श्री लाल बहादुर शास्त्री ने चैम्बर आफ़ कामर्स में बोलते हुए यह शब्द कहे थे :—

"The responsibility of achieving a planned target, whether in the public or private sector, is a national one." It lies on both the public sector and the private sector.

फिर वे कहते हैं कि हमें सैल्फ़ रिस्पैक्ट ऐंड सैल्फ़ कौनफिडेंस आफ़ दी प्राइवेट सैक्टर में निर्माण करना चाहिए ।

इसके साथ ही हम देखते हैं कि हमारे वित्त मंत्री श्री टी० टी० कृष्णमाचारी ने यह कहा है कि रीजनल डाइरैक्टर्स और कम्पनीज के रजिस्ट्रार्स को बेकार में परेशान न किया जाये । उन्होंने एक दफ़े कम्पनीज के सामने भाषण देते हुए यह कहा था :—

"The company law should not be rigid and unduly harassing. The company law is not an instrument of socialism."

It is not an instrument of socialism and it should not be unduly harassing.

भाषण तो उनका उत्तम है लेकिन उनकी कथनी और करनी में कितना फर्क है यह मैं आपको बतलाना चाहता हूं । यह तो उन्होंने अवश्य कहा :—

"It is not an instrument of socialism and it should not be unduly harassing."

लेकिन इस कम्पनीज एक्ट का अमेंडमेंट कितना परेशानकुन है इसका उदाहरण मेरे सामने हैं । एक तो यह है कि कौस्ट आडिट होनी चाहिए । दूसरे उन्हें हर किस्म के अपने कौस्ट एकाउंटेंट्स रखने चाहिएं । अब छोटी छोटी कम्पनियों के वास्ते कौ ट एकाउंटेंट रखना कितना मुश्किल है और वह इतना खर्चा बर्दाश्त करने को कभी तैयार नहीं होंगी ।

क्लाज 44 के मातहत कम्पनियों द्वारा अन्य कम्पनियों को कर्जा देने पर 30 और 20 प्रतिशत तक की मर्यादा निश्चित की गई है । मगर इस में चाहे जितनी छूट देने का पूरा अधिकार केन्द्रीय सरकार को दिया गया है । अगर ऐसा माना जाता है कि विधेयक में जो मर्यादा रखी गई है वह बहुत कम है तो उसको थोड़ा और बढ़ाया जाता मगर बिना मर्यादा वाला अधिकार नौकरशाही को देने के पक्ष में मैं नहीं हूं ।

विवियन बोस कमीशन की रिपोर्ट में बताया गया है कि इस सम्बन्ध में एक खास झगड़े की जड़ ब्लैक ट्रांस्फर आफ़ शेयर्ज है । सरकार ने कमीशन की इस सिफ़ारिश को पूरी तरह नहीं माना है कि ब्लैक ट्रांस्फर आफ़ शेयर्ज पर रेस्ट्रिक्शन लगाना चाहिए । वह इस को कायम रखना चाहती है और उस ने इस विषय में थोड़ा सा अमेंडमेंट किया है । अमरीका में यह व्यवस्था नहीं है, जब कि यू० के० में वह है और हमारा 1956 का एक्ट ब्रिटिश एक्ट के ऊपर आधारित किया गया है । मैं समझता हूं कि ब्लैक ट्रांस्फर आफ़ शेयर्ज पर इतने रेस्ट्रिक्शन होने चाहिए कि वह हानिकारक न हो ।

ज्वायंट सिलेक्ट कमेटी में कुछ विटनेसिज ने बताया कि हर साल केवल तेरह चौदह कास्ट एकाउंटेंट्स पास होते हैं । हमारे यहां कास्ट एकाउंटेंट्स की संख्या नहीं के बराबर है । जब कास्ट एकाउंटेंट्स हैं ही नहीं, तो कम्पनीज किस को रखेंगी । इस बारे में गवर्नमेंट की तरफ़ से यह कहा गया कि हम रूल्ज को रिलेक्स करेंगे और किसी को भी रख लेंगे । मैं समझता हूं कि अगर किसी को भी रखना है, तो उस में परपज सर्व नहीं होगा ।

कम्पनीज द्वारा राजनीतिक दलों को दिये जाने वाले डोनेशन एक प्रकार की घूसखोरी या ब्राइबरी है । इस का अर्थ कम्पनीज को पालिटिक्स में घसीटना है । मेरे पास कई उदाहरण हैं, लेकिन मैं नाम ले कर नहीं बताना चाहता हूं । अगर कोई कम्पनी सत्तारूढ़ दल को डोनेशन देती है, तो वह मिनिस्टर के घर में बैठ कर अपना पूरा परपज सर्व कर लेती है । इस तरह घूसखोरी और भ्रष्टाचार बढ़ता है । सरकार ने इस पर क्या रेस्ट्रिक्शन लगाई है ? इस समय कम्पनियां अपने नेट प्राफ़िट के पांच परसेंट तक राजनीतिक दलों को डोनेशन दे सकती हैं । सरकार इस को कतई तौर पर बन्द क्यों नहीं करती है ?

श्री मधु लिमये ने अपने मिनट आफ़ डिसेंट में कहा है :.....सरकार के हाथ में आज जो व्यापक नियंत्रण अधिकार हैं, उन के फलस्वरूप सत्तारूढ़ दल ने निजी क्षेत्र से हमेशा चन्दा वसूला है । इस का लेखा जोखा वित्त मंत्रालय मंत्री ने फिलहाल ही प्रस्तुत किया है । यह कम्पनियों द्वारा दिया गया अधिकृत चन्दा है । अनधिकृत चन्दे का उस में उल्लेख तक नहीं है । वह तो उस से कई गुना ज्यादा होगा । सरकारी जानकारी के मुताबिक 1961 के पश्चात दो वर्षों की रपट के आधार पर कम्पनियों द्वारा कुल रु० 1,15,00,000 विभिन्न राजनीतिक दलों को दिया गया । उस में सत्तारूढ़ दल का हिस्सा रुपया 98 लाख से भी अधिक, स्वतन्त्र पार्टी का रु० 15 लाख 65 हजार, प्रजासोशलिस्ट पार्टी का रु० 54,000 कम्युनिस्ट पार्टी का रु० 2,800 और सोशलिस्टों का सिर्फ़ रुपया 351 रहा ।

इस बिल म यह व्यवस्था भी की गई है कि 75 वर्ष की आयु के बाद कोई मेनेजिंग डायरेक्टर अपने पद पर नहीं रह सकता है । श्री पटेल ने अपने मिनट आफ़ डिसेंट में कहा है कि उम्र देखने के बजाये यह देखना चाहिए कि कोई व्यक्ति काम्पीटेंट है या नहीं । जब पालिटीशन्ज 75 साल से ऊपर काम कर सकते हैं, जब लोग 75 साल के बाद भी मिनिस्टर बन सकते हैं, तो इस सम्बन्ध में यह प्रतिबंध लगाने की क्या आवश्यकता है ? आखिर मेनेजिंग डायरेक्टरों को कोई पेन्शन नहीं मिलती है । 75 साल के बाद कोई व्यक्ति बिल्कुल बेकार तो नहीं हो जाता है । उसके अनुभव का फायदा उठाया जाना चाहिए ।

सरकार ने 1956 में एक एडवाइजरी कमीशन का निर्माण किया था । श्री देशमुख साहब ने उस के बारे में कहा था कि यह बड़ी अच्छी संस्था है और यदि यह काम करेगी, तो कम्पनीज का एक अच्छा इतिहास पैदा हो जायेगा और एक अच्छा वातावरण पैदा होगा । अब श्री कृष्णमाचारी उस एडवाइजरी कमीशन को समाप्त कर के उस के स्थान पर एक एडवाइजरी कमेटी का निर्माण करना चाहते हैं । अन्य सब क्लाजों के लिए कारण दिये गए हैं लेकिन इस के लिए कोई कारण नहीं दिया गया है । यह नहीं बताया गया है कि एडवाइजरी कमेटी के निर्माण करने और एडवाइजरी कमीशन को एबालिश करने का क्या कारण है । यह कह दिया गया है कि एडवाइजरी कमेटी के रूल्ज गवर्नमेंट फ्रेम करेगी और उस कमेटी में सूटेबल क्वालिफ़िकेशन्ज के पांच सदस्य होंगे । सूटेबल क्वालिफ़िकेशन्ज क्या होंगी, यह

[श्री बड़े]

नहीं बताया गया है । इस का अर्थ यह है कि कांग्रेस के प्रेजीडेंट और इसी प्रकार के भाई भतीजे उस में कमेटी में रख दिये जायेंगे ।

एडवाइजरी कमीशन 1956 से चला आ रहा है । इस समय उस को एबालिश करने का कोई कारण नहीं दिया गया है । अखबारों में कहा गया है कि चूंकि कोई कारण नहीं दिया गया है, इस लिए जिन लोगों को उसके कारण असुविधा होती है, वे जानते हैं कि ह्वेयर दि शू पिंचिज । ऐसा मालूम होता है कि या तो कमीशन के सदस्य सरकार की बात नहीं मानते होंगे या कमीशन की रीकमेंडेशन्ज सरकार को अखरती होंगी । इसी लिए सरकार एक ऐसी एडवाइजरी कमेटी का निर्माण करना चाहती है, जो कि उस की पाकेट में रहे । इस कमेटी के अधिकार क्या होंगे, यह भी नहीं बताया गया है ।

अभी तक सरकार की तरफ से यह कहा जाता रहा है कि हम मैनेजिंग एजेंट्स को खत्म करने वाले हैं, लेकिन अब उस ने एक पटेल कमेटी नियुक्त की है, जो इस बात पर विचार करेगी कि मैनेजिंग एजेन्ट्स का पीरियड बढ़ाना चाहिए या नहीं ।

30 जून, 1965 के हिन्दुस्तान टाइम्ज में यह रिपोर्ट छपी थी :

"143 new companies with an authorised capital of Rs. 66.76 crores were registered. The management pattern of the new companies shows that 107 companies were proposed to be managed by the Board of Directors and 35 were to be managed by Managing Directors."

