

[Shri Morarji Desai]

that when the next report of the LIC is presented to this hon. House, all those facts and figures will be given, so that the House will have full information about it and suggestions can be made in the light of those figures which provide that information.

I do not think I should take longer time in this matter, except to reply to one question raised by Shri Mahanty about surplus funds. The actual evaluation has not yet been made and therefore, the occasion for giving a direction has not yet arisen. But under the provisions of the first Act of 1938, the former companies were entitled or they were allowed to retain out of the surplus funds a maximum of 7½ per cent as profits. But Government, as the main shareholder, reserves to itself only 5 per cent of the surplus funds. There were thirty companies which had become insolvent, but Government decided to pay the policyholders their money as their policies became due. This amounts to about Rs. 70 lakhs. This also will come out of that 5 per cent. So an indication may be taken from this fact as to how the surplus funds are going to be utilised. I cannot say anything beyond that at this stage.

I hope I have clarified the points raised by several hon. Members as far as I can deal with them.

Shri Bimal Ghose: I want one clarification. In regard to mortgages, the hon. Deputy Minister said that the past experience has been bad and therefore, we are not going into that.

Shri Morarji Desai: There is no permanent policy of negation with the LIC. As soon as they are able to hold together, I think they will advance money. I do not see why they should not do it.

15 hrs.

Shri Mahanty: What is meant by "any other investment"?

Shri Morarji Desai: "Other investment" means investments other than in "approved securities", that is to say, investments which are not covered, so far as they are safe. That is to say, those companies which do not satisfy some of the conditions. Some Government companies or other companies may not satisfy the conditions, though they are sound investments.

Shri S. A. Dange: May we know something about Jessops and BIC?

Shri Morarji Desai: My hon. friend was not here when this has been done. Therefore, he seems to have lost sight of it. Otherwise, he would have known that a board of management has already been appointed by Government for Jessops, and the old management has been removed. Therefore, the purpose has been served. The same thing has been done about Richardson and Cruddas.

Shri S. A. Dange: What about the buying of the assets of Jessops?

Shri Morarji Desai: Why does he want the Government to spend all the money when it is not necessary to do so? Is he only interested in seeing that the Government goes bankrupt?

Shri S. A. Dange: I want it so that the profits go to the State.

DISCUSSION RE: REPORT ON THE WORKING AND ADMINISTRATION OF COMPANIES ACT

Mr. Chairman: The House will now take up the motion by Shri Ram Krishan and others relating to the Report on the working and administration of the Companies Act.

श्री राम कृष्ण (महेन्द्रगढ़) : I beg to move

"That the Annual Report on the working and administration of the Companies Act, 1956 for the year ended 31st March, 1957, laid on the Table of the House on the 31st March, 1958, be taken into consideration."

सभापति महोदय, यह रिपोर्ट जो हाउस के टेबल पर रखी गई है, बहुत महत्वपूर्ण है क्योंकि यह रिपोर्ट कम्पनीज ऐक्ट १९५६ के मैकान ५६५ के तहत रखी गई है। मन् १९५३ में जब मीजूदा ऐक्ट को फ्रेम करने की कोशिश की गई तो उसका सब से बड़ा मकसद यही था कि जंगल कि आन्वेषण में देर से जाहिर किया गया है।

"That the law should provide for the fullest possible disclosure in prospectus or statement in lieu of prospectus issued;

That company accounts should be prepared in such a way as to disclose facts which are material to the full understanding of the manner in which companies are worked;

That the provision for investigation into the affairs of the company should be so designed as to enable the appropriate authority to intervene in its affairs."

अब देखना यह है कि हम इस मकसद में कहां तक कामयाब हुए हैं। जब मैं इस रिपोर्ट को देखता हूँ तो मैं यह कहे बरीर नहीं रहूंगा कि जिन हालात में और जिस मकसद के लिए यह कम्पनी ऐक्ट फ्रेम किया गया था, उस मकसद में जितना ज्यादा हमें कामयाब होना चाहिये था, हम कामयाब नहीं हुए। इस के बारे में जो यह रिपोर्ट पेश की गई है उस रिपोर्ट में भी इस तरह द्वारा किया गया है। उस रिपोर्ट के सारे ३७ और ३८ पर कहा गया है :

"In course of the administration of the sections dealing with investigation, the following difficulties were experienced:

(a) it was found difficult to get suitable persons for appointment as inspectors.....

(b) where the officers of the company or its managing agents deliberately withheld from the inspector, on one pretext or another, relevant books of accounts or declined to appear before him and to give evidence the new act provided no power to compel the offenders to do so.... All that the inspectors could do was to file complaint to punish the offenders as if they were guilty of contempt of court. The delays involved in attendant litigation has helped the parties concerned to stave off compliance with inspector's requirements;

(c) in view of these delays, there was the possibility of destruction or removal of records by companies under investigation....."

इस बात का जो यहां पर जिक्र किया गया है उसका मतलब यह है कि इनवैस्टिगेशन जब भी किसी कम्पनी के बारे में शुरू होती है, अर्थात् तो इनवैस्टिगेशन बड़ी मुश्किल से शुरू होती है और दूसरे मीजूदा ऐक्ट के तहत अगर इनवैस्टिगेशन शुरू भी हो जाय तो इस ऐक्ट में काफी खासियत है जिनके कि कारण वह इनवैस्टिगेशन पूरी नहीं हो सकती। दूसरे जो कागजात और जरूरी रेकार्ड्स वर्ग रहते हैं उन इन्वैस्टिगेशन के पास ऐसी कोई पावर नहीं होती कि जिनके जरिये उनको बे आसानी से हासिल कर सकें। उन जरूरी रेकार्ड्स और कागजात को डिस्ट्रॉय कर दिया जाता है। इसलिए इन तमाम चीजों को देखते हुए मैं यह सुझाव दूंगा कि हमें इन अस्थितियों को दूर करने के लिए फिर दुबारा विचार करना पड़ेगा ताकि इनवैस्टिगेशन जल्दी हो और जो जल्दी जल्दी वह जल्दी शुरू हो

[श्री राम कृष्ण]

