

[Shri V. P. Nayar]

Imagine—I do not want to relate instances—a play of Kalidasa.....

The Deputy Minister of Home Affairs (Shrimati Alva): We are not a totalitarian State where dramas are ordered to be written and are written as ordered.

Shri V. P. Nayar: I perfectly appreciate the remarks of the hon. Minister but would only say that it is grossly misplaced here. This should have been more properly placed.

I was submitting that these professors of culture, as they pose to be, have a right today under the statute to call for the script of any book. Today, if Kalidasa's immortal play is rendered, is it not necessary under the existing enactment to take the permission of the Police because in an instance I will show you.....

Mr. Deputy-Speaker: He has said all that

Shri V. P. Nayar: I am coming to a new point. He said a spoken word, visible representation and everything. There is a famous sloka in Kalidasa's *Shakuntalam*. We all know that the *nataka* is the highest form,

काव्येषु नाटकं रम्यम् , तत्र रम्या शकुन्तला
The best of Indian drama is Shakuntala. If you take a particular sloka, it could be interpreted into so many meanings. I do not say that Kalidasa meant all that people attribute to him now but take for example a very famous sloka. I shall with your permission read that and close the argument. The place is when Dushyanta sees Shakuntala and he thinks about her body.

“सरसिर्न प्रनुविद्यम् , शौबलेनापिरम्यम्”

I do not find my hon. friend, Shri C. D. Pande here.

Mr. Deputy-Speaker: Shri C. D. Pande is here.

Shri V. P. Nayar:

“नलिनमपि द्विजायु लक्ष्मणेन तनोति”

My hon. friend Shri C. D. Pande knows it by heart let him say whether there is any bad meaning in it.

“इयमप्रधिकम् वनीका वनकलेनापि रम्या”

and the last line is:

“किमिहि मधुराणाम् मंडनम् नाकृतिनाम्”

What does it mean? He says that a lotus, which is surrounded by weeds in water, will not be affected in its beauty and a woman clothed also is the same. There can be a very subtle meaning as to why the woman should have clothes on her. But if the Police call to question the very motive of Kalidasa in describing this, then, I say, the right which is vested today in the Police should be opposed not merely by us in the House but by the entire country. If the hon. Minister has a chance let her consider it and if she does not know the history of the growth of development of Indian drama, let her acquaint herself with that. If she does not approve of my Bill, let her at least permit the treasure that we have—the treasure and tradition of Kalidasa, Bhasa, Rabindranath Tagore and others—to be preserved and let Government not fight shy of repealing this Act.

Mr. Deputy-Speaker: The question is:

“That the Bill further to amend the Dramatic Performances Act, 1876, be taken into consideration.”

The motion was negatived.

COMPANIES (AMENDMENT) BILL

Shri Naushir Bharucha (East Khadesh): Sir, I beg to move:

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

Mr. Deputy-Speaker, Sir the object of this Bill is to forbid political con-

tributions by companies to political parties. The question is of grave import to the further of parliamentary democracy in India and it is necessary that at this stage this House should decide once for all whether we will permit the streams of parliamentary democracy to remain pure or be contaminated by influence of money. On the purity of the administration depends the democracy and if today the political contributions to political parties are of small denominations, though running into millions, a time may come when with increased industrialisation when giant undertakings are born in this country the power of money may be so great that our democracy may be reduced to shambles. Today, we are at the cross roads. We have got to make a decision. What shall we do? Shall we permit this sinister influence to corrupt the vitals of democracy or shall we stand up and say, as perhaps Mahatma Gandhi would have done, No, this influence shall not prevail?

As this House recollects, there is a section in the Companies Act, section 293(1) (e) which permits, with the consent of general meeting of a company, the contribution to charitable and other funds not directly relating to the business of the company of a sum of Rs. 25,000 or 5 percent whichever is greater. With the vast profits which gigantic commercial and industrial concerns make today, this 5 percent may run into millions. I am not revealing any particular fact when I say that the Tata Iron and Steel Co. alone contributed to the funds of the Congress party something like Rs. 10 lakhs.

