

जी का विचार है उससे तो हो सकता है कि सुधार लाने में एक पीढ़ी या दो पीढ़ियों तक इतिहास करना पड़े और तब जा कर वह अनुभव प्राप्त कर सके और तब ही इन सुधारों की प्राप्ति की जा सकती है। मुझे खेद के साथ कहना पड़ता है कि मैं उनकी इस राय से सहमत नहीं हूँ। मेरा ख्याल है कि १०-११ साल का जो अनुभव हम लोगों को हुआ है, उसको देखते हुये, अब समय आ गया है कि प्राप परिवर्तन करे।

और, जो उन्होंने आश्वासन दिया है कि मेरे मंजोषन विधेयक की भावना के प्राधार पर वह काम कर रहे हैं और जो अनुभव उनको प्राप्ति प्राप्त होगा, उमी की राशानी में वह प्राप्ति परिवर्तन करेंगे। इस सम्बन्ध में जो उन्होंने आश्वासन दिया है, उसको स्वीकार करने हुये, मैं इस मदन में अनुमति चाहता हूँ कि वह मुझे इस विधेयक को वापस लेने की इजाजत प्रदान करे।

The Bill was, by leave, withdrawn.

16 37 hrs.

COMPANIES (AMENDMENT) BILL

Shri Mahanty (Dhenkanal): Mr. Chairman, I beg to move:

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

Contributions by companies to political party funds, to influence policies conducive to the interests of the contributors, has, of late, assumed very serious proportions. Apart from corrupting the even flow of administration, it has polluted the very springs of our political life, namely, general elections. In the words of Mr. Justice Tendolkar, of the Bombay High Court, this is "quite capable of being used for corrupting public life". Mr. Justice Mukerji of the Calcutta

High Court, in another matter, held that this "may grow apace and may ultimately overwhelm and throttle democracy in this country". Two very weighty judicial pronouncements of the Bombay High Court and the Calcutta High Court had drawn the attention of Parliament to the immediate need of enacting legislation to stop this menace.

Only last year, the hon. Minister, in reply to a question given notice of by my hon. friend, Shri Naushir Bharucha, said on 24th May, 1957:

"The whole question would have to be gone into some time. It would then be necessary to consider not only big money interests that contributed to political parties but also other interests which were compelled to contribute to the funds of political parties as a result of certain agitation carried by political parties on their behalf."

Since then a long time has passed. Now, we find the hon. Minister Shri Lal Bahadur Shastri, in a debate on a matter of a similar nature, replied in a manner which is little short of shocking. I could least imagine that the hon. Minister Shri Lal Bahadur Shastri was capable of giving such a reply. For the benefit of the House, I would better quote what the hon. Minister had said. I believe in that reply he had not reflected the Government's policy so far as this particular matter was concerned. The hon. Minister Shri Lal Bahadur Shastri, in the course of his reply, said in the Rajya Sabha on 12th September:

"The Congress Party has set up the highest number of candidates. Perhaps we may have left two or three seats uncontested because we honoured certain gentlemen of other parties and did not want to contest them. But the Congress did set up about four thousand candidates and, barring a few who had enough resources with them,

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they had to find money for the other candidates. So, the party has to find the funds.....

Mark these words—

So, the party has to find the funds, and if it has to find the funds it has to collect money."

So, after this assurance was given on the floor of the House only last year that the Government would come to Parliament with the necessary amendment to section 293 of the Company Law,—this is the answer of the hon. Minister that the Congress sets up the largest number of candidates in the election and therefore it has to find money and therefore it has.....

The Deputy Minister of Commerce and Industry (Shri Satish Chandra): That assurance will be honoured. The hon. Minister in the same speech reiterated that assurance—if the hon'ble member reads the full speech he will find it—that we would come forward with an amendment in the next session.

Shri Mahanty: I am thankful to the hon. Deputy Minister for his correction, but I quoted it for what it was worth; whatever his assurance may be.....

Shri Satish Chandra: Quoting out of context.

Shri Mahanty: ...that assurance cannot extinguish this candid confession that the Congress Party is in need of funds, and therefore it has to raise funds.