सके। इस किस्म की हज़ारों मिसालें आपको मिलेंगी। उदाहरण के तौर पर मैं एक छोटी सी मिसाल आपके सामने रखना चाहता हूँ। मेरे हलके में टी० आई० टी० के नाम से एक मिल है जिसको कि बिड़ला अदम्य कंट्रोल करते हैं। उस कम्पनी के बारे में कई दफे इस किस्म की गिकायत की गई कि इसके मुताबिक इनवैस्टिगेशन शुरू की जाय। मैं काफ़ी कोशिश करने के बावजूद भी यह मालूम नहीं कर सका कि यह मामला किस भरहले पर है हालांकि शिकायत के अन्दर बड़ा सीरियस एलिगेशन है मसलन् डबल एकाउंट्स रखना, बैलेंसशीट वगैरह को चेंज करना और इसी किस्म की बहुत सी बातें थी। इसलिए मैं अपील करूंगा कि हमे इनवैस्टिगेशन को पूरा करने के लिए इस कानून को भी थोड़ा बहुत अग़र तबदील करना पड़े तो कोई हर्ज नहीं क्योंकि जो इनवैस्टिगेशन शुरू होती है अग़र वह ठीक ढग मे पूरी नहीं होती है तो उसमे कोई फ़ायदा नहीं बल्कि उसमे नुक़मान होता है।

तीसरी बात जो इस ऐक्ट के तहत कम्पनी ला ऐडमिनिस्ट्रेशन के आरगनाइजेशन के सेट अप की है, उसके बारे में भी मैं थोड़ा मा कुछ कहना चाहता हूँ।

इसके तहत बहुत से रीजनल आफिसर मुकरर किये गये हैं और इनके तहत रजिस्ट्रारं मुकरर किये गये हैं। मेरे खयाल में रजिस्ट्रारं की तादाद इस काम को पूरा करने के लिए काफी नहीं है।

बम्बई और कलकत्ते के अन्दर कम्पनीज काफ़ी ज्यादा हैं और वहा यह काम बहुत ज्यादा बढ़ रहा है। इसलिए मैं इस बात पर जोर दूंगा कि ऐसे बड़े बड़े शहरों के लिए जहां कि कम्पनीज की तादाद ज्यादा बढ़ रही है, उन शहरों के लिए इनवैस्टिगेटर्स की तादाद जरूर बढ़ाई जाय ताकि काम ठीक चल सके

और उसके साथ ही रजिस्ट्रारं की तादाद भी बढ़ाई जाय ताकि वहां पर काम सफ़र न करे और यह काम आसानी से पूरा हो सके।

मिसाल के तौर पर अग़र स्टेटवाइज तमाम कम्पनियों को देखा जाय तो आप देखेंगे कि जितनी कम्पनियां बंगाल और बम्बई में हैं उतनी दूसरे प्रान्तों में नहीं हैं लेकिन रजिस्ट्रारं की तादाद सब के लिए एकसां है। इसलिए मैं इस बात पर ख़ास तौर मे जोर दूंगा कि जिन स्टेट्स के अन्दर कम्पनीज ज्यादा रजिस्टर्ड हो रही हैं वहां रजिस्ट्रारं और इनवैस्टिगेटर्स की तादाद बढ़ाई जाय।

तीसरी बात जो मैं बहुत जरूरी मसज़ना हूँ और जिसको कि मैं हाउस के मामले रखना चाहता हूँ वह यह है कि जब से यह ऐक्ट बना है देश के अन्दर यह टेंडेंसी बनी है और यह टेंडेंसी बढ़नी जा रही है कि जो पबलिक लिमिटेड कम्पनीज हैं उनको प्राइवेट कम्पनीज में चेंज कर दिया जाय। इस रिपोर्ट में भी इस बात का जिक्र किया गया है और सर्फे १३ पर कहा गया है :

"227 public companies were reported to have converted themselves into private companies in order to escape from some of the restrictive provisions of the Act."

इसलिए मैं इस बात के लिए ख़ास तौर पर जोर दूंगा कि हमे इस तरफ़ ध्यान देना चाहिए। आनरेबुल डिप्टी मिनिस्टर ने भी मेरे एक सवैचन का जवाब देते हुए इस बात की तरफ़ ध्यान दिया और कहा था कि बाकई पबलिक कम्पनीज जो कि प्राइवेट कम्पनीज में चेंज हो रही हैं उनको तादाद बहुत ज्यादा बढ़ रही है, इन कम्पनियों को प्राइवेट कम्पनीज में चेंज करने का एक ही मक़मद है कि पबलिक लिमिटेड कम्पनीज पर जो रिस्ट्रिक्शंस लगाये गये हैं, उनसे वे बच जाय। अग़र आप ऐसा करने के लिए तैयार नहीं तो इसका दूसरा

उपाय यह भी हो सकता है कि वे रिस्ट्रिक्शंस प्राइवेट कम्पनीज पर भी लगा दिये जायें।

चौथी बात जो मैं इस मिनमिने में कहना चाहता हूँ कि वह यह है कि इस ऐक्ट के तहत पब्लिक ट्रस्ट कम्पनीज को कुछ एग्जम्पशंस दिये गये हैं। और उनके ऊपर इस ऐक्ट की जो दफात हैं वे लागू नहीं होती। जहाँ तक मैं समझना हूँ इसको करने का यही मकसद था कि किसी पब्लिक काम के लिए लोगों की भलाई के लिए कोई ऐसी कम्पनी बनायी जाये जिसका प्राफिट पब्लिक काम के लिए यूज हो। उस कम्पनी के ऊपर कोई इस किस्म का रिस्ट्रिक्शन नहीं होना चाहिए। मैं इस क्वाल के खुद हक में हूँ लेकिन हमें यह देखना चाहिए कि उन ट्रस्ट्स की झाड़ में कहीं ऐसा तो नहीं होता कि बहुत सी कम्पनीज बरायें नाम तो ट्रस्ट के तहत बना दी जाती हैं लेकिन उनका मुनाफ़ा दरअमल जो उनके चलाने वाले हैं उनकी जेबों में जाता है। ताँ इसलिए मैं यह अपील करूँगा कि अगर किसी कम्पनी को एग्जम्पशन दी जाये तो उसके लिए पूरी जाच पड़ताल होनी चाहिए। पूरी जाच पड़ताल के बग़ैर ऐसी कोई एग्जम्पशन न दी जाये।