Some Hon. Members: More.

Shri Naushir Bharucha: I am talking only of one concern. There are also other allied industrial concerns of the Tatas which also contribute to the Congress funds.

Shri C. D. Fande (Naini Tal): They had also their own candidates to whom they gave Rs. one lakh each.

An Hon. Member: The Mundhras?

An Hon. Member: Opponents of the Congress.

Shri Naushir Bharucha: I do not know whether the hon. Member means that two wrongs make one right. If the Tatas were wrong, that does not justify his party taking contributions.

Shri C. D. Fande: I will defend even on other grounds.

Shri Naushir Bharucha: I am inclined to believe that a time may come when the influence of this big business may be so great that democracy may be reduced to a farce. The danger of it lies in that public may feel frustrated. Let us understand that hard headed, level-headed businessmen do not pay millions to political parties out of sheer philanthropy. They do it definitely to influence the Government policies. Therefore, we have to choose whether we want the capitalists to rule in this House or the voice of the common man to prevail. I have no doubt that this is an evil which will increase as a political party gains strength through sheer money that it acquires.

There are two cases in particular which went before the High Court because these two corporations, namely the Indian Iron and Steel Co. and the Tata Iron and Steel Co. had to amend their Memo of association to acquire the power to make political contribution. Under section 17(1)(a) of the Companies Act, the Memo could be altered if it can be shown that the alteration of such Memo enables the company to carry on business more efficiently. The question arose before the High Court, did efficiency also include the notion that political contribution could be made so that the corporation keeps on the right side of the Government. The Judges held that, of course, speaking legally, it could be done and it could be considered that by making political contribution, a company can carry on business more efficiently. Certainly it can from the legal point of view.

[Shri Naushir Bharucha]

What did the hon. Judges say? A few extracts from the judgment are worth reading. In the case of the Tata Iron and Steel Co., the Hon. Mr. Justice Chagla and I think it was Justice Desai—the appeal came up before them—they have started the judgment with these words:

"It is with considerable uneasiness of mind and a sinking feeling in the heart that we approach this proposal of the Tata Iron and Steel Co. Ltd. that they should be permitted by amendment of the Memo of Association to make contribution to political parties.

"Democracy in this country is nascent and it is necessary that democracy should be looked after, tended and nurtured so that it should rise to its full and proper stature. Therefore, any proposal or suggestion which is likely to strangle democracy almost in its cradle must be looked at not only with considerable hesitation, but with a great deal of suspicion. Now, democracy is a political system which ensures decisions by discussion and debate, but the discussion and debate must be conducted honestly and objectively and the decisions must be arrived at on merits without being influenced or actuated by extraneous circumstances.

On first impression it would appear that any attempt on the part of any one to finance a political party is likely to contaminate the very springs of democracy. Democracy would be vitiated if results are to be arrived at not on merits but because money played a part in bringing about those decisions."

May I point out that in this particular case, the Tata Iron and Steel Company definitely stated why it wanted to amend the memorandum

of association? It stated, and I am reading from the judgment:

"The reason for altering the objects of the company for the purpose of enabling the company to make contributions to political parties is to enable to it carry on its business more efficiently."

Further it has been stated:

"When one analyses the reason for these alterations, it is clear that the company feels, and they have stated in so many words in their own application, that the safety, security, future expansion and profits of the company are linked up with the continuance of the Congress Government at the helm of affairs in India, and in order to ensure this stability and security and expansion and the making of the profits by the company, it is desirable that the company should see to it that the Congress Government continues in power, and that Government can only continue in power provided the Congress Government is returned by the electorate. Thus arises the necessity for the company to contribute to political funds of the Congress Party in order to ensure its success at the polls."

So that the reason why these political contributions are being made is very clearly stated in this application.

The issue was decided in favour of the company and they were allowed to alter their memorandum of association because the hon. Judges felt that there was no law preventing any individual from contributing to political parties, and what an individual could do a group of individuals could do as well do, namely a corporation. The learned Judges asked the Advocate for the respondents: "Is there any law which prevents corporations from making political contributions apart from the moral aspect of it?" Legally there is no objection, and the inten-

tion of this Bill is to place that legal objection in the path of any political contributions being made.