एक तरफ सरकार कहती है कि वह मैनेजिंग एजेन्ट्स को खत्म करना चाहती है और दूसरी तरफ उस ने 35 नई कम्पनियां रजिस्टर्ड की हैं, जिनमें मैनेजिंग एजेन्ट्स का संचालन होगा और इस के अलावा उन के रीम्युनरेशन के स्केल को कम किया है । अगर मैनेजिंग एजेन्ट्स को खत्म करना है, तो फिर इस बात पर क्यों विचार किया जा रहा है कि उन के पीरियड को बढ़ाया जाये या नहीं ?

Shri Sham Lal Saraf (Jammu and Kashmir): Does he mean that the managing agency system should be done away with?

श्री बड़े : बात यह है कि इस सरकार की करनी और कथनी में बहुत फर्क है । एक तरफ वह स्पष्ट कह रही है कि उस ने मैनेजिंग एजेन्ट्स को खत्म करना है और दूसरी तरफ उसने मैनेजिंग एजेन्ट्स की 35 कम्पनीज को मन्जूरी दी है ।

अगर सरकार कम्पनीज ला को स्पष्ट बनायेगी, तो इन्वेस्टर्ज और रुपया लगायेंगे, वर्ना आज-कल नई कम्पनियों का निर्माण करने में बहुत कठिनाई है । नई कम्पनियों का निर्माण करते समय तीन राक्षसों का सामना करना पड़ता है । एक तो इंडस्ट्रियल लाइसेंसिंग है । मध्य प्रदेश में मेरा अनुभव है कि इंडस्ट्रियल लाइसेंस के लिए एक टेबल से दूसरे टेबल और दूसरे टेबल से तीसरे टेबल तक चक्कर काटते रहने पर भी लाइसेंस नहीं मिलता है । दूसरा राक्षस है फारेन एक्सचेंज रेग्विट्रशन । आज फोरेन एक्सचेंज नहीं मिलता है, हालांकि एक लाइजा कम्पनी है, जो कहती है कि हम को इतना परसेंटेज दे दो तो हम चार छः महीने में फारेन एक्सचेंज दिला देंगे । तीसरा राक्षस है कम्पनी ला रेगुलेशन्ज । आज-कल कम्पनीज बिल के बारे में यह मजाक किया जाता है :

"The Company Bill is that Bill which keeps company with the whims of the Finance Minister and seeks to harm those particular companies which are not in the good books of the Congress Party."

मैं आशा करता हूं कि शासन इन बातों की तरफ ध्यान देगा । इस बिल में जो प्राविजन्ज रखे गए हैं, वे अच्छे हैं । जब तक सरकार सोल्जर्स आफ स्वोर्ड, सोलजर्स आफ प्लो और सोल्जर्ज आफ कम्पनी एंड मशीनरी का निर्माण नहीं करेगी, तब तक हिन्दुस्तान की प्रगति और उद्धार नहीं होगा । मिक्स्ड इकानोमी के प्रोग्राम को सफल बनाने के लिए यह आवश्यक है कि हेट्रिड नहीं, बल्कि को-आपरेशन, सहानुभूति और प्रेम की भावना से इन लोगों को अपने साथ लिया जाये ।

श्री रघुनाथ सिंह (वाराणसी) : अध्यक्ष महोदय, मैं केवल एक ही धारा—क्लाज 35 पर बोलना चाहता हूं । मूल कानून की धारा 280 के मुताबिक कम्पनी के डायरेक्टर की रिटायरिंग एज 65 वर्ष रखी गई थी और यह अधिकार भी दिया गया था कि अगर शेयरहोल्डर्स चाहें, तो वे उस लिमिट को तोड़ भी सकते हैं और डायरेक्टर ज्यादा समय तक काम कर सकते हैं । ज्वायंट सिलैक्ट कमेटी की रिपोर्ट में उस क्लाज के बारे में यह कहा गया है कि 75 बरस की बात पब्लिक कम्पनी में लागू की जाएगी और प्राइवेट कम्पनी में जो उसकी सबसिडरी होगी उनपे लागू की जाएगी । मेरा कहना है कि यह संशोधन अनुचित है । इसको हटा दिया जाना चाहिये । इसके दो कारण मैं बतलाना चाहता हूं ।

पहला कारण तो यह है कि पहले आपका रूल था कि 65 बरस की उम्र तक कोई डायरेक्टर रह सकता है । आपने उम्र की लिमिट को 75 बरस कर दिया है । आप कानून के अनुसार दस बरस रहने का अधिकार देते हैं । उस के बाद आप उस को अधिकार नहीं देते हैं । शेयरहोल्डर्ज डायरेक्टर को इलैक्ट करते हैं । इलैक्शन पार्लियामेंट के मेम्बर्ज का भी होता है । असैम्बली के मैम्बर्ज का भी होता है । लोकल बोर्ड के मैम्बर्ज का भी होता है । उनको कौन इलैक्ट करता है ? पब्लिक उनको इलैक्ट करती है । कांउसिल का इलैक्शन कैसे होता है ? काउंसिल के इलैक्शन में लिमिटिड फ्रैंचाइज होता है । अगर किसी असैम्बली में 230 या चार सौ एम० एल० ए० हैं तो वे लोग काउंसिल के मैम्बर्ज को इलैक्ट करते हैं । जिस तरह से उनका इलैक्शन होता है उसी प्रकार से जो प्राइवेट और पब्लिक कम्पनी है, उन का भी चुनाव होता है । उस में भी लिमिटेड फ्रैंचाइज है । उसी तरह जैसे असैम्बली का लिमिटेड फ्रैंचाइज होता है । काउंसिल के मैम्बरों को चुनते हैं या राज्य सभा के मैम्बरों को चुनते हैं । जिस तरह से आप राज्य सभा या काउंसिल या डिस्ट्रिक्ट बोर्ड या जिला परिषद के लोगों को अधिकार देते है कि अगर उनको अपने इलैक्टोरेट का कान्फिडेंस प्राप्त हो तो वे किसी को भी चुन सकते हैं बिना उसकी उम्र का लिहाज किए हुए, बिना यह देखे हुए कि वह जिस को चुनने जा रहे हैं वह 75 बरस का है या सौ बरस का, उसी तरह से आपको शेयरहोल्डर्ज को भी यह अधिकार देना चाहिये कि वे चाहें तो 75 बरस से ऊपर के डायरेक्टर को भी चुन सकते हैं । जैसे हमारे अर्ण साहब हैं, वह नब्बे बरस से ऊपर हैं, आज भी वह काम करते हैं . . .

श्री हरि विष्णु कामत : नब्बे नहीं अस्सी बरस से ऊपर हैं ।

श्री रघुनाथ सिंह : अस्सी बरस से ऊपर हैं । वह बहुत अच्छा काम करते हैं । किसी मिनिस्टर के वास्ते उम्र का कोई बंधन नहीं है । राष्ट्रपति के वास्ते बंधन नहीं है । उपराष्ट्रपति के वास्ते बंधन नहीं है । किसी के वास्ते बंधन नहीं है । जब हम सावरेन बाडी के मैम्बर अस्सी बरस के ऊपर भी हो सकते हैं तो सारे हिन्दुस्तान . . . .

अध्यक्ष महोदय : स्पीकर के वास्ते है या नहीं है ।

श्री रघुनाथ सिंह : नहीं है ।

जब कि एक मिनिस्टर बिना उम्र के बंधन के सारे हिन्दुस्तान का इंतजाम कर सकता है । अस्सी या नब्बे बरस का होते हुए भी, एक राष्ट्रपति सारे हिन्दुस्तान का इंतजाम कर सकता है । उम्र का कोई बन्धन न होते हुए भी, उपराष्ट्रपति राज्य सभा की अध्यक्षता कर सकता है और उम्र का कोई बंधन उन के लिए नहीं है तो मैं नहीं समझता कि शेयरहोल्डर्ज जिनका रुपया लगा हुआ है और जिन लोगों का उस में डायरेक्ट इंटिरैस्ट है, अगर वे समझते हैं कि अमुक आदमी 75 बरस से ऊपर भी अच्छी तरह से काम कर सकता है, तो ऐसा करने का उन को अधिकार क्यों प्रदान न किया जाए ।

आपने यह जो संशोधन उपस्थित किया है इस में गुण चाहे जो हों लेकिन इस में व्यावहारिकता बिल्कुल नहीं है । गुण ही से संसार का काम नहीं होता है । गुणों के साथ व्यवहार भी होना चाहिये । एक आदमी डायरेक्टर है और पंद्रह बरस से डायरेक्टर बनता चला आ रहा है । उस को अनुभव हो गया है । कम्पनी के काम का, वह एक एक इंच जानता है, एक ए क रुपये का हिसाब जानता है । लेकिन चूंकि उसकी उम्र 75 बरस की हो गई है लिहाजा उसको आप कानूनन हटा रहे हैं । जब कि जिन का उस कम्पनी में रुपया लगा हुआ है, जो शेयर होल्डर हैं, वे चाहते हैं कि इसी आदमी के हाथ में काम दिया जाए, यह कहां तक उचित है ? इस लिए यह सशोधन ठीक नहीं है ।

दूसरी मिसाल मैं लायर्ज की देता हूं । वकील चाहे वह सुप्रीम कोर्ट का हो या हाई कोर्ट का हो, चाहे लोकल कोर्ट का हो, उस के वास्ते एज लिमिट कुछ नहीं है । जब तक उसकी बाडी काम करती है, उस के हाथ पैर काम करते हैं, वह वकालत करता रह सकता है । आप डाक्टर की मिसाल लें । चाहे वह अस्सी बरस का हो या नब्बे बरस का, जब तक उस की अक्ल काम करती है, हाथ पैर, काम करते हैं, वह काम करता रह सकता है, उस पर कोई किसी प्रकार की रोक नहीं है । इसी तरह से हमें सोचना चाहिये कि जैसे पुराने एक्ट में था, आप इस को शेयरहोल्डर्ज पर क्यों नहीं छोड़ . . .

श्री हरि विष्णु कामत : मेरा एक व्यवस्था का प्रश्न है । इतने रोचक भाषण के समय सदन में कोरम तो होना चाहिये ।

Mr. Speaker: The quorum bell is being rung . . .

Now there is quorum. The hon. Member may continue.