दूसरे में यह चाहता हूँ कि अगर एग्जम्पशन दी भी जाये तो उस कम्पनी के इन्तिज़ाम पर उसके बोर्ड याव डाइरेक्टर्स पर स्टेट का पूरा कंट्रोल होना चाहिए। आप कहते हैं कि हम उसको इग्जम्पशन इस लिए देना चाहते हैं कि उनका प्राफिट लोगों की भलाई के लिए पब्लिक पर्पोज़ के लिए इस्तेमाल होगा। तो मैं नहीं समझता कि उसके ऊपर स्टेट का, पब्लिक का भी कंट्रोल क्यों न हो। इसलिए मैं यह चाहूँगा कि :

१. जो भी एग्जम्पशन दी जाये वह काफ़ी सीच किचार् के बाद दी जाये और

२. उसके ऊपर स्टेट का कंट्रोल होना चाहिए।

इसके बाद मैं दो तीन बातें company 1956 ऐक्ट के बारे में भी कहना चाहता हूँ क्योंकि इस ऐक्ट के अन्दर बहुत से ऐसे क्लॉजेज़ हैं जिनको amend करने की जरूरत है

श्री बजर्राज सिंह : (फिरोज़ाबाद) :
कोरम नहीं है।

Mr. Chairman: The bell is being rung....

Now, there is quorum. The hon. Member, Shri Ram Krishan may continue.

श्री राम कृष्ण : सभापति। जी मैं यह कह रहा था कि तीसरी बेरी तजबीज़ इस सिलसिले में यह है कि यह भी बात आपके नोटिस में आयी होगी कि बहुत सी कम्पनीज में शेयर फ़िक्टीशस नाम रखे जाते हैं। दर अमल शेयर और किसी के नाम से होते हैं मालिक दूसरा और कोई होता है। इस तरह भी ध्यान देने की खाम तौर पर जरूरत है और इसके लिए भी मैं अपील करूँगा कि इस ऐक्ट को इस ढंग से अमॉड किया जाये ताकि इस किस्म की बातें न हो सकें। बॉन्क में तो यह मजस्टे करूँगा कि जो इस तरीके से शेयर्स रखे जाते हैं इस ऐक्ट के तहत गवर्नमेंट के पास पावर होनी चाहिए ताकि वह उन शेयर्स वगैरह पर भी पूरा कंट्रोल कर सके।

इसके बाद जैसा कि मैं ने आपसे चिक्क किया तजबों की बिना पर हमें इस ऐक्ट की कुछ दफात को अमॉड करना पड़ेगा। मैं उन दफात की तरफ हाउस का ध्यान दिलाना चाहता हूँ। आजकल हम मोशलिस्टिक पैटर्न की मोसाइटी कायम करना चाहते हैं। इसलिए हमें इस ऐक्ट को भी ऐसे ढंग से चेंज करना पड़ेगा ताकि उस मकसद के लिए हमें इससे मदद मिल सके। मैं

[श्री राम कृष्ण]

यह बात खास तौर पर इसलिए कहता हूँ कि अगर आज हम पब्लिक कम्पनीज पर पूरे तौर पर कंट्रोल करने में कामयाब हो जाते हैं अगर उनकी तरफ से जो ज्यादातियाँ होती हैं जो इनकम टैक्स की रकम को इवेंट किया जाता है इन तमाम चीजों पर काबू पा जायें तो मुझे पूरा विश्वास है कि हमारी बहुत सी दिक्कतों का हल हो जायेगा। इसलिए मैं इस बात पर खास तौर पर जोर देता हूँ।

सबसे पहली मेरी तजवीज है कि हमें सेक्शन ४३ को इस ढंग से चेंज करना चाहिए जिससे कि प्राइवेट कम्पनी पर भी इस ऐक्ट में जो रेस्ट्रिक्शन्स हैं वे एप्लाई हों या ऐसा कर दिया जाये कि कोई पब्लिक लिमिटेड कम्पनी प्राइवेट लिमिटेड कम्पनी में चेंज न हो सके।

इसके साथ साथ सेक्शन २११ के तहत बैलेंसशीट्स और एकाउंट्स पेश किये जाते हैं इस पर भी मैं चाहता हूँ कि गवर्नमेंट का पूरा कंट्रोल होना चाहिये। इसके लिये इस सेक्शन को इस ढंग से चेंज किया जाये जिससे कि बैलेंसशीट्स और एकाउंट्स के बारे में सही हालात गवर्नमेंट के सामने आ सकें और जो आडिटर्स वर्ग रह मुकर्रर किये जायें उनके मुकर्रर करने में भी गवर्नमेंट का हाथ हो। मुझे विश्वास है कि अगर हम उनके बैलेंसशीट्स और एकाउंट्स को ठीक ढंग से चेंज करने में कामयाब हो जाते हैं तो काफी से ज्यादा हमारा उन कम्पनीज पर कंट्रोल हो जायेगा और हम मालूम कर सकेंगे कि उन कम्पनीज के अन्दर कितना मुनाफ़ा होता है।

सेक्शन २३७ के तहत जो इनवेस्टीगेशन की कार्रवाई शुरू की जाती है उसके मुताल्लिक तो मैं काफी कह चुका। सिर्फ मेरी यह सजवीज है कि एक लिमिट मुकर्रर की जाये

जिसके अन्दर इन्स्पेक्टर रिपोर्ट पेश करे। इस रिपोर्ट को देखने से पता चलता है कि बहुत से ऐसे केसेज हैं जिनकी इन्क्वायरी एक डेढ़ साल से ज्यादा अर्थ में चल रही है लेकिन रिपोर्ट अभी तक पेश नहीं हुई है। इसके लिये मैं जल्द चाहूंगा कि कोई लिमिट मुकर्रर की जाये।