Now, let us analyse the implications of this particular application, because in Calcutta in the case of the iron and steel companies the hon. Judge said that there were so many applications coming for alteration of memorandum of association, that it becomes very serious question if all these start making political contributions with some particular object. In this case, if we analyse, what is it that the Tatas wanted? They wanted their profits to continue—that was their motive. The significance of it is this that if today the Government or the public in India feels that it is in the interests of the nation to nationalise iron and steel works, the Government will not do it. Why? Because the profits are to be maintained. If you nationalise the concern, the profits of Tatas go. Therefore, the implication of it is this, that the Tatas hope that even if it is in the interests of the nation, because of the political contributions they are making, probably they will be given favourable treatment so far as their business is concerned and Government will not nationalise it.

Shri C. D. Pande: What about those individuals who have got money without being entered in their books?

Shri Naushir Bharucha: I do not want any interruption. You can develop that point.

Let us analyse this thing further. If Tatas pay political contributions with a particular object, but if the Government say that whatever the Tatas think they will not yield to it, then I submit that the Government is taking money knowing full well the fact that they are not going to carry out the intentions with which the Tatas are giving them money. I ask what type of honesty it is that Government keep on taking money and the Tatas keep on giving, thinking that their profits will be secured thereby. If Government want to

secure profits to the Tatas then they are influenced by their money; if they do not do what the Tatas want them to do, then they are taking money knowing full well that they are not going to do it, which is much worse.

17-21 hrs.

[SHRIMATI RENU CHAKRAVARTY in the Chair]

I would like to draw the attention of hon. Members to section 161 in the Indian Penal Code which defines illegal gratification. It has been stated there:

“Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, . . . any gratification whatever, other than legal remuneration, as a motive or reward for doing or for bearing to do any official act . . .”.

In the Explanation, we find:

“ ‘A motive or reward for doing.’: A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.”.

And the illustration is:

“A, holding the office of Counsel in a Foreign State, accepts a lakh of rupees from the Minister of that State. It does not appear that A accepted this sum as a motive or reward for doing or for bearing to do any particular official act, or for rendering or attempting to render any particular service to that Power with the Government of India. But it does appear that A accepted the sum as a motive or reward for generally showing favour in the exercise of his official functions to that Power. A has committed the offence defined in this section.”.

The idea is that illegal gratification can assume a hundred and one different forms. If you accept gratification, not with the object of doing a particular thing, but generally to keep

[Shri Naushir Bharucha]

a favourable eye on that particular business still it is illegal gratification, if not in law, morally. That is where the objectionable part of the whole thing comes.

Therefore, the Bill seeks to forbid specifically political contributions by companies. I have also incorporated a clause in it giving power to any individual, not being a shareholder even, who, if this particular clause is violated, can drag the directors to the court, because the directors making political contributions are not likely to fight against themselves, and the High Court judgment has pointed out that the shareholders' consent is often illusory. Therefore, an outsider should also be able to take necessary steps. With that object, I have put in that clause.

Now, what do you propose to do? Here is a case which can be remedied in three ways. One way is that you say, 'All right, we shall permit political contributions and legalise them, but we shall add certain conditions such as that they must be published in newspapers, they must be shown in the balance-sheets and so on and so forth.' That is one way.
17-24 hrs.

[Mr. SPEAKER in the Chair]

There is another way in which you can curb this evil, namely, you can enact saying that contributions to political parties shall be legal up to a particular sum, say, Rs. 5,000 as has been done by my hon. friend Shri Mahanty in his proposed Bill. That is another way of doing it. And the third way is to prohibit them completely.

Which way shall we adopt? It is useless to say that they should be shown in the balance-sheets. That is no check at all. It simply legalises them and perpetuates the evil. If you limit it to Rs. 5,000, that is a good remedy, but it will not be acceptable to the Congress people—be certain—because they will get the bad name in accepting the political contribution

without deriving the advantage of a big sum. Therefore, the only remedy that is available is that they should be prohibited completely.