Shrimati Ila Palchowdhuri (Nabadwip): All parties are in need of funds.

Shri Mahanty: True, but two wrongs do not make one right. So, apart from that.... (Interruption).

You can count more Rajas that side. You can take a census of the Highnesses sitting that side.

Shri S. M. Banerjee (Kanpur): Even Ranis are sitting there.

Shri Mahanty: So, apart from this imputation of motives which I am sorry to find I am not speaking in a spirit of making a broadside, just for its own sake.

You know, Sir, in this country there is a fascination for chits from foreigners. The foreigners come to this country. They give you a good chit for your community projects, and you print it on art paper and go on distributing it all over India. You never tarry, you never stop to assess the reactions of the people who live in this country.

You will remember that the services of Mr. H. Appleby, an administrative expert on behalf of the Ford Foundation, were requisitioned by the Government of India to make an assessment of the administration in this country. In his second report, he has made a statement at page 44. I invite the attention of the hon. Minister to that statement, and he can judge from the statement itself as to what has been the effect of this contribution on not only the political life of this country, but also on the good name of Parliament itself. Mr. Appleby has said:

"Parliament here seems strangely inclined to make too ready concessions to some of the self-interested demands of small but influential business interests and to enforce corresponding changes in Government's decisions."

This is a statement not made by me or any Member sitting on this side of the House who is interested in making broadsides at the Government. This is a statement made by Mr. H. Appleby, an administrative expert whose services the Government of India had to requisition, for giving advice on the tone of the administration in this country. I would like to know from

the hon. Minister whether this blot is going to be mitigated.

I do not mind if a slur is cast against his party or the Government. That is their business to look after. But a slur is cast against Parliament, and what does that gentleman say? He says that these moneyed interests, self-interested groups, exert their pull on the Members of Parliament. Why? The obvious implication is that the Members who being politically and financially obliged to those interests naturally have to pay to their tune. That has constrained me to bring this simple measure before the House to amend section 293 of the Indian Companies Act. I believe I am not hoping against hope. Even the Government will find nothing wrong with this Bill, and in the light of the judicial pronouncements of the Bombay and the Calcutta High Court and other pronouncements and assurances and promises which have flowed since then, I hope Government will at least accept my Bill and try to fix a ceiling of Rs. 5,000 which was originally proposed in the Companies Bill before it was referred to the Joint Committee and subsequently enacted by Parliament.

What is the genesis of section 293 of the Indian Companies Act? In section 86 of the old Act of 1913 there was no provision for companies making contributions to political party funds. Neither was there any ceiling, nor floor. If the companies so felt, were so inclined, they could make contributions, but then several consequences flowed. There were the shareholders. The voice of the shareholders would run supreme under certain circumstances, but there was no ceiling fixed, no quantum was determined, for contributions to political party funds.

For the first time in the Company Law Bill when it was originally framed, a ceiling was fixed, of Rs. 5,000, which the directors could contribute to political party funds without referring the matter to the shareholders at

large. When the Bill was referred to the Joint Committee—that was of course on the eve of the general elections, and I have just now pointed out the hon. Minister was badly in need of funds—the Committee in its wisdom raised the ceiling to Rs. 10,000. When it came to this House—possibly the election was very imminent—and the ceiling was raised to Rs. 25,000 or five per cent whichever is higher. Now, the Congress Party had set up 4,000 candidates according to Shri Lal Bahadur Shastri and most of them were in need of funds; therefore, naturally the preference was always for the ceiling which was higher, not for Rs. 25,000.

What is its effect? It is true I expected a better reply from the hon. Minister. He should not have imputed motives. He should not have pointed out: well, you too are in need of funds. Certainly I am in need of funds as well as the hon. Minister is, but when I raise my funds I do not pervert the even flow of the administration.

I shall read out a relevant extract from the application of the Indian Iron and Steel Co., which came up before the Calcutta High Court. You will kindly bear me out, Sir, that our people and peasantry have to pay interest at the rate of 6½ per cent for taccavi loans. But this Indian Iron and Steel Co. has been granted a loan of Rs. 10 crores without interest. Similarly, Tatas have got another instalment of Rs. 10 crores loan without any interest, from the steel equalisation pool, which is, after all, consumers' money.