इसके बाद प्रासीक्यूशन का सवाल है। इसका मैं ने पहले भी जिक्र किया था। सेक्शन २३७ के तहत आप इनवेस्टीगेशन कराते हैं। उसके बाद आप उस आदमी को क्या सजा दे सकते हैं, आपके पास क्या पावर है। सेक्शन २५० को देखने से आपको पता चलेगा कि बहुत से केसेज के अन्दर आप कुछ नहीं कर सकते। मैं आपसे सवाल करना चाहता हूँ कि ऐसी हालत में इनवेस्टीगेशन करने का क्या मकसद है। आपने बहुत से ऐसे केसेज की इनवेस्टीगेशन की जिनमें पाया गया कि अनर और कोई था और शेयर फिर्ती और के नान थे। मैं आपसे पूछना चाहता हूँ कि आप किस सेक्शन के तहत ऐसे लोगों के खिलाफ कार्रवाई कर सकते हैं। आपके पास कौनसा कानूनी अधिकार है। इसलिए मैं इस बात पर जोर दूंगा कि हमें इस सेक्शन को भी तबदील करना चाहिए ताकि अगर इनवेस्टीगेशन से शिकायत माबित हो जाये तो उस आदमी को मुनासिब वकत के अन्दर सजा मिल सके।

इसके बाद मैं यह कहना चाहता हूँ कि सेक्शन २७५ के अन्दर डाइरेक्टर्स को बहुत ज्यादा अस्तियार दिये गये हैं। वे दस दस कम्पनीज के डाइरेक्टर बन सकते हैं। मैं समझता हूँ यह बहुत ज्यादा पावर है। इसको भी हमें चेंज करना पड़ेगा।

इसके बाद मेरी यह तजवीज है कि सेक्शन ३६७ को भी अमैंड किया जाये। सेक्शन ३६७ के तहत जिस अर्र्स को कोई

शिकायत है या गवर्नमेंट को मैनेजमेंट से शिकायत है तो वह कार्रवाई कर सकती है। इस सेक्शन में भी बहुत ज्यादा लूपहोल हैं।

ये तमाम बातें मैं ने इसलिए कहीं कि इन पब्लिक लिमिटेड कम्पनीज पर हमारा पूरा कंट्रोल हो जाये। हिन्दुस्तान में काफ़ी से ज्यादा पब्लिक लिमिटेड कम्पनीज हैं, जिन के पास बहुत सा सरमाया है और उस सरमाये को डायरेक्टर्ज वगैरह काफ़ी से ज्यादा मिस्यूज भी करते हैं। अभी कल इस हाउस में जिंक आया था कि किस तरीके से कम्पनीज के पैसे को अंडर इनवायस और ओवर इनवायस कर के एक्जुमुलेट किया जाता है और हिन्दुस्तान में ही नहीं, बाहर के बैंकों में उस को रखने के लिए और इन्वेस्ट करने के लिए कोशिश की जाती है।

इन सब बातों को देखते हुए हमें कोई न कोई ऐसा तरीका जरूर अस्तित्वार करना पड़ेगा, जिस से इन कम्पनियों पर हमारा पूरा अधिकार हो। १९३९ से ले कर आज तक जितना पैसा इन कम्पनियों ने कमाया है, अगर उस का सही अंदाजा लगाया जा सके और सही ढंग से उस का इनकम टैक्स प्रसेस हो जाय, तो सिकेंड फ़ाइव थीअर प्लान ही नहीं बल्कि थर्ड फ़ाइव थीअर प्लान के लिए भी आसानी से रास्ता खुल सकता है। इस लिए मैं वह बात खास तौर पर कह रहा हूँ।

अन्त में मैं दो तीन तजवीज़ें हाउस के सामने पेश करना चाहता हूँ? हमें इस एक्ट के तहत एक ऐसी क्लॉज रखनी चाहिए, जिस से हम एक ऐसा कमीशन मुकर्रर कर सकें, जो बड़ी बड़ी कम्पनीज द्वारा १९३९ से लेकर आज तक कमाए गए पैसे की एन्क्वायरी कर सके और मालम कर सके कि दर-अस्स मुनाफ़ा क्या था और उन्होंने जो कितना किया।

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इन्वेस्टीगेशन एन्क्वायरी कमीशन के मुतालिक मैं यह कहना चाहता हूँ कि वह कमीशन एक खास ऐक्ट के तहत एक खास कनसर्न की एन्क्वायरी करने के लिए मुकर्रर किया गया है। इस में काफ़ी समय लगा। यह मुनासिब होगा कि इस ऐक्ट के तहत एक पर्मानेंट बाडी मुकर्रर कर दी जाय, ताकि अगर इस किस्म के केसिज आइन्दा हों, तो वह खुद एन्क्वायरी कर सके। इससे काफ़ी से ज्यादा मदद मिलेगी और इन्वेस्टीगेशन की कार्यवाही में देर नहीं लगेगी।

इन शब्दों के साथ मैं फिर अपील करूंगा कि हमें इस ऐक्ट को अमेंड करने के लिए एक कमेटी बनानी चाहिए, जो कि तमाम ऐक्ट पर दोबारा विचार करे और मालूम करे कि हमारा जो मकसद था, हम उस में कोई क्यो कामयाब नहीं हुए, उस में क्या क्या खराबियां रूठ गई हैं, ताकि उन को दूर कर के हम एक नया ऐक्ट तैयार कर सकें, या इस में अमेंडमेंट कर सकें, जिस से पब्लिक कम्पनीज पर हमारा पूरा कंट्रोल रहे। मुझे पूरा विश्वास है कि ऐसा करने से हमारा एपए का मसला और गवर्नमेंट की प्रामदनी का जो सवाल है, वह हल हो सकता है।

मेरी यह भी राय है कि जो रिपोर्टें पेश की गई हैं, वह काम्प्रिहेंसिव नहीं हैं। इस में १९५६-५७ को जो केसिज एन्क्वायरी के लिए मुकर्रर किए गए हैं, उन की डीटेल्स नहीं हैं। इस लिए मैं अपील करूंगा कि रिपोर्टें भी काम्प्रिहेंसिव होनी चाहिए, ताकि हाउस को पता लग जाए कि कौन कौन सी ऐसी कम्पनियां हैं, किन किन कम्पनियों के खिलाफ़ एन्क्वायरी हो रही है, वह एन्क्वायरी किस स्टेज पर है और उस को पूरा करने के लिए आगे क्या करना पड़ेगा।

Mr. Chairman: Motion moved:

"That the Annual Report on the working and administration of the

[Mr. Chairman]

Companies Act, 1956 for the year ended 31st March, 1957 laid on the Table of the House on the 31st March, 1958, be taken into consideration."