I wish to point out to hon. Members two or three passages from the judgment itself, so that there may be no objection that I am importing my concept of the whole thing.

"Before parting with this case, we think it our duty to draw the attention of Parliament to the great danger inherent in permitting companies to make contributions to the funds of political parties. It is a danger which may grow apace and which may ultimately overwhelm and even throttle democracy in this country. Therefore, it is desirable for Parliament to consider under what circumstances and under what limitations companies should be permitted to make these contributions. As Shri Servai has pointed out—"he was the lawyer for the Tata Iron and Steel Company—" it is only because the Tata Iron and Steel Company did not have such a provision in their Memorandum of Association that they have come to the court for amendment. Other companies which have already such an object included in their memorandum are under no obligation to publish to the world what funds they are contributing and to whom. Democracy cannot function unless the voters have all the necessary information about the parties for whom they are going to vote."

Therefore, they impose that particular obligation for publication. The they say:

"The least that Parliament can do is at least to require the sanction of the court before any large amount is paid by the companies to the funds of political parties. But it is not for us to legislate, nor is it for us to lay down policy. But having had this case before us and our attention

having been drawn to the possibility of the evils attendant upon the powers exercised by the companies, we thought it our duty to draw the attention of Parliament to the necessity of remedial measures being immediately undertaken to curb and control this evil."

It is characterised as evil.

I ask in all earnestness: what will be the psychological effect upon the people if this section 293(1)(e) of the Companies Act is allowed to remain as it is. Governments have to be above suspicion like Caesar's wife. But the moment Government take any action in favour of a company which has made a political contribution, everyone will say that here is the result of the political contribution.

Sir, we are out to eliminate corruption by petty people who receive four annas or a rupee as illegal gratification. But what about this 'morally illegal gratification', as I should like to call it? A gratification which morally you cannot accept—what about such gratification? Who will believe in the sincerity of this Government that it is out to eliminate corruption when he finds that the millions of the industrialists and capitalists constantly flow into the pockets of this Government. (Interruptions.) May I point out that I make no distinction whatsoever between the Congress party and the Government, because the Ministers are the beneficiaries of Congress funds. They derive advantage in the shape of election funds and election contributions. They cannot say that it is the Congress Party that receives and they do not receive. That type of pretended distinction cannot be maintained. I am talking on moral grounds; I am not on legal grounds.

A Reference Manual has been circulated to all Members of Parliament. On page 80, we are told:

"A Member should not in his capacity as a lawyer or a legal

adviser or a counsel or a solicitor appear before a Minister or an executive officer exercising quasi-judicial power."

Why has this ban been placed on Members? Because we all believe that some minimum standard of public decency must be maintained. If I, as a lawyer, appear before a Minister, one possibility is that the Minister might decide the case by being influenced by me so that I might keep quiet and not attack him; the other is that he might decide the case in my favour so that my vote may be assured to him. These are possibly very remote apprehensions but even then we want to prohibit that. We go to the extent of saying:

"A Member should not receive hospitality of any kind for any work that he desires or proposes to do from a person or organisation on whose behalf the work is to be done by him."

When we impose such high standards of public decency, what right has this Government to permit the Congress Party to receive millions from industrialists and then come up and say "we are out to carry on the administration of the country honestly and sincerely"? May I point out that this Government is committed to a policy of the socialist pattern of society? Tatas and others are bent upon smashing that pattern.

Now, may I know, once they receive millions from industrialists who are opposed to socialist pattern of society with what face will they be able to implement this so-called socialist pattern of society? Minimum decency forbids hitting the hand that feeds. I, therefore, submit and I appeal to this Government that it will create a very bad psychological impression throughout the country. And, if this Government and the ruling party will not stop taking political contributions, afterwards they will have no face to say such and such political parties create labour troubles and knock out money.

[Shri Naushir Bharucha]

May I tell you that these voluntary contributions are not at all voluntary. A director of a company in which I held some shares wanted the shareholders' consent to alter the Memorandum. I opposed that. What did the Director reply? He honestly said, Mr. Bharucha, what we have hitherto been doing under the table, we shall then be doing above the table.'