Remember this was on the eve of the last general elections, and this was the plea of the Companies. The main reasons which were put forth by the Indian Iron and Steel Company for altering the Memorandum of Association are in paragraph 61. I hope the hon. Minister will kindly listen to it.

Shri Satish Chandra: I have got it with me.

Shri Mahanty: This is very healthy and moralising.

In paragraph 61 of the application it was stated:

"The prosperity of the company's business is very much dependant upon the industrial policy of the Central Government of the day."

Then they go on to say:

"In order to enable the company to carry on its business more efficiently, it is necessary that the company should be enabled to contribute to the funds of political parties which will advance policies conducive to the interests of industries in general, and of the company in particular."

So, here is a candid confession: we will contribute to the party in power which alone can advance our interests. I would like to know how long this country and its administration will remain pledged to the vested money-bags. Is it not time that we redeemed the country from that pledge?

We know what goes on. We know how the Scindias, how the Indian Steamship Co., how Tatas, and how certain favoured business houses are ruling India today—not your Pandit Jawaharlal Nehru's Cabinet.

I can appreciate contributions out of conviction. But to convert convictions and consents by money is to pervert both democracy and administration. That is the reason why I have ventured to move this Bill for consideration by this House.

There are other overriding reasons also why Government should consider seriously the question of amending section 293 of the Companies Act. In the first place, in the zeal for political favouritism by the bait of money, the

company, who will be the highest bidder may secure the most unfair advantage over its rival trader companies. We have seen such things happening. I would ask from the hon. Minister who is in charge of Commerce and Industry to explain to me the rationale as to why the Tatas and the Indian Iron and Steel Co. have been granted loans of Rs. 10 crores each without any interest, and why the Indian tax-payers have under-written or have guaranteed the loans that these two companies have received from the World Bank without any demur. If this is not an instance of the highest bidder contributing to political parties' funds enjoying the biggest chunk of advantage from the administration, what more instances can I offer?

Then, it will mark the advent of the entry of the voice of the big business in politics. I have corroborated that from the statement of Mr. Appleby wherein he has pointed out how the decision in the Indian Parliament is influenced or is dictated by small but powerful vested interests. Individual citizens, although in name equal, will be greatly handicapped in their voice, because the length of their contribution cannot ever hope to equal the length of the contribution of the big companies. The man who plays the piper will also call the tune. And what did our good friend the Tatas do? The Tatas, of late, have developed a particular fascination for the Government of my State for obvious reasons. There was the ferro-manganese plant, which we were told would go up in the public sector. But our good friend the Tatas have got it. In Joda, they have set it up in record time. Therefore, on the eve of the general elections last time, only one company—the Tatas have so many concerns—contributed Rs. 10 lakhs.

Mr. Chairman: May I say that it relates to the State Government, and, therefore, he may have it raised in the State Assembly?

Shri Mahanty: It does not relate to the State Government, but it relates to the party in power, there. Moreover, this ferro-manganese plant relates to the portfolio of my hon. friend Shri Satish Chandra. That was just an instance that I was quoting. I have no intention to go into it. I have got the figures as to how much the Tatas have contributed, and how much the Indian Iron and Steel Co. have contributed. I did not wish to give those figures, because that was not my intention.

An Hon. Member: How much did they give?

Shri Mahanty: The Tatas have contributed to the Congress—that is, only the Tata Iron and Steel Co., because the Tatas have got so many other concerns—our good friend the Tatas who did not find money to pay the wages of their labourers, and for whom the mighty army of the Government of India had to be requisitioned to control the situation, have contributed only Rs. 10.30 lakhs; the ISCO friends have contributed to the West Bengal Congress Committee only Rs. 2.50 lakhs. I can give all those figures, but that is not my intention. I do not wish to take up the time of the House by citing the various instances. According to me, this is legalised bribery.

An Hon. Member: And corruption.