Shri Bimal Ghose (Barrackpore): It is a matter of some satisfaction that the report which we are discussing gives us much valuable information, which phenomenon, I concede, is indicative of the fact that the company law administration is working somewhat better than it was doing before 1956. I am aware that it is not saying much because before 1956 the company law administration was not only lax, but more or less absent, and I am also conscious that much yet remains to be done

I want first to draw your attention to a few observations in this report, and then make a few suggestions

In Chapter II in regard to the registration of new companies, it is stated that the fall in registration is due to certain factors, and the report expects that the tendency will again be for more registrations later on. I do not understand the underlying implication of that observation, because I believe one of the purposes of the new Companies Act was to prevent the growth of mushroom companies and we should have expected that the registrations would decline, and it is not a bad thing that there should be a decline in new registrations as such. Moreover, there has been a complaint in some quarters that there has been less private capital forthcoming in the private sector, and that it is due to the rigours of the Companies Act. But that also is not, to my mind, a very relevant criticism, because the capital that was required either for the private or the public sector was provided for in the Plan, and if less was provided for the private sector compared to earlier years, there would be less capital raised. The question is whether the capital that was needed in the private sector was coming forward, and if not, what are the reasons? Is it the new Companies

Act or other taxation measures that have been responsible for the new capital not forthcoming to the extent that it was doing previously?

I should also like to refer you to certain other defects in company administration that are pointed out in the report, namely, a tendency of public companies to convert themselves into private companies, or of managing agents into sole selling agents. It is stated in the report that this development is being watched. About ten months have gone by. I should like to know what has been the result of such investigation, and whether any action is contemplated

There is also reference to untenable practices in respect of inter-company investment. I should like to know what the position now is and whether Government propose to extend the scope of control now exercised only in regard to inter-company investments under same managements to investments by one company in any other company

Then there is also a reference to difficulties encountered in regard to the conduct of investigations into the affairs of companies. What is the Government's proposal to overcome those difficulties?

Although we enacted a very elaborate Companies Act in 1956, I believe it has to be conceded that it does not appear, compared to the position prior to 1956, either to have improved substantially the quality of management or the consciousness of shareholders about their rights. I want to say a few things on both. First, I shall take up the question of shareholders' consciousness. That shareholders evince very little interest in the companies whose shareholders they are is borne out by the fact that special resolutions are passed without any difficulty. As a matter of fact, a reference is made to that phenomenon

in the report itself At page 19, the report says

"The ease with which such resolutions are reported to be passed and the comparatively few cases in which such resolutions have been thrown out are a pointer not so much to the confidence in company managements in general as to the need for better awareness of their rights and responsibilities by shareholders"

In this situation, I have a few suggestions to make as to what is to be done

I should like the hon Minister to consider whether this elaborate provision in regard to special resolutions, particularly, in regard to over-aged company directors and appointment of relations, is still necessary, and whether that purpose might not be served by an advertisement in a newspaper, with the added proviso that if a certain percentage of the shareholders, let us say, two per cent or five per cent, should take an objection then a special resolution will have to be passed For, this provision creates a lot of difficulties and expense for companies I would like the hon Minister to consider whether it is worth while having this provision even now

The second question is how to make the shareholders more conscious of their responsibilities One solution would be to sponsor shareholders' associations in all areas which are industrially important I do not know what Government can do about it Of course, I am sure they would be willing, and they would give all assistance But if they can do something to help sponsor these associations, that would be a welcome thing I know that it may also have a bad effect, because, sometimes, the shareholders' associations may intimidate private companies, as we know some not-well-conducted trade unions sometimes intimidate their employers In the same

way, there is a danger here also, but if they are well run they will be very helpful to the shareholders

The third suggestion I would like to make is that Government may consider the appointment of an officer at the office of every registrar, wherever there is a registrar of companies, who will be like a public relations officer, and whose duty it would be to give service to the shareholders Most of the shareholders are now ignorant of their rights Take, for instance, the case of the rebate of income-tax Many shareholders are entitled to it, because the income-tax which a company pays is at a higher rate, but that rebate is not taken advantage of by them because they do not know the rules; and of course, Government gain But still it is the shareholders' dues, and if there were somebody who could educate them and tell them what to do, I believe they would be benefited Of course, if such a public relations officer were appointed, it should be advertised widely, and the functions he could perform should also be advertised

When we come to the question of managements it is agreed that what is necessary is a continuous watch on management A post-mortem, and that too very overdue post-mortem is often useless What this Company Law Administration is doing is in the nature of what the Public Accounts Committee does and that is not very helpful We have always to keep a continuous watch on the companies, I believe it is necessary not only that there should be an adequate organisation for that, but also that the organisation which will be keeping that watch should have charge of all agencies dealing with the corporate sector as such That is a very important matter

When the Companies Bill was under discussion, there was a lot of controversy as to what sort of administrative machinery should be set up for overseeing the working of the companies. There was a proposal for the setting

[Shri Bima] Ghose]

up of a statutory organisation. There was also an alternative proposal for a department to be in charge of that administration. For reasons which were explained by the then Finance Minister, the second alternative was accepted but he had given an assurance that company management and all related subjects would be dealt with by that department, whatever the department might be; call it the Department of Company Law Administration or call it the Economic Affairs Department, that is immaterial, again, it may be attached to the Finance Ministry or to the Commerce and Industry Ministry, that is also immaterial. What is necessary is that all the agencies dealing with companies should be brought together under one control. The assurance which the then Finance Minister had given was in the following words:

"The responsibility of this Department, namely the Company Law Administration will include not only the administration of the Companies Act but also such other institutions as are closely connected with the operations of the companies as far as stock exchanges, financial corporations, capital issue control etc are concerned."