An Hon. Member: Very good.

Shri Naushir Bharucha: Another director told me: 'Do you think these are voluntary contributions? You do not know how these are squeezed out of us. If your Bill passes through Parliament, we shall be very happy.'

The Minister of Commerce (Shri Kanungo): Shri Bharucha was the director of that company.

Shri Naushir Bharucha: I am not a director. Nobody will take me as a director. I am too radical for them. In spite of that the Congress Party chooses to pocket the millions of industrialists and capitalists, then, we shall be justified in saying that this Government has no right to preach morality to others. And, though this Bill may be defeated today, I tell you the judgment of history will be that the Congress Party, while preaching Gandhian ideals (An. Hon Member: And anti-corruption) stooped to accept money knowing full well that its decisions will be influenced and its policy will be influenced against the interests of the country; and this Congress Party will stand charged in the dock and be convicted.

Mr. Speaker: Motion moved:

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

Shri Mahanty (Dhenkanal): Mr. Speaker, Sir, this is a Bill of unusual importance and has a very important bearing not only on the purity of our administration but also on the purity of our political life. It is better that

I first preface my submission by giving the juristic background of this particular piece of legislation which has been proposed by my friend, Shri Bharucha.

Last year the Tata Iron and Steel Co., wanted to amend their Memorandum of Association under section 17 of the Indian Companies Act so as to enable them to make contributions to the funds of a particular political party. That was how an application came up before Mr. Justice Tendulkar of Bombay High Court. Mr. Justice Tendulkar held that the power to give contributions or donations to political parties is obviously quite capable of being used for corrupting public life. On technical grounds he held that there is no law to bar a company, a public limited company, from making contributions to political funds. Yet he made this observation with some of his suggestions that such contributions may be published in newspapers—in more than one newspaper.

This matter then came up before a Full Bench of the Bombay High Court and even the Full Bench held so and drew the attention of the Parliament to the great dangers inherent in permitting such contributions which in their Lordships' view may grow apace and may ultimately overwhelm and throttle democracy in this country.

As soon as the Tatas started contributing to the election funds of the Congress Party and getting a stranglehold on the party and its decisions, the Indian Iron and Steel Co., started competition. The IISCO also wanted to amend its articles of association and that is how an application came before Mr. Justice Mukerjee of the Calcutta High Court. Mr. Justice Mukerjee observed that as the number of applications are becoming more and more numerous by which the companies are trying to divert commercial funds to political purposes, it is essential in the interest of both the commercial and public standards to have immediately, some

legislation on the subject to keep the springs of democracy and administration reasonably pure and unsullied. I have no time at my disposal; otherwise I would have dealt at great length on this piece of legislation. Time will not permit me to go into the genesis of section 233(e) of the Indian Companies Act, 1956, as it stands today. But I would like to invite the attention of this House to the political background of the contribution of these companies to the political party funds.

I do not wish to attribute any motives to anybody. That is not my habit. But when I consider how these hard-headed businessmen who have built such fine concerns from scratch, how can they turn overnight to philanthropists? The Tatas have contributed Rs. 27 lakhs and to the Orissa Congress Party they have contributed Rs. 3 lakhs. It is not for nothing. During this session in reply to an unstarred question No. 1326 on 17th March, 1958, we were told that the Government had sanctioned a loan of Rs. 10 crores to Tatas, free of interest till 1st July, 1958, or such later date as may be mutually agreed upon. It is a shame, Sir. When taccavi loans are advanced, do you know how much our peasants pay by way of interest? 6.25 per cent. For construction loans, people are asked to pay interest at 4.5 per cent. Yesterday, we were told that the Andhra Government was refused a loan for the development of some colliery. The Bhadravati Iron and Steel works had been refused a loan. Yet, these Tatas get Rs. 10 crores free of interest till 1st July, 1958, or such other later date as may be mutually agreed upon. If it is not a scandal, I do not know what the definition of that word is.

Again, the advance has no maturity date and the Government of India will decide on the advice of the Tariff Commission whether interest should be charged from 1st July, 1958—or we know how it functions—or such later date as may be mutually

agreed upon and at what rate the company should repay that loan. This is about the Tatas.