श्री रघुनाथ सिंह : अध्यक्ष महोदय, मैं पूछ रहा था कि यह जो संशोधन जो लाये हैं इसके पीछे विवेक क्या है, किस विवेक के आधार पर इस संशोधन को लाया गया है । अगर इस विवेक का आधार यह है कि 75 बरस के पश्चात् मनुष्य में सामर्थ्य नहीं रह जाती है, किसी डायरेक्टर में 75 बरस के बाद काम करने की सामर्थ्य नहीं रह जाती है, तब तो इस नियम को अगर आप फैलायेंगे तो सारे हिन्दुस्तान में यह नियम फैल जाता है । सबसे अच्छा तो यह है कि पहले पार्लिमेंट से ही इसको शुरू करें क्योंकि हम हिन्दुस्तान के लिए कानून बनाते हैं । जब हम दूसरों के लिए 75 बरस का कानून बनाते हैं और अपने लिए सौ बरस या 125 बरस तक

रखें, उम्र की कोई मर्यादा ही न रखें तो य ह ठीक नहीं है ।

श्री हरि विष्णु कामत : मैंने इसके बारे में एक बिल पेश किया था, आपने उसको मंजूर हीं नहीं किया ।

श्री रघुनाथ सिंह : आप तो बहुत सी चीजें पेश करते हैं जो बहुत अच्छी भी देखने में होती हैं लेकिन जिनको हम मानते नहीं है ।

मैं समझता हूं कि इस संशोधन के पीछे कोई विवेक होना चाहिये । विवेक अगर उसमें क्षमता है और वह अच्छा काम कर कर सकता है तो जैसे पुराने एक्ट में धारा 280 थी और जिसके अनुसार आपने अधिकार दिया था कि 65 बरस का हो जाने के बाद भी अगर शेयर होल्डर्ज चाहें तो उसको मौका दे सकते हैं और 80, 90 या 100 बरस तक भी वह आदमी बना रह सकता है, उसी के अनुसार आप यहां भी इस चीज को रखें । अगर शेयर होल्डर यह समझें कि उस आदमी में क्षमता है, सामर्थ्य है, अनुभव है, तो उसको मौका दिया जाना चाहिये ताकि कम्पनी को उसके गुणों का ज्यादा से ज्यादा लाभ हो सके ।

एक ही देश में दो प्रकार के कानून, दो प्रकार के सिद्धान्त नहीं होने चाहियें । अगर नामिनेशन का सवाल हो तो भी अगर आप 75 बरस की लिमिट लगा दें तो कोई आपत्ति की बात नहीं हो सकती है । लेकिन यहां नामिनेशन का सवाल नहीं है, यहां इलैक्शन का सवाल है । जब आप लोकल बाडी के इलैक्शन के वास्ते, असेम्बली, पार्लिमेंट, राज्य सभा के इलैक्शन के वास्ते उम्र का कोई बन्धन नहीं लगाते हैं, तो मैं कहता हूं कि यह लिमिटेड फ्रेंचाइज शेयर होल्डर्ज का है, इसमें भी किसी प्रकार का बन्धन लगाना कांस्टीट्यूशन की जो स्पिरिट है, कानून की जो आत्मा है, उस आत्मा के विरुद्ध जाते हैं । जो हक आप एक स्थान पर देते हैं वही हक आप दूसरे स्थान पर भी दें ।

मैं आशा करता हूं कि माननीय भगत जी इस पर ध्यान देंगे, सोचेंगे कि यह परम्परा, यह प्रेसीडेंट आप जिसे इस कानून के द्वारा स्थापित करने जा रहे हैं, कहीं ऐसा न हो कि कल आपका इलैक्टोरेट आप से कहे कि आप की उम्र 75 बरस हो गई है, आप पार्लिमेंट के लिए खड़े नहीं हो सकते हैं । इसलिए मैं कहता हूं कि ऐसी कोई परम्परा इस सदन से आप पास न करायें जो कि भविष्य में आपके ही विरुद्ध जाए ।

Shri Sham Lal Saraf: This Bill, as moved today, is a consequence of the discussion that this House had on Vivian Bose Commission's report and I am very glad that the processing, after that report was adopted by the Government, is being followed meticulously. It was said yesterday by my hon. friend who preceded me on the other side that to amend a law every time is not correct. I quite agree with that, in certain circumstances, people have a feeling of insecurity as to what would happen tomorrow. But as far as the present law is concerned, I think it is befitting and I welcome it.

With these observations I want to point out a few things to the Hon. Minister, if he would agree. I have already formally moved two amendments. Regarding the rest, I have to make certain observations. Regarding section 5, sub-clause (i), about 'Ancillary Industries,' my hon. Friend, Shri Himatsingka said yesterday that this clause need not be there. Here I have to make an observation. While new industries are being set up, an attempt for some time past has been made to further monopolise the big industries. But, for some time past, we have been very badly feeling that there should be at least some stop somewhere to this kind of thing. If a group

[Shri Sham Lal Saraf]

of industries or industrialists or interlocked companies try to set up bigger industries, at least the ancillary industries should be left to the smaller people, particularly the small-scale industries. It is with that idea that I would welcome this provision. Otherwise, the point raised by Shri Himatsingka with regard to this needs to be looked into. And I hope the hon. Minister will explain the reason behind this provision.

13 hrs.

With regard to the proposed clause (e) of sub-section (1) of section 13, I quite agree with my hon. friend Shri Himatsingka that it will be difficult for a company or a corporation which has its jurisdiction in more than one State or which is an inter-State corporation or whose business is run all over the country to pin itself down, just at the time of the floating of the company, to one particular place and say that that will be its headquarters.

13.01 hrs.

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

I would submit that this may be given consideration and this relaxation may be made so that it may not be made incumbent upon a company just at the time of its being promoted, to say exactly which place will be its headquarters and why and when the jurisdiction of the company will be country-wise or of an inter-State nature.

With regard to the question of transferring of money from one company to another, and even with regard to giving loans, we find from the Vivian Bose Commission's report that several things have come to light which were not at all desirable, about which many of us have spoken in some detail.

I am absolutely in agreement with the view of Government that where people do not behave properly, they should be brought to book. At the same time, it is equally the responsibility of the Government or the authorities concerned to see that where people behave properly and where people do honest business and have honest dealings, they are given some protection. In order to curb the activities of some undesirable elements, we should not put those who are doing their business in a better and honest manner to any difficulty or trouble. I would request the hon. Minister to kindly look into this matter once again and see whether Government cannot give some sort of relaxation so that those people who are honest, whose business relations are good and who are above board are left free to work smoothly.

There is another point on which I have tabled an amendment, and that is in regard to cost accountants. Cost accountants were not known in our country till a few years back. Cost accounting is a highly specialised subject, as far as the industrial world is concerned and especially so in the advanced countries. In our country it is only for the last six or seven years that cost accounting has come into existence. I personally feel with whatever little experience I have had that in the absence of cost accounting, it is very difficult to come to any definite conclusion with regard to the cost of production of any particular industrial product. So, the introduction of the cost accounting system is a very wise thing, and I am very glad that this has been done. But there is one thing that I would like to submit in this connection and that is that at present cost accountants are being classed along with the chartered accountants. May I submit that the fields of work of the two categories are entirely different? The chartered accountant also may have to do something with costing but only in certain marginal matters. Otherwise, cost acounting is an absolutely separate subject. Therefore, the business

of cost accounting should be left entirely to the cost accountants and not to the chartered accountants or others. I have tabled an amendment in this regard, and I shall speak on it in detail when that amendment is taken up.

As regards the question of age restriction, I agree with what Shri Himatsingka and Shri Raghunath Singh have stated. In the public life of our country and elsewhere, persons who attain the age of 75 can continue and they are supposed to be fit to continue there. When that is so, I do not see any reason why experienced businessmen or industrialists who may be directors or chairmen of companies and who may be holding office in the business management should not be allowed to continue. I should say that to place any age restriction on them will not be fair and it will be an injustice to them. There should be no age-limit in their cases also as in the case of others in public life etc. If the company itself decides not to have a particular person of a particular age, by a resolution, then let the company be allowed to do so. Let not Government make any rule about it or enact any provision in the law, because I feel that that would amount to an interference in their working. It will be better if we treat everybody on a par; whether in public life or in political life or in the industrial and commercial life of the country, the same criteria should be adopted in this regard.

In conclusion, I would like to say one more thing. I too have had some little experience of getting enactments passed and bringing them on the statute-book. At the time of framing of laws of this nature one gets the feeling that it will be Shri T. T. Krishnamachari who will be watching all along the working of the enactment. But in practice what is happening? A small clerk somewhere or some small person holding some small job somewhere will be free to work it in the manner he likes, and the big concerns and big businessmen are left at the mercy of such small people. I hope that a very shrewd person like Shri T. T. Krishnamachari should look into this matter and see that they are not left at the mercy of blackmailers, as was pointed out yesterday by one of my hon. friends, or at the mercy of some undesirable people who may try to harass them by intimidating them or blackmailing them by giving false reports in order to get such bigger people incriminated. I hope the matter will be looked into. The law should be made in such a manner that at least the honest people and the people who do things in the right manner are allowed to function properly.

Shri S. M. Banerjee (Kanpur): I do not wholly agree to the speech of my hon. friend Shri N. Dandeker who has said that none of these amendments is really necessary. After all, after the publication of the Vivian-Bose Commission's report and the submission of the report of the Daphthary-Sastri Committee, some of these amendments were thought to be good in order to plug the loophole in the various provisions of the company law. I, therefore, feel that Government are moving in the right direction. But the way in which the Company Law Administration is functioning is also a matter to be considered very seriously by the Finance Minister. In those matters where the big companies are involved, generally, the Administration does not move. On the last occasion when I was speaking on this Bill, I had given the instance of an industrialist in Kanpur against whom so many cases had been pending. The LIC wanted to issue a warrant against that industrialist. He is such a powerful industrialist that he had involved the editor of a weekly paper called *Citizen* in some case, and he has been able to influence all the officers of the Company Law Administration in his favour, with the result that this particular case has not yet been finalised even though about ten years have elapsed.