Shri Mahanty: Here, the hon. Minister Shri Lal Bahadur Shastri said, 'Well, we have got four thousand candidates to finance'. For them, of course, the funds have had to be raised. And when these four thousand gentlemen returned to the various legislatures and to Parliament, of course, they had to sing to the tune.

I would never attribute any motive to my hon. friend, Shri Lal Bahadur Shastri, I have greatest regard for his integrity and sincerity, but he is a victim of circumstances. He is a victim of the party; and for the party he

has not only raised funds but he also candidly confesses it. Certainly he deserves all my compliments for having candidly confessed it, which most of the Congress leaders would hesitate even to admit. So I was saying that unless we stopped this legalised bribery, our political life was going to be corrupted and we would continue to get such certificates from Mr. Appleby as I pointed out a little earlier.

The hon. Minister has stated in the other House that it is not the business of the courts to determine or to examine or to assess what amounts should be contributed by the companies to political party funds, because that will involve the judiciary in political controversy. But I do not know if he has carefully gone through the Indian Companies Act, section 17(2) of which empowers the courts to screen and examine all the implications when the Article of Association is altered. Now, it can be said, as the hon. Minister has said, that we want, in the name of democracy that the shareholders must be wide awake. If the boards of directors misappropriate or mispend money, it is for the shareholders to drive them out. It is very good in theory. We are also shareholders here in a joint stock company. Our board of directors is also there. Every morning they and we, shareholders, come here and talk. A marathon debate on Planning has been going on. Unless the board of directors voluntarily liquidate themselves, we cannot drive them out. Similar is the fate of the shareholders in companies. So if the principle of democracy is to be extended, let it first be extended here on the floor of the House instead of projecting it in the meetings of the shareholders of these public limited companies.

So apart from that peroration on democracy, the fact has to be considered that the wisdom of the shareholders can neither be supreme nor impeccable. It is therefore in its wisdom, Parliament has decided that it will be

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for the courts to decide whether the memorandum can be altered or not.

Mr. Chairman: The hon. Member has already taken 25 minutes.

Shri Mahanty: I require only 10-15 minutes more.

Mr. Chairman: This will go to the next session.

Shri Satish Chandra: It was Parliament which introduced this provision in its present form. It was not proposed by the Government in the draft of the Bill.

Shri Mahanty: I was a Member of Parliament then also and I know what happened. In Parliament we have the rule of majority and we know what the majority is. Mr. Appleby will describe it; I would not venture to describe it, because I do not wish to offend my hon. friend. Mr. Appleby, whom the Government of India had brought from beyond the seven seas, has described it in a better manner.

Then much was said about charity. Are you going to dry up the source of charity? Perorations were made on charity. But nobody cares to remember what Harold Laski said about charity. I am reminded of what he said about charity—"Charity is the ransom that fear pays to injustice". We know our charitable friends elsewhere too, who make this charity of 5 per cent, because, as Shri C. D. Deshmukh said, the reason is not pure charity. Shri Deshmukh had stated:

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"There is another provision of law which has some bearing on this, I think, and that is section 15D of the Indian Income-tax Act. You will remember that under that section, we have put a limit now to what may be exempted in the way of donations to charities

either by individuals or by companies. In the case of companies it is 5 per cent of income which is approximately the net profit or Rs. 1 lakh maximum. There is that limit of Rs. 1 lakh. You may put 100 per cent of profits. I doubt whether there will be any company which will be prepared to give any donation if the advantage of income-tax is not noticeable."

Therefore, these contributions to party funds are being made for two ostensible reasons. One is to get exemption from taxation, because the quantum of super-tax and other taxes will go up if these amounts are added to the net income, if they are not given away in charity.

Then, the second reason and the most pernicious one is to influence policies. It was left for the Courts, under section 17 of the Indian Companies Act to determine whether the memoranda of association could be altered to permit the Board of Directors to make contributions in a substantial measure.

Bribery may not be the correct legal description because it cannot be described as bribery under the Corrupt Practices Act or the Penal Code. But, its effect is nothing but that. But if we look to the definition of bribery under the Corrupt Practices Act or the Indian Penal Code we will find that bribery is not much different from this kind of contribution. To introduce changes of policy by payment of money is bribery. Those who want to make a distinction without any difference may do so. But, so far as the people are concerned, so far as the administration is concerned, so far as we are concerned, this is nothing short of bribery.