There is of course the IISCO. I do not know how much it has contributed to the Party fund of the Ruling Party. But it has also been advanced a higher loan. In reply to another unstarred question answered on 17th March, 1958, we were told that the Government had sanctioned two loans: an interest bearing loan of Rs. 7.9 crores and a special advance of Rs. 10.18 crores. The Government have also further guaranteed to the World Bank loans totalling Rs. 15.02 crores when we are told that there is a shortage of foreign exchange for our public sector. It has under-written two loans to the World Bank totalling Rs. 15.02 crores. Now, what are the conditions? The special advances have no interest. It is not a question of making a debating point or trying to run anybody down. Here, these big advances are being made to these concerns free of interest, whereas our peasantry is being asked to pay exorbitant rates of interest which even the most usurious moneylender would not dare to charge. This loan has no maturity date, but the Government will decide on the advice of the Tariff Commission whether interest should be charged on 1st July, 1958, or such later date as may be mutually agreed upon, and at what rate the interest should be charged. Therefore,—I do not wish to attribute any motives as two plus two make four—it is for the House, for the Government and for you, Sir, to consider whether you can link up this kind of contributions to political party funds and this kind of benefits which are being conceded to such kind of donors.

Let me now come—it is very interesting—to the genesis of Section 293 of the Indian Companies Act, 1956. It is well known that the Companies Law of 1913 had no restriction on payment of contribution to funds of political parties. Now, it has to be examined why the Company

[Shri Mahanty]

Law Enquiry Committee came to the conclusion that some restriction should be imposed. They came to this conclusion because they had enough material before them to conclude that if this goes unhindered it has all the potentials of corrupting not only the administrative purity but also sully the tenor of political life. That is why an amendment was proposed to Section 86(h) of the Indian Companies Act of 1913.

When the Indian Companies Bill was drafted, there was section 272 of the Companies Law Bill of 1956 in which our friend Shri Pande had a very important role to play—I will come to him later. Sir, I will remind this House that section 272 had restricted the directors' power to contribute to parties and to this clause a limit was fixed at Rs. 5,000 or 2 per cent. of the net profits. When it came to the Select Committee, the Select Committee raised it to Rs. 10,000 or 3 per cent. of the net profits, and when it came before this House my esteemed friend Shri Pande—it was his amendment—raised it to Rs. 25,000 or 5 per cent. of the net profits.

Shri Braj Raj Singh: Whichever is higher.

Shri Mahanty: He had only the best of motives; he did not want that they should contribute to political parties. (Interruption.)

Shri C. D. Pande (Naini Tal): It applies to all parties.

Shri Mahanty: Yes, all parties. As I have said, I am only very thankful to him because his intentions were otherwise. He never anticipated that such kind of contributions to Congress Party funds would entitle Tatas and ISCO to get interest free loans to the extent of Rs. 10 crores. It totals up to Rs. 20 crores, and he never anticipated that—I do not blame him.

Shri Ferose Gandhi (Raj Barail): The loan to the Tatas is from the Steel Equalisation Pool, which money actually belongs to them.

As. Hon. Member: The prices have been raised for them.

Shri Ferose Gandhi: I am only clarifying that these Rs. 10 crores were given to Tatas from the Steel Equalisation Pool, which money actually belongs to them.

As Hon. Member: How? (Interruption.)

Shri Ferose Gandhi: I do not want to be misunderstood. I am not talking about the Bill; I am only clarifying this specific thing.

Shri Mahanty: I have given reference to the answers which were given in this House. The hon. Member is much more intelligent than myself in these matters. He knows the stories of Tatas better than me, and I am not going into that. What I am merely submitting is I have satisfied myself—and I think according to my limited capacity—how it was not originally contemplated by the framers of the Bill or by the Members of the Joint Committee who went into it at great length. From Rs. 3,000 it was raised to Rs. 5,000 by the Joint Committee and in this House, of course in its wisdom, the party in power sought to raise it to Rs. 25,000 or five per cent.