Mr. Deputy-Speaker: We are now discussing the Report of the Joint Committee and the Bill as reported by the Joint Committee. It is not a general discussion on company law which we are having. If the hon. Member wants to make any suggestions, he should come to them straightway.

Shri S. M. Banerjee: I feel, therefore, that merely by bringing forward such amendments, we shall not be fulfilling our mission or be acheiving the desired result unless at the same time the company law administration also functions properly.

I have gone through the various minutes of dissent given by my hon. friends, and I would particularly like to refer to that given by my hon. friend Shri Sivamurthi Swamy. I must congratulate him for having made the finest observation in regard to political donations by companies. He has suggested that if any company wants to give political donations to any political party, then it should be passed at a general meeting.

Now the company law administration knows and the Finance Minister also knows that a case has been reported to the company law administration of the British India Corporation. When we talk of political donations, let us analyse how this donation is given. We have been pleading in this House that the ruling party should discourage taking political donations from various companies so that they may not be accused by us of polluting the political life of the country. Now, I have written a letter to the Finance Minister about the political donations given by the British India Corporation. I have gone through the memorandum and articles of association of the corporation called the British India Corporation. There is no clause therein for political donation. Still I do not know how the chairman, who was an ex-Minister at the Centre, or the managing director, the Bajorias, have given this political donation. They donated Rs. 5 lakhs to the Nehru Memorial Fund. I welcome that; it is a laudable object, but they did so without consulting anybody, without having any provision in the memorandum and articles of association. They further donated a huge amount out of the funds of the shareholders either for this purpose or that purpose. I have seen that there were legal consultations. Opinions were asked of Shri Sachin Chaudhuri and other eminent lawyers and jurists. None of them has supported these donations. They have given their opinion against it.

I want to know from the Finance Minister this. Let him consult the company law administration whether these matters were referred to them and if so, why no action has been taken either against the chairman or against the Bajorias for having given political donations, squeezing the shareholders of their money and giving it for political purposes. The chairman of the BIC is from my own state. He cannot possibly nurse his constituency at the cost of the shareholders. This is a very serious matter. I am sorry I have not been favoured with a reply from the Finance Minister. I am concerned with the British India Corporation because I come from Kanpur where it is situated. It was once ruined by Mundhras. I do not know whether it is going to be again ruined, this time either by Satish Chandras or Bajorias. I want an answer. There are 35,000 workers working in the Lal Imli, the textile mill and in Cooper Allen. This is one of the biggest industries in UP. I want to know who is responsible for this state of affairs. I do not know whether it is the chairman's fault or somebody else's fault. Whoever is at fault, must be brought to book.

The Minister of Planning (Shri B. R. Bhagat): What makes him think that it is being ruined? It is working satisfactorily.

Shri S. M. Banerjee: They have not been able to pay the bills of contractors. They have not paid bonus

to the workers. I come from Kanpur. The hon. Minister knows much about Kanpur. But I know that they have not paid any bonus. I am sorry that though what is happening in Kanpur is known to him, still he does not take any action.

Shri Hari Vishnu Kamath: He is expressing his fears about the future.

Shri S. M. Banerjee: My second point is about the serious allegations made against the company law administration by Barium Chemicals Ltd. Recently we read in the newspapers that Barium Chemicals Ltd. have filed a writ petition in the Punjab High Court against the chairman of the company law board, a senior ICS officer, and the Finance Minister. Serious charges have been levelled. Apart from the writ petition pending in the High Court—I do not wish to say anything more about it because it is *sub-judice*—other charges were levelled that files were removed from various offices and some investigations have been launched against the aggrieved party, despite the fact that is was shown that no investigation was called for.....

Mr. Deputy-Speaker: All that is not relevant here. Here we are concerned with the Bill as it has emerged from the Joint Committee. If he has any suggestions to further improve it, he may make them.

Shri S. M. Banerjee: I am suggesting improvements, to tighten up the company law administration.

Shri Raghunath Singh: What is his amendment?

Mr. Deputy-Speaker: What is your amendment?

Shri S. M. Banerjee: My amendment is that there should be a clause in the Bill not only to take action against companies but to have effective control on the company law administration.

Shri Himatsingka: It is there.

Shri S. M. Banerjee: It is there, I have gone through it; despite the fact that it is there, these things are going on in the country.

Then there should be proper investigation by the company law administration of the working of various companies. In this House, Shri Indrajit Gupta made certain charges against a particular company called T. T. Krishnamachari & Co. and said that, unfortunately, our Finance Minister was connected with that company. The hon. Law Minister then came to the rescue of the Finance Minister and said that the latter severed his connections with that company in 1942. I appreciate the hon. Finance Minister's courage and of conviction in not denying it, but the all powerful Law Minister came to his rescue and said that the Finance Minister severed his conections with the company in 1942. I have written a letter to the Prime Minister. I make a statement here and now, that the Finance Minister, unfortunately or fortunately, was connected with this concern, T. T. Krishnamachari & Co. upto 1947 as Mr. T. T. Krishnamachari and upto 1952 as Mr. T. T. Krishnamachari, guardian of his minor son, T. T. Vasu. If the statement is not correct, let the Finance Minister make a statement. I have nothing against him personally. He is a lovable personality. I like him immensely. But I say that when such a statement comes from the Law Minister, it should be corrected, and corrected now by the Finance Minister.

Coming to my amendment, unfortunately I shall not be here to move it

[Shri S. M. Banerjee]

as I will be out of town at that stage. But my amendment No. 48 says:

> Page 11, lines 17 to 20—*for* "or any such chartered accountant within the meaning of the Chartered Accountants Act, 1949, or other person, as possess the prescribed qualifications", *substitute* "or any other person who possesses such qualifications as may be prescribed from time to time".

In giving notice of this amendment, I feel that more weightage should be given to cost accountants. I am not against chartered accountants. After all, for financial audit, they are all right. But due incentive must be given to cost accountants also. Why is the number of cost accountants in the country less? They are whole-time salaried employees. They are not permitted to practise as per the restrictions imposed under the Cost and Works Accountants Act 1959. This restriction should be removed. I hope the hon. Minister will accept my amendment which is harmless. People have commented on it. Mention has been made of it in their note of dissent by Shri Dinen Bhattacharya and Shri Warior. I am sure if this amendment is accepted and if more cost accountants are associated with costing, the loophole may be plugged.

With these words, I lend by conditional support to this Bill. All the points I have raised should be answered correctly. Doubt has been created in the minds of many people in the country—it has not created a doubt in my mind—whether the company law administration is not being soft towards certain companies and being hard towards small companies which have no pull with the Ministry.

Shri Morarka (Jhunjhunu): Mr. Deputy-Speaker, I congratulate the members of the Joint Committee on examining this Bill in such great detail and, if I may say so in all humility, on improving it greatly. Before the Bill was referred to the Committee, many suggestions were made on the floor or the House and it is very encouraging to notice that most of them have ben accepted by the Joint Committe.

I must however apologise to the House for tabling a large number of amendments in spite of the fact that the Bill has emerged in a very improved form. My only justification for doing so is that they are all designed to improve the Bill still further. I do not propose to go into all those details where the Committee has improved the Bill. I would rather concentrate on some of the clauses which, according to me, escaped the close scrutiny of the Joint Committee.

When I say that, I should not be misunderstood as not appreciating the valuable improvements which have been introduced by the Joint Committee and the great flexibility which has been shown by the hon. Finance Minister.

I shall first take up Clause 3(ii) of the Bill to make my point good. Clause 3 amends section 2 of the principal Act, which is the definition section, and sub-clause (ii) of Clause 3 amends clause 30 of the definition section. It reads as follows:

> "(ii) in clause (30), after the words 'manager or secretary', the words 'or any person in accordance with whose directions or instructions the Board of directors or any one or more of the directors is or are accustomed to act,' shall be inserted."

Section 2(30) defines an officer of the company, and in the definition director, manager, managing agent or other officer are all included, but an outsider who has nothing to do with the company is not included. By this amendment, by the introduction of this new concept, even a person who

is completely an outsider, but according to whose instructions or directions a director of the company is "accustomed to act", would be considered to be an officer of the company, and would be liable to all penalties and other obligations which are imposed on an officer of the company.

This amendment is sought to be made in pursuance of the Vivian Bose Commission's Report. I may first read the recommendations of the Commission for the information of the House. They are contained in Paragraphs 20 to 24 of the Summary of Recommendations, on pages 6, 7 and 8. I need not read the whole of it. I shall read portions of Paragraphs 20 and 21. It says in Paragraph 20:

> "This expression has been used in the Act mainly with a view to impose effective restrictions on some special activities of directors and managing agents as in sections 295, 369, 370 etc. The expression has also been introduced in Section 162 and 536 with the object of casting on persons, who fall within the description, the responsibilities attached to directors under these provisions. The Act has rightly cast these responsibilities on persons who, though exercising full control over the affairs of a company, but by concealing their identity behind their dummies, otherwise escape the responsibilities attached to the office of a director. Time and again we have seen how the master-minds behind the malpractices kept in the background, although they had planned and directed the strategy, but left the implementation only to the subordinates, who were thereby exposed to all the risks inherent in the adoption of such malpractices."

Then, Paragraph 21 reads:

> "The expression used in the existing provisions of the Act to cover "deemed" directors appears, in our opinion, to have a limited scope, because a person will fall within this description only if the 'board of directors', which under Section 252(3) means the directors collectively, is accustomed to act in accordance with the directions. Thus, if a person acts through the majority of nominee directors on the board, but not all of them are his nominees, it would appear that he may escape the mischief of the said provisions. Furthermore, the question as to whether a person is acting in accordance with the directors or instructions of another or not, being a question of fact, it may not often be easy to prove this in respect of either all or even the majority of the directors on the board."

That is why they made the suggestion.

My first point is that once you include this concept in the definition of an officer, the obligations and penalties which you would be imposing on this outsider would be very extensive. Under each and every section there is an obligation—to call a meeting in time, to serve the notice, to receive notices, to give instructions, to file documents with the Registrar, to answer certain charges, to preserve the accounts books etc. Some of them are very serious obligations, and they attract severe penalties. A Board may consist of 5, 10 or 15 directors, and a person who has nothing to do with the company whatsoever, merely because he has one nominee on the Board, would attract these penalties under all these sections. I can understand if the provisions was confined only to a few major or important sections as the 1956 Act envisaged, for example, Sections 162, 295, 307, 369, 370 and 538, dealing with inter-corporate investment, lending of moneys

[Shri Morarka]

etc. There it was all right. Here, for everything, big or small, a person who has nothing to do with the company will be held responsible.