I do not see why Government should take any objection to this. The original Companies Bill was so drafted that

the ceiling was Rs. 5,000/-. The Joint Committee in their wisdom raised it to Rs. 10,000/-. Now, it is being said that the House itself decided that it should be raised to Rs. 25,000/-. I believe there was averseness on that side of the House and there was an averseness on this side of the House too. Then, why not bring back that Rs. 25,000/- to the *status quo*, the Rs. 5,000/-? I do not want to put a complete ban on donations because political parties have to depend on donations. But they should not be to such an extent as to make any party or group of individuals who have been returned on a certain party ticket obliged to implement a certain line of policy contrary to popular interests.

Shri Dasappa (Bangalore): And enact the Gifts Tax, the Wealth Tax and the Expenditure Tax.

Shri Mahanty: I could not hear. I would like to have the benefit of the hon. Member's wisdom.

Shri Dasappa: As a result enact the Wealth Tax, the Expenditure Tax and the Gift Tax.

Shri Mahanty: I was talking of income-tax alone, Sir.

Now, I do not wish to take much time of the House. I will come to another aspect of this question. The hon. Minister has stated that other countries like America and England are considering that contributions to political party funds does not matter much. But there is legislation in the United States. There is the Anti-Lobbying Act in America.

"It is unlawful for any national bank, or any corporation organised by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office or for any

corporation whatever, or any labour organisation to make a contribution or expenditure in connection with any election....".

Again it says:

"Every corporation or a labour organisation which makes any contribution or expenditure in violation of this section shall be fined not more than \$5,000; and every officer or director of any corporation, or officer of any labour organisation who consents to any contribution or expenditure by the corporation or labour organisation, as the case may be, in violation of this section shall be fined not more than \$1,000 or imprisonment not more than one year, or both."

How can the hon. Minister say that in other countries, they are contributing with immunity?

The Minister of Commerce and Industry (Shri Lal Bahadur Shastri): I never said that. I think the hon. Member is mistaken. I never quoted America. In fact I have said that I have not got the information about the USA. But I have said that in UK, West Australia and South Australia, there is no bar and no ban imposed on contributions to political parties by the companies.

Shri Mahanty: I have given him information about the United States of America now and I hope he will take courage in both hands and do the needful. That will make good for his not knowing the provisions in USA.

Mr. Chairman: The hon. Member's time is up.

Shri Mahanty: I will be finishing in two or three minutes.

Mr. Chairman: He may pass on the information to hon. Members who will speak later on.

Shri Mahanty: I am in your hands, There are very weighty reasons apart from the weighty judicial pronouncements which have been made and apart from the assurance given on the floor of the House from time to time and they are very valid and sound reasons as to why the Government should fix a minimum amount in section 293 of the Indian Companies Act in the light of what I have indicated in my Bill. I hope and pray once again that this Bill will meet with approval from all sides of the House and two wrongs will not be deemed to make one right.

Mr. Chairman: Motion moved:

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

Shri N. R. Ghosh (Cooch Behar): Mr. Chairman, before I discuss the points which my hon. friend has raised, I want to point out to him what section 293 (e) says. It reads:

"...contribute, after the commencement of this Act to charitable and other institutions not directly relating to the business of the company...."

From the Statement of Objects and Reasons of his Bill my hon. friend's only objection seems to be that there cannot be any donation exceeding Rs. 5,000 to any political party. But the amendment which he has formulated covers everything, namely, even if any public company wants to make a donation to a hospital, say, Rs. 5,001, then it shall have to go to a court. I do not know whether that was the intention of my hon. friend, but that seems to be the result of the amendment,—by this a public company will be debarred from making any contribution either to an educational institution or to a hospital or for any charitable purpose if the

amount of donation exceeds Rs. 5000. In this connection, Sir, I would like to mention that in the place from where I am coming, Jalpaiguri, there are about 50 institutions of this kind throughout the district which have been the result of or substantially helped by this kind of contribution from public companies. We have been doing it for years and years, from before 1947.