Shri C. D. Pande: May I know whether any Member of the House opposed it? Did the hon. Member oppose it?

Shri Mahanty: We opposed it in the other House.

As Hon. Member: We opposed it from outside.

Shri Mahanty: When this matter came up before the other House we opposed it according to our limited strength. It is not a question of supporting it or opposing it. It is a question of considering it with objectivity, as to where this country is drifting to.

if we want to keep our politics, our administration and our public life free from all this kind of contaminations, of inducement of corruption, certainly it behoves us that something should be done.

In America, contribution by public limited concerns in the public sector to the political parties' funds results in imprisonment of the Board of Director. Kindly take into consideration this fact. Every day, this House, this Government, has been creating statutory authorities and companies are being registered under the Indian Companies Act. There is nothing to prevent those companies or concerns from making contribution either to the party funds of the Congress Party or the Communist Party or any other party. There is nothing to stop it. The enormity of the situation has to be considered: when these funds are being diverted from these concerns to the political party funds, then, where do we stand? There are a number of pieces of legislation in the United States of America which prohibit any kind of contribution to any kind of political party funds by such companies in the public sector. We would like the Government not just to dismiss it or tell us in the course of their reply that the Company Law Enquiry Committee has come to the conclusion that the amounts donated should only be mentioned in the account-books. That will not meet the purpose. That will not serve the purpose. There have been weighty pronouncements which have been pointed out by me and also by the hon. Mover of the Bill. It is high time that not only the Government but also this House as a whole took this matter seriously into consideration so as to keep the springs of our political life unsullied and uncorrupted.

Mr. Speaker: I will call one hon. Member from the other side, and then call Shri S. M. Banerjee Shri Jaganatha Rao.

Shri Jaganatha Rao (Koraput): Mr. Speaker, I think my hon. friend Shri Naushir Bharucha is actuated by

moral principles which he has derived from the two judgments of the Bombay and Calcutta High Courts. This is not a measure which he should have brought forward. This relates only to the amendment of section 293(a), whereas there are other public bodies which similarly make contributions. Companies are only one set of public bodies in this country. There are partnerships, societies, firms, trade unions and all such bodies which do really contribute to the funds of political parties.

Shri Naushir Bharucha: We are prepared to ban them out.

Shri Jaganatha Rao: The amendment does not serve the purpose.

An Hon. Member: Why not?

Shri Jaganatha Rao: I am coming to it. The section as it stands really entitles or enables every political party or a candidate to receive the donation or contribution from the companies. I fail to understand, then, the reason why my friends on the other side get worried. It is because they do not get what they expected from these companies or what they get is much less than what other parties get. I do not understand. If really my friends want that the springs of democracy should be unsullied and the standards of public administration should be kept at a high level, certainly we should build up a code of political ethics and public morality, but not this kind of amendment. So, a full-fledged measure prescribing high standards of public morality has to be brought forth in this country. But the Bill my hon. friend has brought forward does not serve the purpose.

My hon. friend, Shri Mahanty, has referred to two enactments in America. One is the Regulation of Lobbying Act of 1928 which serves a limited purpose. The provisions of this Act apply to any person receiving any contribution or expending any money which is more than \$500 for the purpose of passage or defeat of any legislation by the Congress of the United States or

[Shri Jagannatha Rao]

to influence directly or indirectly the passage or defeat of any legislation by the Congress of the United States and he shall file a statement containing complete accounts with the Clerk of the House. The defaulter is liable to punishment.

The other Act is the Federal Corrupt Practices Act, 1925, which also serves a limited purpose. It is unlawful for any national bank, or any corporation organised by any law of Congress to make a contribution in connection with any election to any political officer or for any corporation whatever, or any labour organisation to make a contribution in connection with any election at which Presidential and Vice-Presidential elections or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for. Violation of this rule will render the party liable to punishment.

So, as observed by the Lordships of the High Courts, there is no legislation prohibiting any contribution by a company to any political party. If any person contests an election and publishes his own manifesto and if the company is convinced about it or if the company has a liking for any candidate or any party, any contribution can be made and that is the furtherance of lawful purpose within the meaning of Section 12 of the Companies Act.