When the Department of Company Law Administration was started, I believe most of these institutions were under the control of that department. Since then, many of them like stock exchanges, financial corporations, capital issue control etc. have been taken out of its scope of activities. I do not understand why, because the procedure that we had established was a wholesome one, and that obtains also in foreign countries, whether in Great Britain or in USA. In USA there is a statutory body; in Great Britain it is an administrative department; but whether it is a statutory body or an administrative department, the principle is accepted that it is desirable that the department concerned should deal with all the agencies that have anything to do with the corporate sector.

It has become very important today because we are pursuing a particular economic and social policy. Whether that policy is being fully implemented should be looked into by some centralised agency. Company management has become so important that it is not merely a question of shareholders today but it is a question of the utilisation of our scarce resources. Then, it is a question of assuring suitable conditions of work and adequate scope of employment to the labourers. So, it also impinges on the question of employment.

Let us take this case. For example, so many textile mills have closed down. And why are they closing down? Can there be no agency to see in time why they are closing down? Some may be in financial difficulties, but many closures probably are due to management defects. But the management defects are detected long after the closures take place. But if we had an institution which could oversee all the time how the managements are functioning, then I believe that not only can we save much in the way of our industries but it will also have a good effect on the employment problem. I believe that the question of law and order in company management today is as important as it was considered to be by the old British Government in the political sphere. The question of economic development is supreme today. Therefore, I feel very strongly on this point, and I would like to know what the attitude of not only the Minister but of Government is to this matter, because so many departments are dealing with companies. Now, some are carrying on investigations through other departments. Of course, the Commerce and Industry Ministry also carries on investigations, as for example, under the Industries (Development and Regulation) Act. I do not know whether that is also done through the Department of Company Law Administration. If not, there should be a liaison between the

agencies carrying on such investigations because unless all information about companies is pooled together in one particular place, I do not think we shall have a good control over companies and be able to rectify defects in management and assure good management, that is necessary in order to implement the Plan that we have taken in hand, and also to assure the success of the social and economic policy that we have in view. Therefore, I think, that this matter deserves very great attention, namely, that not only all agencies should be brought together but there should be a continuous watch.

In this connection, I would quote from the observations of the Company Law Committee which explained the necessity for continuous watch. It says

"The law can only provide against abuses which have already appeared and are widespread. The law which is appropriate to one set of circumstances becomes out of date when those circumstances change. It is not beyond the wit of man to circumvent the law. The weary task of reform must begin from where it has ended. It is only an appropriate organisation whose function is to maintain a close watch over the working of joint stock companies that can oversee the operations of the Companies Act and can keep track of new tendencies and developments and recommend suitable changes in the existing law either to nip the growing evils in the bud or to remove hampering restrictions."

I ask the hon. Minister as to whether they have this organisation today. If they have not, do they consider it necessary to build up such an organisation, and if so, whether they will do something soon? Because so many companies are closing down today on account of bad management, I believe the defects could be dealt with properly if these cases were taken up in

time, which would mean that there would not be so much waste of capital nor unemployment which closes on occasion.

Therefore I would again draw the attention of the Minister to this important problem and give his serious thought to it.

Shri Narayanankutty Menon (Mukandapuram) Normally in a discussion of this kind only the subject-matter of the Report is discussed—shortcomings of the Report and also certain aspects highlighted in the Report. But I submit that in this case the whole subject-matter of the Report is so important and it is so inter-linked with the entire company law in general that the discussion cannot strictly be confined to those points raised in the Report and those happenings during the year the company law administration was functioning.

Going back to the past history of the Companies Act itself, after a long and protracted debate covering almost 55 hours, this House passed the Indian Companies Act. You will find from the trend of the discussions during the debate the anxiety of this House was not to have certain technical provisions incorporated here and there, but the unanimous opinion of the House was that the maladies which existed prior to 1956 should at least be partially controlled or to an extent put an end to. After the Act came into force after that organisation which was the custodian and watchdog according to the words of the then Finance Minister, administered the company law for a year, this is the first opportunity the House has to test the real effects of the meritorious provisions of the Act which from all parts of the House were the subject of criticism. Assurances after assurances were given by the then Finance Minister that according to his convictions and according to Government's opinion, the provisions incorporated in the Bill at that time were sufficient to put a check on the maladies

[Shri Narayanankutty Menon]

existing in the administration of companies throughout India at that time. Further it was emphasised that in order that the overall policy of Government and Parliament be implemented, in order that there should be a check on the activities of private capital, in order that there should be a certain formulation in investment and also in the way in which private capital functioned in this country, the Companies Act would be a weapon in the hands of Government. In the light of these assurances and laudable objectives of the Act, the House should, when we are considering the first Report of the Company Law Administration, review the whole aspect and see how far those promises and objectives have come to successful fruition.

The primary principle when amending the Indian Companies Act comprehensively was first of all, to conform the functioning of these companies to the declared policy of Parliament the oft-repeated and sometimes too much repeated socialist pattern of society. It is not possible for any government or society to leave such a large chunk of capital which plays an important part in the formulation of economic policies in the country to a certain state of anarchic affairs in the hands of private capital which has got nothing to do with the Plan. Therefore, in the interest of the State itself, in the interest of the successful working of the Plan itself, there should be a certain amount of civilised and democratic control over private capital in this country.

The second objective was that the interests of the small shareholders should be protected by checking the activities of directors who hold a very large amount of shares, that is, the oft-repeated tyranny of the directors should be put an end to. The paramount consideration should be: how far these objects have been fulfilled by the new Companies Act?

First of all, how far, by the introduction of the new Act, have Government succeeded or this Parliament

succeeded in putting an end to or at least in controlling the maladies that existed as far as the operations of limited companies prior to 1956 are concerned? When we look into the history of the past one or two years after 1956, we find that even after the incorporation of these laudatory provisions in the Act, nothing has been done in that respect and private capital, as is invested in the private limited companies, is going on unbridled on its own course, and those maladies that existed in 1956 exist today, except for the fact that there has been a skin-deep scratch made.