Sir, I am not going to further discuss that point, as my hon. friend's objection mainly seems to be that they may make a contribution but they must limit the contribution to an amount of Rs. 5000 if they want to make that contribution to a political party. Now, there seems to be an apologetic tone about it.

Shri Mahanty: No apology.

Shri N. R. Ghosh: People who want to justify these contributions in this limited manner to political parties seems to be a little bit apologetic.

Shri Mahanty: May I just interrupt the hon. Member? If he proposes an amendment to do away with even that Rs. 5000 I will only welcome it.

Shri N. R. Ghosh: I did not say that.

Shri Mahanty: I welcome your proposal.

Shri N. R. Ghosh: Sir, what I was submitting is this. If it is actually a question of moral principle, if it is a question of impropriety, even this Rs. 5000 ought not to be paid. My hon. friend asks me to come out with an amendment. That is not the question. My hon. friend's amendment is a little bit apologetic. When my hon. friend says that they can contribute Rs. 5000 to a political party, he does not care for the principle, he only cares for the amount.

The real question is whether actually there is any impropriety, whether there is anything immoral if a public

company makes a contribution to a political party,—that is the main question—and we shall have to face it squarely. An individual is entitled to make any contribution to a political party. A firm can do it. Sometimes a firm has got much bigger resources than a public company. If that firm makes a donation of Rs. 5 lakhs, my hon. friend cannot say anything. A private company can do it. Section 293 will not touch a private company unless it is a subsidiary company. Some private companies are much bigger than many joint-stock public companies. If they make a contribution my hon. friend's amendment cannot touch them; even Section 293 cannot touch them, unless that private company is a subsidiary company.

Therefore, my point is only this. Is there really any impropriety on the part of a public company if it were to make a contribution? If an individual can do it, if a firm can do it, a private company can do it, why cannot a public company? Why should a public company if empowered by its Memorandum be debarred?

What is really a public company? The word 'public' is there, but, as a matter of fact, it is not public in that sense. After all, it is merely a group of shareholders. Some people, whose number is more than 50, sit together and start a company. They lay down a code of conduct and course of action. They make the Memorandum and Articles of Association. If these shareholders do not want to give a single pie for a deaf and dumb institution or an educational institution, they can certainly frame their Memorandum and Articles of Association in that way. Then it will not be possible for them to make any contribution. But if a group of shareholders think that when they make some profit, they shall share some of that profit with others; they may make some contribution out of it; some money will be paid for charity or for educational institutions. If they want to do that, who stops that?

Shri Mahanty: Public opinion.

Shri N. R. Ghosh: Public opinion cannot stop it, because it is the money of the shareholders. It is not the money of the public. The word "public" is a misnomer here. For example, 51 people start a public company. They make a profit of Rs. 50 lakhs. If they want to spend a portion of that money in charity, after distributing the dividends to the shareholders, if they as they are also voters, want to spend some money and make a contribution to a political party, why cannot they do it?

Shri Mahanty: They will be booties; not dividends.

An Hon. Member: If they belong to the Government service?

Mr. Chairman: Less interruptions please.

Shri N. R. Ghosh: If my hon friends want to interrupt, they may, but I shall not stop. I thank them for the interruption.

What I was going to say was, is there anything immoral in it. Suppose, for example, I have got a conviction as an individual. I may have a conviction and my own feelings about a political party. Suppose I think that a particular political party with a pattern of conduct and ideology and other things and beliefs in them, is best suited for the interests of the country. As an individual, I can certainly make any contribution to this party. A firm can certainly make that contribution. A private company can certainly make a contribution. As far as those shareholders are concerned—(Interruptions).

Mr. Chairman: He is not giving way. Let there be no interruptions. There are 10 minutes left. Let him have his say.

Shri N. R. Ghosh: Suppose a body of shareholders functioning through that company, through the board of directors, have allowed that company to make such contributions within the limits of the company law—actually made that company in such a way that

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money can be spent for charitable purposes or for other purposes, by their memorandum of a association, and thus if they want to help a particular political party—to return a particular party to power whom they think to be the best, there is absolutely nothing wrong there. There need not be any apology for it.