I will just quote two sentences from the judgment of the Calcutta High Court:

"The existing law in India does not extend the legal concept of bribery as distinguished from its moral concept to cover companies' contribution to political funds of political parties. It is, therefore, clear that under sections 12 and 13 read with section 3 of the Companies Act, a company can certainly be formed and registered one of whose objects or purposes is to contribute to the political funds of political parties."

So, it is lawful even to promote a company for this specific purpose.

Even if it is not the purpose for which the company is formed, nevertheless any contribution made to a political party is still a lawful purpose.

This question also came up before the Companies Act Amendment Committee. At page 112, the Committee observe:

"The position as it stands today may be thus stated. If contributions to the funds of political parties are covered by the objects as specified in the memorandum or if not so directly covered, fall within the category of transactions or incidental to the profitable working of the company, it would be open to the Board of Directors to contribute any amounts to the funds of political parties not exceeding Rs. 25,000 or 5 per cent. of the average annual net profits of the company, whichever is greater. This pecuniary limit for contributions may be exceeded only with the consent of a general meeting in the case of a public company or of a private company which is a subsidiary of a public company."

They further say at page 113:

"Where lobbying and financing of political parties or candidates for elections should be prohibited in the interests of the public, is a broad question of public policy. It has been the subject of special legislation in America. The case of companies could not be considered in isolation and contributions from other sources, such as body corporate, partnerships, societies, trusts, trade unions and even from individuals might have to be regulated or prohibited by a comprehensive enactment. This, however, is a matter which falls outside the scope of the companies Act."

That is why I submitted at the outset that the amendment which my friend seeks to bring forward does not serve the purpose. He wants only the com-

panies to be prohibited. If my hon. friend is animated by the noble object of building up a high code of public morality, let there be a comprehensive Bill, which prohibits not only the companies. . . .

Shri Naushir Bharucha: Will it be accepted by Government?

Shri Jaganatha Rao: That is a different matter. I am here questioning the object of the Bill that you have brought forward. I am not a part of the Government. I am not a Minister. It is not for me to say whether they will bring forward a Bill or not.

Shri Prabhat Kar: Ask your party.

Shri Jaganatha Rao: This Bill is brought forward to serve a limited purpose. It is not meant to be a code of public morality.

Shri Tangamani: It is only a beginning.

Shri Jaganatha Rao: There can be no beginning or end. If you want to build up morality, you must start and end at the destination. There cannot be a middle way.

You will find that the committee on the Companies Act had made a suggestion. They have said:

"A further provision may be added as sub-section (6) to section 293 in these terms:

"Every company shall disclose in its profit and loss account every donation made by it during the year of account to any political party, giving particulars of the amounts given and the name of the person or persons, association or party to whom or to which such donation is made."

They have also suggested a minor drafting change which has to be made in section 293(1)(e) by adding the word "annually" after the word "average" in the clause. The report, I think, is under the consideration of the Government. I am sure that a suitable amendment would be brought forth by the Government at the appropriate time. My submission is that the object of the mover, as set out in the Statement of Objects and Reasons, cannot be achieved by simply tinkering with the Companies Act.

Before I close, I would also like to refer to illegal gratification, to which my hon. friends have referred. Section 161 of the IPC relates to illegal gratification. When a political party receives some money, how can it be called illegal gratification. Illegal gratification relates to a public servant. A political party is not a public servant. Therefore, I venture to submit that the arguments advanced by my hon. friend are not quite relevant and his object will not be served by this Bill. As the law stands today, any contribution made by any corporation or any public is certainly a legal and valid thing and it does not offend any of the provisions of the existing law, much less the Companies Act.

Shri S. M. Banerjee: Mr. Speaker. .

Mr. Speaker: He ought not to have stood up before I called him. He can speak only after I called him.

Shri S. M. Banerjee: I only said "Mr. Speaker".

Mr. Speaker: He may now speak.

Shri S. M. Banerjee: Mr. Speaker, Sir.

18 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, the 22nd April, 1958.