And who are these persons? A nominee director is nowadays appointed by technical collaborators who may be abroad, by the Industrial Finance Corporation, by ICICI, by some banks, by State Governments, by debenture trustees and others representing particular interests one person in a board cannot, by any stretch of the imagination, control the affairs of the company unless all the other directors are dummies, dummies of somebody else. So, how it is practically possible, how can you make this provision practicable the provision which says that if one single director on a board acts in accordance with the wishes or according to the directions or instructions of another person, then the other person who is completely an outsider would attract all the penal provisions?

My objection is fortified by another argument. Under the proposed scheme you are debarring certain persons by law compulsorily from acting as director, not that they do not want to be directors. You are now taking powers under Clause 35 to say that the moment a person attains the age of 75, he cannot come anywhere near a company, and yet if he appoints a nominee on the board, you say he will be responsible for everything. For the purpose of putting the penalty, for going to jail, he is fully qualified, in possession of his faculties and is supposed to be fully alert, but for the purpose of management of the company you are deliberately keeping him out, and still you are putting a vicarious responsibility on him because he has a nominee on the board.

I have no objection if you make this applicable to a person who is in a position to control the majority of the board of directors, because then and then alone, does he influence the policy of the company, the management of the company, and if there is any malpractice, fraud, misappropriation etc., it can be perpetuated only if he controls at least the majority if not all the directors. If that is the position, what is the point in accepting this theoretical recommendation of the Vivian Bose Commission, to which Shri Vivian Bose was never a party, only his name is used, and which did not have time to elicit public opinion on a suggestion like this.

The other day when the Bill went to the Joint Committee I pointed out a similar absurd situation about the Objects Clause. I am thankful to the Joint Committee for amending it and for introducing major changes.

This clause, 3(ii) suffers, in my humble opinion, from the same degree of absurdity and impracticability and there is no reasonableness and equity in favour of this provision. After all it cannot be the intention of the Government to rope in any person on technical grounds. Neither can it be that a person even if he holds shares should not have a nominee on the board. Our company law has a section 264 or 284 which recognises the principle of proportional representation. Not only this. When the Government finds that the affairs of a company are mismanaged, they can give a direction saying: you adopt an article or change your article and have a system of proportional representation. On the one hand the Government's policy is to give a right of proportional representation that is, to have a nominee director in proportion to your shareholding and on the other hand by this method you are frightening the person from putting in a nominee because if he puts a nominee director who is accustomed to act under his instructions, then for all his commissions and omissions, he would be responsible, not the nominee director but the person whose nominee he is, who is a complete outsider who for

all practical reasons may be sitting in some other foreign country. I think that the Joint Committee while examining this provision did not bestow due consideration on these points. This is a noticeable lacuna and a big lapse on the part of the Joint Committee and I would have been happier if they had put some limit on this provision either by saying that such a person would be responsible only for certain acts of commission and omission or that such a person would be responsible only if he controls a majority of the directors or if he really influence the working and control of the company.

Mr. Deputy-Speaker: You may go to the next point now.

Shri Morarka: If you think that I have made that point fairly well, I leave it here and go to the next point.

I must express my sense of gratitude again to the Committee for making clause 13 more acceptable. It is a new thing that we are introducing, a provision against the blank transfer of shares. I have several amendments on this clause 13 in my name. Some of them are alternative amendments that is if one is accepted the other would automatically go out. The main reason for my amendment is that according to the clause as it has emerged from the Committee, it would not be possible for the Company Law administration or the stock exchanges to administer it properly. First of all it is said in this clause that transfer forms should be obtainable from the prescribed authority. Every year not less than lacs of transfer forms are required by different stock exchanges all over the country and it would be impossible if the Government does not expand the staff of this authority substantially, to cope with that work. Many times they would say that forms are not available, that they are out of print or that they have not yet been prescribed or some other reason. My amendment is that the same forms which are today in use may continue but the prescribed authorities must put a seal or stamp on those forms. That would eliminate the obligation to print the form and give them, so far as the authority is concerned. That obligation is transferred to the transferor or transferee as the case may be or the stock exchange and the authority would only be required to put the stamp of the date, etc.

The second thing that I have said is this. Instead of prescribing an arbitrary period of six months as the period of grace during which the shares must be transferred, my amendment is that this must be anytime before the closing of the transfer books of the company for the first time after the transaction takes place. In some cases this period may be less than 2-3 months; in other cases it may be as many as 10 or 11 months. The great advantage of my amendment is that every person who buys a share would know that he is getting the shares which he will have to get transferred before a certain date and not after that. So, there would be no risk for that person of getting shares through the clearing house which may have a currency of only 15 days; (that means 5½ months have lapsed and only 15 days left for him to get the shares transferred.) Shares with a lesser period of currency would naturally have some sort of a discount in the value than shares with a longer period of currency. So at the time of transaction and delivery of the shares a lot of difficulties would arise. But if my amendment is accepted, this would be obviated and straightaway people would know that they are getting shares of company A and the books of company A would be closed in a particular month and before that month they have to get them transferred.

Now, Sir, I come to clause 21. Yesterday, hon. Member, Shri Dandeker criticised this clause by saying that the Government has taken blanket powers of giving instructions to the auditors to make a report on such

[Shri Morarka]

matters as the Government desires. I could not understand his objection because even in the existing Act, section 233A (4) says:

> "The report of the special auditor shall, as far as may be, include all the matters required to be included in an auditor's report under section 227 and, if the Central Government so directs, shall also include a statement on any other matter which may be referred to him by that Government."

The principle that the Government may tell the auditor to give a report in a matter is already there. This provision is contained in section 233A which deals with special audit. Now, the Government is taking the same power to tell the auditor of the company who conducts a regular audit also to give a report on some matters which the Government wants. Government would have two choices; either Government can tell the auditor in the normal course: give us a report on this matter also; or if Mr. Dandeker does not like that, they can easily resort to 233A and appoint a special auditor. If they do so not only the company would suffer in its prestige but the point of Mr. Dandeker will also not be served. They can still give directions to the special auditor and give him the points on which the Government want a special audit. Therefore, I think the hon. Member Shri Dandeker's objection to this clause is not very well-founded.

Clause 23 is a very controversial clause, so to say. It is a new clause which for the first time introduces cost audit in our Companies Act. This provision, I am told, does not exist anywhere else in the world. I personally see no harm in having such a provision on our statute book though it is not an easy thing; it is going to be very difficult exercise both for the Company as well as for the auditors and also for the company law department because cost accountancy in our country is still in a developing stage. Our companies, our industries, are mostly innocent and unfamiliar with this procedure. It is for the first time under clause 20 that the Government is taking power to prescribe or to direct what other books records etc. the companies must keep. They will also indicate in those directions the books which are necessary for maintaining the cost records. When you have a provision for cost audit, it is necessary that before you order cost audit, you must see that the accounts necessary for that purpose are maintained. At present there is no statutory obligation. As I said, it is for the first time that the Government is now contemplating under clause 20 to take that power. But even after taking that power, sufficient time, say two or three years, must elapse before an audit can be ordered so far cost accounts are concerned. So, when these instructions are given to a class of companies—whether textile mill or sugar mill or jute mills or tea factories—then, that class of companies would know that they have to maintain their accounts in a particular form and that form should be such that it is amenable to cost audit.

On clause 23, the hon. Member Shri Dandeker, while speaking yesterday, made the following observation:

> "The fact is that the vast majority, 90 per cent of the small scale and middle scale companies, have no cost accounting, cannot afford to have cost accounting, and to suggest that they should have compulsory audit of cost accountings is, indeed, to prescribe a good deal of nonsense."

I cannot say that the hon. Member was not talking sense but all that I can say is that he did not read the clauses of the Bill very carefully. Clause 20 says that the Government would prescribe only a class or a description of companies who would

keep certain accounts. Clause 23 further says that it is only out of those companies—it does not say in so many words but that is implied—a particular company may be chosen for the purpose of cost audit. Where is the question of 90 per cent or 10 per cent or 50 per cent coming here? Unless the Government feels that the cost accountancy is necessary in a particular field, they would certainly not issue a directive under clause 20. Once they issue it, it is not automatic that the cost audit would be carried out every year. There again, it is only when the Government feels that a particular company needs looking into from the point of view of cost audit, where it is showing higher cost, etc., that the Government would order a cost audit. There are two different things interconnected, and to say as if it implies that all the 90 per cent or 100 per cent companies will immediately have to maintain cost accounts and immediately cost audit will start is a little misleading and not a proper reading of these two clauses.

About clause 35, enough has been said in this House and that relates to the age of the directors. The present provision is that as soon as a person attains the age of 65, he will retire from the directorship of the company unless his reappointment is approved by the shareholders. The amendment now sought is that this age will be increased to 75,.....

Shri Sinhasan Singh (Gorakhpur): How long will he take, Sir? We must also get some time to speak.

Shri Morarka: So far as the age is concerned, this discretion is being taken away from the shareholders. A case has been made out and argued very cogently by the previous speakers, particularly Shri Raghunath Singh. All that I can say is that there is great merit in either retaining the present provision or, if you do not like that, then, in completely doing away with this age-limit. To introduce an absolute rigidity in the statute that after 75 years no person can continue to be a director at all, to say the least, is undemocratic. The entire structure of the company law, the very concept of the corporate fiction, is based on democratic principles and, therefore, I think there is great merit in the suggestion of Shri Raghunath Singh that clause 35 should be reconsidered and the hon. Finance Minister may be pleased to accept the amendment which are tabled on this. Now, I come to my final point.

Mr. Deputy-Speaker: The hon. Member has taken 27 minutes. There are many Members yet to speak on the Bill.

Shri Morarka: I know, Sir. Three hours were given for the first reading and the Chair agreed that if it was necessary they would extend the time by one more hour. I am well within my limit.

Shri Raghunath Singh: Experts on company law should be allowed more time.