I would submit this. An industry spends money for propaganda for furthering its own interest. Now, there are two political parties, A and B. The industry thinks that if party B comes into power there, will be difficulty for the industry—for even its existence. It may not approve of that party's ideology. So, that industry wants to return and a political party, say, political party A, whose ideology appeals to it. So, why should not that industry for its own interest make a contribution to that political party? It is done openly. Some people get money secretly and clandestinely. But if a public company donates some money, it does it openly. Therefore, there need not be any apology for it. If, actually, the tea companies spend crores of rupees for propaganda in Europe and America by making contribution which is called tea cess, if these companies think that the policy of a particular political party actually protects and suits the growth of its private enterprise and if, on the other hand, there is another party which is absolutely dead against the private sector, then, if that tea company makes a donation to that political party which will protect the private enterprise, why cannot it not do it? Why the Tatas should not do it? Every group or body has got a fundamental right to behave in a particular way; in a particular manner, to make a donation. It is my fundamental right and it is the fundamental right of the public company to make a contribution. So, there need not be any hush hush about it; there need not be any misgiving about it; there need not be any apology about it. No favour of any kind is or can be purchased thereby. It is a slander.

My hon. friend has referred to the arguments of Chief Justice Chagla and Justice Mukherjee. We have got the greatest respect for our high court judges, but I can say at once that what Chief Justice Chagla said in that judgment is not a judicial decision. It is not even an obiter dictum, because, actually, he was not deciding any principle of law there. It is simply his observation. His observation is entitled to respect, of course, just as the observation of Justice Mukherjee. But I would submit that other people may have honest differences of opinion. I believe difference of opinion is mainly caused by the difference in approach. So far as our democracy is concerned, we have followed this pattern from western countries. Wherever there is democracy, there must be election. Elections are said to be the essence of democracy. If elections are to be held, there must be funds. Why should there be an apology for it?

My hon. friend referred to the hon. Minister as if in mentioning this thing he was making a confession. It was not confession; it was a straightforward statement—I submit he was not ashamed of it. I would submit that if actually we are to have elections, if we are accepting the pattern from the west, then I would submit that other things prevailing there, also must come. There must be party funds, because there may be many persons who may be intellectually and in other respects, very desirable persons to be returned to Parliament—they would otherwise be assets to the Parliament, but they might not have money enough to stand for election. Everybody knows that this election business is now very costly. Even in the election rules, it is recognised, there is a ceiling fixed and that varies from Rs. 15,000 to Rs. 35,000. So, the Congress may secure funds for such people. They have to secure funds from all those people who believe in their ideology, who actually respect them, who believe not only in their ideology, but also in their behaviour. If actually those people, rich and poor

voluntarily make contributions, there is nothing wrong there. Why should there be anything wrong there?

In respect of the observations of these Judges, I submit that there is difference of opinion difference of view point. There was another Judge who also had to deal with this matter. I believe he was Justice Tendulker. He did not find anything immoral in it. There are political philosophers in U.K.

Shri Narayanankutty Menon (Mukandapuram): Justice Tendulker also had something to say about it.

Shri N. R. Ghosh: Yes, but he definitely said that there was nothing immoral or wrong about it.

Shri Mahanty: That is beyond their scope.

Shri N. R. Ghosh: If the obiter dictum here was beyond their scope, that also applies to the observation of Chief Justice Chagla. (Interruption). I was only going to say that there are other Judges who hold a different opinion. If you look at the Memorandum of Association of some companies in Australia, and in U.K., there is a definite provision in their Memorandum and Articles of Association that they shall be entitled to make donations to political parties and to other persons they like and they do it. Our joint stock companies are formed after the pattern of the joint stock companies of England and Australia. If actually they did not find anything reprehensible there, why should we think it is reprehensible here?

Shri Narayanankutty Menon: What about the socialist pattern of society?

Mr. Chairman: Less of interruptions, please.

Shri N. R. Ghosh: Democracy is there in England. Our pattern of democracy is almost the same as theirs.