I will first deal with foreign companies. When questions are put about foreign companies, Members of the Cabinet rise up and say that it is impossible to understand the real financial state of affairs of certain companies. When detailed questioning is done on the accounts of the foreign companies, the Cabinet Ministers say that they are helpless in the matter because the only obligation of the companies under the Indian Companies Act, in the words of the Minister of Mines and Oil, is to deposit a piece of paper called the balance sheet with the Registrar of Joint Stock Companies, from which something may be made out or at times nothing could be made out. How much has been earned by the company in a particular year, how much is the expenditure incurred, how much tax is paid, how much has been paid to the foreign employees and how much to the Indian employees—all these details could not be had even for the purpose of information in the Central Intelligence of this country.

I can submit before the House that these foreign companies, in spite of the provisions in the Act, have no uniform method of keeping accounts. With particular reference to certain questions answered here, we have come to understand that especially in the case of oil companies which control the

maximum amount of foreign trade in this country, there is no uniform method of keeping any accounts at all. This is not based on what I alone say. On the 20th May, Government entered into an agreement with the oil companies in which the latter agreed to pay on the interim basis Rs 10 crores subject to the condition that the government auditors and accountants would examine the accounts of the oil companies and find out what is the real state of affairs. Six months have passed. The government accountants have gone to the oil companies, but till now they are not able to understand even a single piece of paper that the foreign companies have got because the entire accounting is done on the code system on the slotting machine, and Government are afraid to admit that they are not able to understand it.

The Deputy Minister of Commerce and Industry (Shri Satish Chandra): How is that matter connected with the subject under discussion? It is not even remotely connected.

Shri Narayanankutty Menon: It is very relevantly connected.

Mr. Chairman: The very purpose of enacting the new Companies Act was to get more control over these companies. He is complaining that so far as foreign companies are concerned, there are no provisions whereby Government can ask them to place their full accounts before the Government.

Shri Bimal Ghose: As a matter of fact, there was no proposal when the Companies Bill was being discussed to make any distinction between Indian and foreign companies. Of course, there is no objection to what he says.

Mr. Chairman: The hon Member's complaint is that the Companies Act is not sufficient to exercise control over foreign companies. There is no warrant for saying that control which

was expected to have been got by the Act over these companies has been got. The hon Member says that there are no provisions and, therefore, you cannot get the foreign companies to .

Shri Bimal Ghose: There was no discussion about that. But his criticism as such is a valid criticism.

Shri Narayanankutty Menon: Even the answer given on the floor of the House in reply to starred question No. 194.

Mr. Chairman: If there are no provisions, then, it follows that the company administration cannot do anything in respect of those companies. Therefore, there is a case for criticism of the working of the Companies Act as it exists and there is no use complaining that the company administration has not been careful in so far as this report under discussion is concerned.

Shri Bimal Ghose: He is suggesting an amendment.

Shri Narayanankutty Menon: Sir, I said in the very beginning that instead of confining the discussion to

Mr. Chairman: As a matter of fact, we find that when we are discussing this report, suggestions are coming from the hon Mover of the motion and also from other hon Members that the Companies Act is defective and should be amended. Then there is a case for bringing a motion to that effect. But here we are only reviewing the working of the Act—the administration of the Companies Act since 1956.

Shri Bimal Ghose: May I say that the Viswanatha Sastri Committee's recommendation is referred to in this report? It has recommended certain amendments of the Act and, therefore, this becomes relevant.

Mr. Chairman: Is there any recommendation relating to foreign companies?

Shri A. C. Guha (Barasat) There is a chapter on foreign companies in this report.

Mr. Chairman. Therefore, I say that this debate is developing really into a debate for suggesting amendments to the Act. But now we are reviewing the working of the Act. There is no objection on the part of the Chair to allow these things being mentioned as suggestions in respect of the amendment of the Companies Act.

Shri Narayanankutty Menon. May I submit that when the working of the Companies Act during the previous year is being reviewed and certain defects are noticed not only in the working but also as regards certain sections of the Act which are referred to in the report it is for the House to decide whether in reviewing the report we should not suggest suitable steps as far as the Government is concerned for plugging certain loopholes that are found in the Act. So, to a very limited extent

Shri Braj Raj Singh. May I submit in this connection that the terms of reference of the Viswanatha Sastri Committee are —

- (a) to overcome practical difficulties in its working,
- (b) to remove such obscurities in it as may have interfered with its proper working,
- (c) to ensure better fulfilment of the purposes underlying it, and
- (d) to consider what changes in its form or structure, if any, are necessary or desirable to simplify it.

Shri Satish Chandra. We are not discussing that report here. We are discussing the administrative report on the working of the Act during 1956-57.

Shri Bimal Ghose: In the report we see

Shri Braj Raj Singh. This is in the terms of reference of the Company Act Amendment Committee.

Mr. Chairman: That is exactly the objection—that we are not considering the report Viswanatha Sastri Committee (*Interruptions*)

As a matter of fact, the notice which was given by hon Members mentions certain points on which the attention of the House would be focussed. There it is stated that the following are the points

- 1 Loans to directors,
- 2 Inter-company investments,
- 3 Courts' liberal attitude in cases of infringements of the provisions of the Act,
- 4 Limited power of investigation, and
- 5 Administration of the Companies Act and its connection with allied matters.

These are the only points mentioned and the hon Member should confine his attention to them.

Shri A C Guha: Sir, I think that is not a correct statement of the position. I was also asked by the Lok Sabha Secretariat to give some points. I said categorically that it is not possible to give an exhaustive list of all the points. I only mentioned that among other things these are the few points I would wish to touch.

Mr Chairman: The only purpose of asking the hon Members to give the points is that these points only should be mainly discussed. The Chair is there to permit the discussion of any other points that may be coming up. But these points are new and are not mentioned in the notice. They are not even remotely relevant to the discussion of the report. Then the discussion would roam over very large subject and become very wide of the

mark. It is very difficult to answer all those points unless specific attention is drawn to them in the matter. The hon. Minister may or may not be ready with those points which were not mentioned in the notice. He may not be quite prepared with regard to all those other points. If it becomes a roving discussion it will become very difficult to control it as also to give proper replies.