Mr. Deputy-Speaker: I have still got half a dozen names.

Shri Morarka: I have only one more point to make, and that is about clause 51 on which the hon. Member Shri Dandeker waxed eloquent with vehemence. He objected to this clause because he said that this advisory commission is being replaced by an advisory committee for no reason at all. I would beg of the House to examine this point a little more carefully. What is actually being done? Whether it is an advisory commission or committee, it is merely a difference in nomenclature. It makes no difference according to me, because both of them are advisory bodies and the Government, as far as possible would accept the advice. But they may not accept it at all. In the new clause also, Government has taken power to refer any matter which in the opinion of the Government, is necessary to be referred to that advisory

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committee. The only difference about which Shri Dandeker could agitate is that under the present provisions, certain applications under the existing sections are bound to be referred to the advisory commission, but now, under the new provision, that obligation goes away. What are those sections under which, if the application is made, the Government is bound to refer it to the present advisory commission? They fall in three categories. One is for increasing the number of directors, the second is for increasing the remuneration of the managing directors and the third is—most of the provisions relate to the third category—for changing or making any change in the terms of the contracts with the managing agents. You have seen the temper of the House, and you know what the position is about the system of managing agency, and the Government is also seriously considering,—if I am aright, at least in some industries which are well established, the Government have almost taken a tentative decision to that effect—the taking away or doing away with the system gradually. This power was taken under section 324, as early as 1956; a Bill was introduced in 1953 and it was passed by 1956. So, there is nothing new. The only thing is, the Government have not taken any decision on that particular point. Under the new powers, Government may still refer the applications under this section also to the advisory Committee, but it is not mandatory. It is not necessary for the Government to refer each and every application and why? Because, by experience, it is found that, firstly, the commission meets very rarely in Delhi; at the most once a month; it is therefore time-consuming and the cases are not disposed of expeditiously; and secondly, it involves a lot of avoidable paper work. Taking all these things into consideration, Government decided that, after this experience which they have gained, of the administration of company law for almost a decade now, it is not necessary that all these cases should necessarily be referred to the advisory commission, but instead, an advisory committee with a greater flexibility of reference would do. Clause 51 as it is now worded reads:

> "410. For the purpose of advising the Central Government and the Company Law Board on such matters arising out of the administration of this Act as may be referred to it by that Government or Board, the Central Government may constitute an Advisory Committee . . ." etc.

My only suggestion is, that the word "may" may be turned into "shall". At least the Advisory Committee must be there. The Finance Minister may have in his mind that 'may' will have the same force as 'shall'. But it would perhaps satisfy the hon. members more if he can have 'shall' instead of 'may'.

Shri Warior (Trichur): Sir, first of all, I would like to add my support to this amending Bill for the reason that there is sufficient justification for amending the 1956 Act. The plea for opposing this Bill is that the 1956 Act has already plugged all the loopholes for all sorts of frauds and malpractices mentioned in the Vivian Bose Report and the Daphtary-Sastry Report. But actually it is not so. When the 1956 Act was being debated in this House, the Daphtary-Sastry Report had not come. It came only after that. So, we can infer that the 1956 enactment also had been before them when they made the recommendations for the amendment of the 1956 Act. Otherwise, they would not have made those series of recommendations. So, this amending Bill has ample justification. From the practical point of view also, these amendments are necessary.

I will quote from the July 1964 edition of *Commerce*, which will not be suspected of any partiality towards those opposing the big business. In an

article written by Mr. Ginwalla, inter alia it is said:

> "The war on anti-social elements in company management is beginning to gather momentum. Despite strong criticism by a large section of the public and the press, there is not much improvement in the attitude of a few in the management towards standards of propriety and business morality and they remain victims of firmly-fixed and deep-rooted habits."

Recently the Bennett-Coleman affair also has come to light. I do not know what is going on, but there were press reports recently dragging in the good name of our Home Minister also and saying that the entire procedure is stayed or stopped or slowed down. It is for the Government to decide what is to be done. But the point is that still those malpractices continue in spite of the 1956 Act and the other regulations and restrictions imposed by the Company Law Administration. So, there is sufficient justification for this amending Bill, though it comes only after 9 years from the date of the parent Act.

There are very many malpractices. In the report of the Company Law Board for 1963-64, it is said that out of 7795 cases, 4588 cases had ended in conviction. That shows everything is not all right in that world.

The policy of the Board has also shifted, according to press reports and according to the report of the Company Law Administration, in the sense that now they are not taking into account slight technical mistakes, as they used to do formerly. They are only taking note of persistent offences perpetrated by the companies, of a nature which required to be scotched.

We pass all these restrictive legislation not to harass the private sector management but actually to help the honest people who want to have their due share in the economic development of the country. They must not be harassed by those people who indulge in all sorts of malpractices. In this competitive world, if malpractices are allowed to continue, honest dealers will have to become victims to those practices; otherwise, they cannot stand in the market.

There is another thing. The Company Law Administration is not dealing with these cases as promptly and effectively as they should.

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

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

Shri Warior: Whenever there is a *prima facie* case, there should be no delay in taking action. In the case of big companies which are almost monopolising that field of operation, this delay is very harmful. Once an investigation is started, it takes 3 or 4 or even 10 years. It has to go through so many hurdles. By that time, the real culprits escape and somebody else becomes the scapegoat. That should not be the condition. Delay must be avoided and proper action must be instituted. Big people can escape, but small holders cannot do that, because they have not got the influence or pull necessary for escaping and they are easily prosecuted. So, in the enforcement of these laws, proper care must be taken to see that small holders are not harassed. These two things must be done. I am speaking about these things particularly because a few things have come to our knowledge. Today there was a Calling Attention Notice on the imposition of new restrictions based on the letter of credit on imports. It is good. There is so much talk in the

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country about under-invoicing and over-invoicing indulged in by all sorts of importers and exporters and it is necessary that strong restrictions must be imposed on these things. But the restriction has actually hit the entire cashew industry in a belt of 20 miles. The factories had to be closed and about 80,000 workers had to go out of work. That should not be the case. We raised this problem in the Kerala Consultative Committee and the Government agreed to take up the matter with the Finance Ministry. The Finance Ministry did understand the problem and they relaxed the restrictions. Our thanks are due for that. But they should have actually thought about this before. If they have the interest of the small holders much more than the interest of others, in enforcing these things proper care must be taken to safeguard their interests. It is meant for restricting malpractices and not for destroying the entire industry or the people connected with it.

14 hrs.

Coming to this Bill as a whole, Sir, Shri Dandeker said that much improvement has been made in the Joint Committee. I was also a member of the Joint Committee and when Shri Dandeker says that much improvement has been effected in it anybody can very well infer in which direction the improvements have been made. The improvements are actually concessions owing to the prevailing atmosphere surcharged with all sorts of pressure, to big business and not as any more restrictions on the malpractices and other things done by those people who have no respect for law.

Clause 13 deals with blank transfers. Much heat was generated on this point. These are all points which were raised by the Vivian Bose Committee and the Daphtary-Sastri Committee. My complaint is that this is actually based on reports and recommendations which have been given a go-by. We have taken only the shell, without the spirit or the kernel of those recommendations, in this amending Bill, and the Government will be coming forward in the not too distant future with another amendment when they find that even these amendments are not enough to have the aims and objects realised.

I do not want to go into the details of these blank transfers. We have given our dissenting note. When we discuss this question of blank transfers we must bear in mind that there also the interest of small holders comes in. It is suggested in the clause that these blank transfers cannot be done but that transfer of shares can be done in this way that shares can be deposited in scheduled banks or the State Bank. In the business world this is intended to raise liquid cash. Unless there is a possibility of raising liquid cash at the proper time, the business will fall into a very bad state of affairs. Therefore, proper care must be taken by the Government to help those who have no control or influence at all over any of the scheduled banks. The big industrial houses have enough control over their banking facilities and therefore they may not suffer due to this provision. They can very well deposit their shares in banks and raise the required money. But the small companies doing production in a small way will be harassed and they will not be in a position to raise sufficient liquid cash if this clause is enforced in this way to their detriment and not to have effective control over big business.

Then there is clause 21 which deals with auditors, on which a better spokesman cannot be had for the Government than Shri Morarka. He says that this power is already enshrined in the parent Act in the form of a special audit. On this point also some heat was generated. I will not go into the details here. My opinion is that if the objects put forward by the Government are to be realised it

is highly necessary and urgent that audit itself should be nationalised immediately in this country. It is important. I stand for that. Just like the judiciary is raised above the influence of the executive or the legislature, if only there is an independent audit all these malpractices will go. Auditors are generally the employees of big business. How far an employee can stand up against the whims and fancies or wishes and commands of his employer is anybody's guess. If he is careful to have his own bread next morning, he must bow down to the will of his employers. Therefore, if the Government wants to see that there are honest dealings, honest practices in the business world, it must see that audit is independent. We have the Auditor-General. Even the Parliament cannot question him. He is responsible only to the President. Why is that so? It has been done purposely because that office should be above all influences and not dependent on anybody. That is an important thing. I hope the Government will give due consideration to this point. Of course, when there is a question of nationalising anything there is always a furore. I do not know whether in this case also there will be such a furore. There is a lot of material to say about this audit in India as a whole, but I do not want to take this opportunity for that.

Next is clause 23 which deals with cost accounting and cost audit. As everybody knows, it is a new thing. But it is a necessary thing. My first suggestion is that the Government itself should take more seriously about cost accounting and cost audit in their own establishments. There is so much waste. Even the reports of the Public Accounts Committee have drawn our attention to that. We must know the break-up of the cost. There is so much that we can save. All these things are necessary to be known. The Government must first of all find ways and means to have cost audit and not only cost accounting. Only if there is cost audit cost accounting will be in a correct position.