Shri Mahanty: There is constitutional monarchy in England.

Shri N. R. Ghosh: I am very much enlightened. We have borrowed this parliamentary form from other countries. We have borrowed the pattern of elections from other countries. It is inevitable that, if this party Government is to function, there must be elections and since elections are costly, unless you want only rich people to come to Parliament, there must be party funds. As I was going to submit, contribution by public companies in other western countries is not condemned. I am not aware that anybody in England or Australia has condemned such contributions in their country. In the United States of America, in some cases this contribution to party funds and other organisations under certain circumstances in a different background has been made punishable. But I would submit that in our country the trade unions by statute are allowed to collect money by subscription. That is allowed. If there is no immorality there, if there is no objection there, why should there be any objection here?

Shri Narayanankutty Menon: That cannot be given to political parties.

Mr. Chairman: Order, order. Is the hon. Member not entitled to his opinion? Why should he always be interrupted?

Shri N. R. Ghosh: Trade union has every right to do that. As a matter of fact, most of the politics comes from that quarter.

I was submitting that the position seems to be absolutely clear. If my hon. friend has got no objection to get subscription to the extent of Rs. 5,000 there cannot be any objection to get subscription of bigger amount. So, on principle, there is no reason why this Act should be modified, or this amendment should be accepted, because, after all, a joint stock company as a public company is a legal person

[Shri N. R. Ghosh]

and you are encroaching upon its fundamental right to make contributions,

My hon. friend has referred to section 17. I think there is some misconception there. If the memorandum of association is to be altered, there must be a general meeting and it must be passed by a certain majority. Then it has to be placed before the High Court. As a matter of fact, if in the Memorandum of Association, there are certain objectives, you cannot alter them in a manner which will be in conflict with those objectives. Section 17 requires confirmation by court. I am reading a portion from an authority.

"All that the High Court has to satisfy is whether the alteration is fair and equitable as between members and the company. It is not concerned with the wisdom or desirability of the proposed alteration, which is a question for the directors and members."

Shri Mahanty: That was an annotation and not the law.

Shri N. R. Ghosh: That is a quotation from an authority.

Shri Mahanty: Annotation cannot be law.

Shri N. R. Ghosh: Here I am not convincing a judge of a court. My friend is not a Judge.

17.28 hrs.

[MR. DEPUTY SPEAKER in the Chair]

I was going to submit that section 17 has nothing to do with it. As a matter of fact, the High Court has got no power whatsoever in that direction. The Companies Act deals with public companies. As a matter of fact, these companies, as I was submitting, have also got certain rights, which cannot

be encroached upon by any observation of any High Court judge. They have got their fundamental right to make a contribution if they consider that for the safety of the industry, for the progress of the industry, they have to make a contribution to a particular party which broadly fits in with their policy and progress of industry and of the country.

श्री० रणबंर सिंह (रोहतक) : उपाध्यक्ष महोदय, मैं समझता हूँ कि इस सिलसिले में हमें सोच समझ कर ही कोई राय बनानी चाहिये। हमें फैसला करना है कि देश के अन्दर हम किस ढंग का ढाँचा चाहते हैं। इस सभा ने फैसला किया है कि यह सभा समाजवादी ढाँचा चाहती है। आपको अब दूसरा फैसला करना है कि आया आप उस तरह से देश को बनाना चाहते हैं जिस तरह से कि चीन में और रूस में बनाया गया है या आप इस देश को डिमाक्रेटिक ढंग से आगे बढ़ाना चाहते हैं।

उपाध्यक्ष महोदय : यह हम फिर अगले दिन फैसला करेंगे।

17-30. hrs.

BUSINESS ADVISORY COMMITTEE

THIRTIETH REPORT

Shri Rane (Buldana): Sir, I beg to present the Thirtieth Report of the Business Advisory Committee.

17-30½ hrs.

SOCIAL SECURITY SCHEME*

Shri T. B. Vittal Rao (Khammam): Mr. Deputy-Speaker, Sir, I raise this half-an-hour discussion on the points arising out of answers given to Starred Question No. 26 on the 11th

*Half-an-hour discussion.