When there is mention of Cost Accountants, naturally, there is perturbation among the ranks of Chartered Accountants. In England, when the Chartered Accountant Council Act was debated, I am told, the existing lawyers who had been practising financial audit clamoured against that Bill. Here also, when the Cost Accountants Bill came up we had the experience that the Chartered Accountants turned up against that. It is always the case. That should not be the attitude of the Government. The Government must see that more Cost Accountants come into the field. Young people who are coming out as graduates must take up cost accountancy in right earnest. For that incentive and encouragement is necessary. That is not given. Even after passing the Bill in 1959 and although the Cost Accontants Council has been constituted, it is still hamstrung by Chartered Accountants in whose hands the entire thing is even now resting. That should not be the case. If cost audit is introduced, I am quite sure that a large number of young men who are now going for chartered accountancy will turn their mind to cost accountancy and they will come up as Cost Accountants. In this respect I will caution the Government on one thing. Cost accounting is the crux of the matter as far as trade secret is concerned. So perturbation of the management and those who are engaged in production is quite natural.

Although this does not cover the entire field of production, but only specified things, still, after some time Government may find it necessary to enlarge the scope of this. There is real fear that the trade secrets will leak out, and Shri Dandeker has given expression to them. Government must see to it that it does not happen. In the set up which we now have there is so much of competition in production and if the details of costing is known to the rival parties, it will put the party in a very difficult position. So, some protection is necess-

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ary. But, I will again repeat, that that should not be given as a reason for not having cost accounting and cost audit. They are necessary in order to scoteh the malpractices in audit and accounting. Shri Dandeker has unwittingly remarked that it will create more confusion. It is not confusion but contradication in figures that will come to light. It will give a true picture of the entire business, instead of the one-side picture of the financial position presented by the company.

Lastly, I come to the provision relating to giving protection to those employees who give valuable information to the Company Law Administration. It is only if sufficient protection is given, sufficient guarantee is given that they will not be adversely affected, that they will give information about the malpractices and frauds committed by the management. An employee who is completely dependant on the management will not have the courage or boldness to come forward and give this information. Objection was raise to this provision from many quarters on the ground that it will indirectly help or encourage blackmailing. Nothing of that sort will happen. Government is perfectly right in protecting the security of employment of those employees who give information. The employees are in the know of things of the working of the company and without their knowledge and co-operation the employers cannot do anything. For example, in the case of the *Times of India*, even though the officers were in the know of things, they did not come forward to give information to Government until the late Prime Minister gave them an assurance that they will be protected and the culprits will be pursued to the last. Then the officers, including the Editor of the *Times of India* came forward and gave a memorandum to the late Prime Minister. On the basis of that, some inquiry was instituted by Government by appointing Shri Chopra to look into the matter, Shri Chopra submitted a report and the Finance Ministry or Home Ministry took some action on the basis of that report. In this case because of the assurance of protection given by the late Prime Minister, officers or employees of Bennet Coleman & Company came forward to give evidence and right the wrongs perpetrated by the management. So, that clause is very much necessary. If there is any *mala fide* action or blackmailing on the part of the employees, Government is certainly there to protect the interests of the management. But in this country who requires more protection is not a debatable point. It is only the small people that require protection. Big people have enough protection even now and nobody need bother about them. They are well-protected not only by themselves and by their own people but also by the Government.

श्री सिंहासन सिंह : उपाध्यक्ष महोदय, यह संशोधन सदन के सामने सन् 1956 के बाद शायद पांचवां है। सन् 1956 में कम्पनीज ला का आमूल परिवर्तन हुआ था लेकिन वह संशोधन के रूप में नहीं हुआ। अगर उसका आमूल परिवर्तन नये विधान के रूप में हो गया होता तो शायद आज इतनी दिक्कतें न आतीं। कम्पनी ला अमेंडमेंट के लिए एक कमेटी बनी। उस समय के फ़ाइनेंस मिनिस्टर देशमुख साहब थे। उन्होंने वह 1956 का संशोधन पेश किया। उस वक्त बड़े जोरों पर यह मिश्रित अर्थ-व्यवस्था के होते हुए बड़ा जोर डाला गया कि बाज कम्पनियों में जो धन का एकत्रीकरण कुछ परिवारों में हो जाया करता था वह न होने पाये। इसलिये उसके अन्दर एक मूल चीज बनाई गई कि कोई भी आदमी एक वक्त में मैनेजिंग डाइरेक्टर दस कम्पनियों में से अधिक में नहीं

हो सकेगा । मैं आप को स्मरण दिलाऊं कि शायद उस वक्त देशमुख साहब ने यह भी कहा था कि मैनेजिंग एजेंसी को वह निकालना चाहते हैं । मैनेजिंग एजेंसी का ढंग एक अभिशाप है लेकिन वह एक जरूरी अभिशाप था इसलिए उसकी लिमिट बांध रहे थे कि कोई भी व्यक्ति दस से अधिक कम्पनियों का मैनेजिंग एजेंट नहीं हुआ करेगा । लेकिन उस पर क्या हुआ ? कम्पनी ला का हमारा जो प्रशासन है उस पर यह कहां तक लागू किया गया कि कोई एक व्यक्ति 10 कम्पनियों से अधिक कम्पनियों का मैनेजिंग एजेंट नहीं बन सकता है । अगर लागू भी हुआ होता तो हुआ यह होगा कि बाप दस कम्पनी का है, बेटा दस कम्पनी का है, भतीजा दस कम्पनी का है और उनका नाती दस कम्पनी का है ।

अभी एक और चीज हमने देखी जो कि शायद उसकी आड़ में चल रही थी । अब तक डाइरेक्टर होने के लिए आयु की सीमा 65 वर्ष थी उसको भी शायद बढ़ा कर 65 के बजाय 75 किया जा रहा है । परिणामतः वह 4 पुश्त तक लगातार डाइरेक्टर बना रहा । दस कम्पनियों की मैनेजिंग एजेंसी के आधार पर 75 वर्ष तक वह चलते चले जायेंगे । हमारे यहां सरकार पता नहीं जन समुदाय की सहायता व सयोग लेने के लिए या कुछ वर्ग के लोगों को खिलाने के लिए ऐसा विचार कर रही है । हम देखते हैं कि हर जगह अवधि की सीमा बढ़ाई जा रही है । सर्विसेज में अवधि को बढ़ा दिया है । 55 साल से 58 साल कर दिया गया है । कम्पनियों में भी 65 से 75 किया जा रहा है । शायद कोई अमेंडमेंट आये, मुमकिन है गवर्नमेंट मान ले या यह 65 ही रह जाय । 65 से 75 करने से एक परिवार में भी खटक सकती है । वैसा होने से बहुत बाप, दादे हटने वाले नहीं होंगे और नाती नाराज होगा कि हमको मौका नहीं मिलता । इसलिए यह अवधि बढ़ाने से ज्यादा लाभ होने वाला नहीं है ।

हमने एक तरफ़ देखा कि एक विशेष कम्पनी के विरुद्ध सरकार ने कार्यवाही की, कमीशन बैठाया, विवियन बोस कमीशन वगैरह की बड़ी चर्चा रही और इस बारे में उसने एक बड़ी लम्बी चौड़ी रिपोर्ट निकाली । उसके आधार पर कुछ मुकद्दमे भी चले, कुछ एक आदमी जेल भी गये । जेल क्या वह अस्पताल में गये । अब हमारे यहां जेल अस्पताल भी हो सकती है । बहर हाल वह गये लेकिन जेल में वह एक दिन भी नहीं रहे होंगे । विवियन बोस कमीशन की जो रिपोर्ट है वह निर्देशक है कि किस तरह से आज हमारे देश के पूंजीपति हिन्दुस्तान के रुपये के साथ खिलवाड़ कर रहे हैं । लेकिन उसके बाद कोई कमीशन नया नहीं बना न कहीं किसी की तरफ़ इशारा हुआ । हम श्री कृष्णमाचारी को साधुवाद देना चाहते हैं कि जब से उन्होंने दुबारा अर्थ मन्त्री का भार लिया तब से उन्होंने देश में एक नई फ़िजा फैलाई । इनकम टैक्स की चोरी को निकालने के लिए छापे मारे गये । उन छापों के फलस्वरूप धन मिला और सोना भी मिला । लेकिन मैं इतना कहे बगैर नहीं रह सकता कि यह छापे उन बड़े बड़े पूंजीपतियों जिनके कि पास अपार धन सम्पत्ति है उन पर नहीं मारे गये । अगर मारे गये होंगे तो शायद इक्के दुक्के ही मारे गये होंगे और वे भी शायद नोटिस देकर ही मारे गये होंगे ; बड़े बड़े लोग जिनके कि पास अथाह पूंजी पड़ी है उन पर छापे नहीं डाले गये । सरकार चाहती है कि देश में धन का विस्तार हो और वह निर्माण कार्यों में लगे । 14 फ़ीसदी धन हमारी योजनाओं में देश का बढ़ा लेकिन वह देश का धन गया कहां ? इसका पता लगाने के लिए एक कमेटी मुकर्रर हुई । उस कमेटी की रिपोर्ट आज तक शायद सदन के सामने पेश नहीं हुई है, कुछ ढांचा अवश्य आया था लेकिन उसका पूरा प्रारूप नहीं आया । यह पता नहीं चल सका कि वह धन कहां गया किधर गया और यह धन किस का है ?

[श्री सिंहासन सिंह]

अभी गत वर्ष इस सदन में शायद एक अमेंडिंग ला लाने वाले थे कि जिस कम्पनी में सरकारी रुपया 51 फ़ीसदी से अधिक लिया गया हो तो सरकार को अधिकार होगा कि उस रुपये को शेयर वैल्यू में टर्न कर देवे । हम यह जानना चाहते हैं कि जहां 51 फ़ीसदी सरकारी धन है, जिस धन से कम्पनी चल रही है, उस धन को उन्होंने वापस नहीं किया, कर्जे को उन्होंने वापस नहीं किया, वह शेयर में कन्वर्ट हुआ है या नहीं । वित्त मन्त्री उत्तर देते समय यह बतायें कि कितनी कम्पनियों में 51 फ़ीसदी से अधिक लोन के रूप में पड़ा हुआ है । उन्होंने इस सदन से शायद गत वर्ष यह पास कराया था कि वह 51 फ़ीसदी शेयर में कन्वर्ट किया जाये, सरकारी हिस्से में मान लिया जाये, क्योंकि जहां सरकार का 51 फ़ीसदी हिस्सा होगा, उस पर उसको नियन्त्रण करने का अधिकार हो जायेगा । हम यह जानना चाहते हैं कि क्या ऐसा हुआ है या नहीं और अगर हुआ है, तो कितनी कम्पनियों में हुआ है ।

मैं नहीं जानता कि वित्त मन्त्री मेरे हिन्दी भाषण को समझ रहे हैं या नहीं, क्योंकि वह ट्रांसलेशन नहीं सुन रहे हैं । लेकिन शायद उनके विभाग के अधिकारी नोट कर रहे होंगे ।

एक माननीय सदस्य : श्री साहू समझते हैं ।

श्री सिंहासन सिंह : वित्त मन्त्री उत्तर देते समय इस बारे में आंकड़े दें । वह कानून हमने बनाया, जिस को लाने के लिए मैं उनको साधुवाद देता हूं । उस वक्त भी सदन में काफ़ी गर्मी पैदा हो गई थी कि यह व्यवस्था न की जाये । हमारे वित्त मन्त्री के प्रयत्न से वह कानून पास हो गया । सदन ने उनको अधिकार दिया । हम यहां पर बैठ कर उनको अधिकार तो दे दिया करते हैं, लेकिन क्या उन अधिकारों का प्रयोग भी होता है या नहीं ?

मेरे पूर्व-वक्ता अभी कास्ट एकाउंटिंग के बारे में कह रहे थे । सब सब से बड़ी कम्पनी—हिन्दुस्तान—मोटर्ज के बारे में इस सदन में प्रश्न उठा था कि उसने कास्ट आडिट रिपोर्ट देने से इंकार किया और कहा कि जो हम कहते हैं, वही मान लिया जाये । आजकल कम्पनियां इस तरह की कार्यवाहियां करती हैं ।

इस बिल में यह व्यवस्था कर दी गई है कि अगर एक डायरेक्टर चाहे बोर्ड की मीटिंग में बैठे और चाहे उसकी सब कमेटी में बैठे, कम्पनी उसके डेली एलाउन्स को 250 रुपये तक बढ़ा सकती है और उसके लिए सरकार से स्वीकृति की जरूरत नहीं पड़ेगी । इसका परिणाम क्या होगा ? इस प्रकार दस, पचास या सौ रुपये का शेयर रखने वाले मुनाफ़ा कहां से पायेंगे ? डाइरेक्टर साल में पचास मीटिंग्ज एटेंड करेगा और 250, 300 रुपये रोज के हिसाब से ले लेगा, इधर का उधर करेगा हमारी कम्पनीज में प्राविजन है कि कम्पनी को चाहे घाटा हो जाये, लेकिन डायरेक्टर के शेयर में घाटा नहीं होने वाला है ।

इन सब बातों की तरफ़ सरकार का ध्यान दिलाते हुए मैं कहना चाहता हूं कि क्या यह आवश्यक नहीं हो गया है कि कम्पनीज ला बार बार एमेंड करने के बजाये—हमने 1956 में कानून पास किया और 1958, 1959, 1960, 1962, 1964 और अब 1965 में उस में एमेंडमेंट्स किये—शासन में कुछ सख्ती लायें । ये सब एमेंडमेंटस इस लिए किये गए कि कम्पनीज को सही रास्ते पर लाया जाये, वे सही ढंग से काम करें, देश के हित में काम करें । लेकिन इन एमेंडमेंट्स के बावजूद वे अपनी जगह पर हैं, सरकार अपनी जगह पर है और पार्लियामेंट भी ये सब कानून पास करने के बाद अपनी जगह पर रह जाती है ।

उपाध्यक्ष महोदय : माननीय सदस्य समाप्त करने का प्रयत्न करें ।

श्री सिंहासन सिंह : उपाध्यक्ष महोदय, यहां भी भेदभाव चलता है। अभी श्री मोरारका पौन घंटे तक बोलते रहे, लेकिन उनको समाप्त करने के लिए नहीं कहा गया और न ही घंटी बजाई गई। क्या इस लिए कि वह मिल मालिक हैं ? अगर यह सूरत है, तो हम एक मिनट भी बोलने के लिए तैयार नहीं हैं। सरकार भी उनको सुविधा दे रही है और अगर आप भी उनको सुविधा दें तो यह कहां तक उचित होगा ? हम चाहते हैं कि सब के साथ एक सा बर्ताव हो। ढाई बजे मैं खुद बैठ जाऊंगा।

Mr. Deputy-Speaker: He spoke on particular clauses. You are speaking on general things.

श्री सिंहासन सिंह : जेनरल डिस्कशन में किसी पर्टिकुलर क्लाज को रेफ़र करने की आवश्यकता नहीं है। इस में सब बातें कही जा सकती हैं। यह रूल भी है कि जेनरल डिस्कशन में क्लाजिज का रेफ़रेंस नहीं किया जाता है।

Mr. Deputy-Speaker: We are discussing the Bill as reported by the Select Committee. You have not spoken on any clause.

Shri Sinhasan Singh: This is the general debate on the Bill. We are not now discussing the clauses. We are discussing the Report of the Select Committee. Here, we can discuss all the aspects of the company affairs. We can point out that still there are lacunae in this amending Bill and that the amending Bill requires further consideration by the Government.

Mr. Deputy-Speaker: This is relevant only at the first consideration stage. We are now at the second stage.

श्री सिंहासन सिंह : आप से मेरा अनुरोध है कि घंटी बजाने के संबंध में एक ही रवैया सदन में होना चाहिए। मैं कई दफ़ा यह प्वायंट भी उठा चुका हूं कि चेयर केवल उन्हीं को बुलाए जो सदन में खड़े हों, लेकिन ऐसा होता है कि लिस्ट या काग़ज देख कर बुलाया जाता है। आप किसी माननीय सदस्य का नाम पुकारते हैं, लेकिन वह खड़ा नहीं होता, वह हाउस में होता ही नहीं है, खड़ा कैसे हो ?

मैं एज और एलाऊंस के बारे में भी कहना चाहता था। इस में यह प्राविजन रखा गया है कि लैंडिंग कम्पनी अपनी सबसिडियरी कम्पनी को बीस परसेंट तक और दूसरी कम्पनी को दस परसेंट तक रुपया बगैर सरकार की मन्जूरी के दे सकती है। वित्त मंत्री इस प्राविजन की तरफ ध्यान दें और देखें कि क्या इस में किसी परिवर्तन की आवश्यकता है।

जहां तक एडमिनिस्ट्रेशन का सम्बन्ध है एक्साईज डिपार्टमेन्ट कम्पनियों के प्रोडक्शन पर टैक्स लेता है, सेल्ज टैक्स डिपार्टमेन्ट सेल पर टैक्स लेता है और इनकम टैक्स डिपार्टमेन्ट प्राफ़िट पर टैक्स लेता है। मुझे आफिसरों से मालूम हुआ कि एक्साईज डिपार्टमेन्ट के प्राडक्शन के आंकड़ों का मिलान न तो इनकम टैक्स डिपार्टमेन्ट करता है और न सेल्ज टैक्स डिपार्टमेन्ट करता है ? उन का कहना है कि एक्साईज डिपार्टमेन्ट प्राडक्शन कम दिखलाता है ? कम्पनी वाले हर वक्त कम प्राडक्शन दिखलाने की कोशिश करते हैं। अगर एक्साईज डिपार्टमेन्ट प्राडक्शन दस हजार टन बताता है, तो इनकम टैक्स डिपार्टमेंट को उस पर आमदनी आंकनी चाहिए और उस को वह फिगर माननी चाहिए, लेकिन वह नहीं मानता है। वह कहता है कि यह गलत है। सरकार के सब डिपार्टमेन्ट एक दूसरे पर अविश्वास करते हैं। वह स्थिति कब आयेगी जब एक डिपार्टमेन्ट दूसरे को मान्यता दे।

अन्त में मैं कहना चाहता हूं कि कास्ट एकाऊंटिंग और अन्य बातों के बारे में सरकार

[श्री सिंहासन सिंह]

सख्ती करे, लेकिन कानून के द्वारा ही सख्ती नहीं होगी; शासन के द्वारा सख्ती होगी, तभी हमारे देश में गाड़ी चल सकती है, वर्ना वे लोग तीन के तेरह करते जायेंगे और हम कुछ नहीं कर पायेंगे।

श्री अ०ना० विद्यालंकार (होशियारपुर): उपाध्यक्ष महोदय, सिलेक्ट कमेटी की रिपोर्ट आने से पहले मैं यह आशा करता था कि जिस रूप में यह बिल सदन में पेश हुआ है उस में कुछ इम्प्रूवमेन्ट होगा, उसमें कोई बहतरी होगी। जहां तक हमारे फाइनेन्स मिनिस्टर साहब का ताल्लुक है, उनको तो मैं मुबारकबाद पेश करता हूं कि उन्होंने जब से कार्यभार सम्भाला है, काफी इम्प्रूवमेंट्स करने की कोशिश की है और कम्पनी ला में ऐसी तबदीली करने की कोशिश की है जिससे कि कम्पनियों के काम बहतर हों और जो दिक्कतें होती हैं वे कम हों। लेकिन मैं ऐसा महसूस करता हूं कि.....

Mr. Deputy-Speaker: He may continue on the next day. We have to take up non-official business now.

14·30 hrs.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

SIXTY-SEVENTH REPORT

Shri Shree Narayan Das (Darbhanga): I beg to move:

"That this House agrees with the Sixty-seventh Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 17th August, 1965."

Mr. Deputy-Speaker: The question is:

"That this House agrees with the Sixty-seventh Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 17th August, 1965."

The motion was adopted.

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14 30½ hrs.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL*

(Amendment of section 127, 128 and 129)

Shri Vishwa Nath Pandey (Salempur): I beg to move for leave to introduce a Bill further to amend the Code of Criminal Procedure, 1898.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Code of Criminal Procedure, 1898."

The motion was adopted.

Shri Vishwa Nath Pandey: I introduce the Bill.

14·30¾ hrs.

CONSTITUTION (AMENDMENT) BILL*

(Amendment of article 134)

Shri Vishwa Nath Pandey: I beg to move for leave to introduce a Bill further to amend the Constitution of India.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Constitution of India."

The motion was adopted.

Shri Vishwa Nath Pandey: I introduce the Bill.

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