Shri A. C. Guha: I may submit that the Lok Sabha Secretariat's letter mentioned that if we so desire we may mention the points on which we wanted to discuss so that the Minister may be ready. It was not compulsory on our part to give the points exhaustively.

Moreover, these foreign companies form the subject of one of the chapters in this annual report. There is a separate chapter on foreign companies. So, by its very nature it cannot be said that it is irrelevant.

Mr. Chairman: If the rules require that the points should be mentioned, what is the purpose of that requirement? The only purpose is that it would be open to the hon. Members mainly to focuss the attention of the House on those points. If the rules do not require that all the points need be mentioned, it does not mean that a discussion on the whole of company law is possible on account of the consideration of the annual report. I am not going to be very strict so far as this is concerned. But what I would expect is that the discussion shall mainly be focussed on those points which are mentioned.

Shri Narayanankutty Menon: When an annual report is under discussion and details are mentioned in each chapter, the hon. Minister should have expected that those facts which are contained in each chapter would come up for discussion apart from the points on which the hon. Mover might have indicated his intention to speak. My

submission is that whatever I have stated and what I am going to state hereafter will very clearly and safely come within the points that have been raised. This particular point is relevant in the reference to foreign companies—in connection with the point of limited power of investigation because after signing that agreement with that company Government is absolutely powerless to get any details of the agreement under the Companies Act.

Mr. Chairman: According to the hon. Member if he says that the expression 'limited power of investigation' is given in the notice, it only means 'limited power in respect of the powers confined in the Act' whether they should be widened or not. The hon. Member stated previously that no powers are given so far as the foreign companies are concerned. If no powers are given, then any question of reviewing the powers not given in respect of foreign companies are exercised rightly or wrongly would be widening the scope of relevant discussion. In so far as that is concerned, in the absence of any powers in the Act itself, I hope the statement made by the hon. Member is certainly wide of the mark and is irrelevant.

Shri Narayanankutty Menon: On page 49 of the Report, it is said:

"In May 1957, the then Finance Minister decided to set up an informal Committee to go into the Companies Act 1956 with the following terms of reference:—

- (a) to overcome practical difficulties in its working;
- (b) to remove such obscurities in it as may have interfered with its proper working;
- (c) to ensure better fulfilment of the purposes underlying it; and
- (d) to consider what changes in its form or structure, if any, are necessary or desirable to simplify it."

[Shri Narayanankutty Menon]

Certainly, if we have noticed any defects in the working of the Act, then any suggestions to get rid of those defects and also suggesting amendments to the Act is within the scope of the discussion on the report itself. Whatever I have submitted comes within the scope of discussion. It is stated on page 49 of the Report and the hon. Minister is expected to be prepared with all that. That is why I am bringing these matters here in an indirect way.

My submission was that the present provisions relating to foreign companies in the Indian Companies Act are not sufficient, because the way in which these foreign companies, in conformity with the provisions of this Act, have given you the accounts has not given any satisfaction as far as the Government is concerned. It has not given satisfaction as far as the Parliament is concerned; it has not given satisfaction as far as the country is concerned. A large amount of foreign capital is still being invested here. The Parliament having decided to have certain control and check as far as the working of that capital and the control of profits are concerned, if today when we are discussing the report of the Company Law Administration, we are powerless to decide about the real state of affairs of the particular company certainly the working of the Act has failed. It is high time the Government looked into that particular provision whereby the Government could get reasonable information of the working of the companies.

16 hrs.

According to the provisions of the Companies Act relating to the foreign and Indian companies, their balance sheet and profit and loss accounts are to be filed before the Registrar. The intention is made clear in the Act;

it is to get a real state of affairs of the finances of that particular company for the previous year. Unless the Registrar and through him the Government gets the real state of affairs of the finances of these companies, the very purpose of that particular section which compels the companies to file these accounts will be defeated. Whatever might be the lacuna, it should be rectified. I am not saying there is no lacuna. The Government gives the interpretation that they should only deposit the balance sheets. Whatever it might be, I submit that the present state of affairs as far as the foreign companies are concerned is deplorable. The Government is not getting enough information on that subject. Many Ministers have repeatedly admitted while answering questions, the real account of even the foreign exchange that these people are spending in their travel and that the others are sending by way of trade transactions or profit is not being filed with the Registrar. So, it is high time that the Government comes forward with a better scrutiny of those provisions of the Companies Act and bring forward an amendment so that it will be in a position to know the real state of the finances of each foreign company as in the case of the Indian companies so that this deplorable and unsatisfactory situation will not prevail.

After incorporation many sections purporting to control the managing agency system and the interlocking of companies and monopolisation, is there any satisfactory change in these affairs of monopolistic groups which act to the detriment of the shareholders? According to this law, the directors are supposed to file with the Registrar the balance-sheet and the profit and loss account. It has been said that these should give a real picture of the transactions of the previous year and the profit taken. What is happening today is this.

In these companies, the real size of the profits is one and it is shown in

another way in the profit and loss account. Concealed profits are being taken by many companies in the country. We have instances where the directors who are the directors of more than ten or twenty companies getting a foreign exchange allowance of Rs 250 only from the Government go to America for business purposes and stay in the Waldof Astoria Hotel for fourteen or twenty days with this amount and then they come back to this country. Later on, we find that these people are directors of more than fifteen companies at a stretch. Their entire expenses are somehow met by these companies. How can this House believe that businessmen going from India with Rs 250 as foreign exchange, can spend about three or four months in America staying at such big hotels? Where does this money come from? I am connecting the whole thing to the balance-sheet for one simple reason. We find today that many of India's businessmen transacting business in overseas on behalf of their companies, with Government's blessings, are accumulating foreign exchange both in the United States and in the Continent. How is it possible today? It is possible because of the way in which they are supposed to keep the account, the way in which the Government exercises its control and scrutinises the foreign exchange transactions and the way in which auditing is done. That is why these people are able to accumulate foreign exchange without the knowledge of the Government or the Reserve Bank of India. How can a single businessman who has got ramifications of business with different export and import companies amass foreign exchange without the knowledge of the Government? It is simple. In a business transaction, while an invoice is made when a particular thing is imported, the whole invoice price is put in a way which has got no proportion at all to the real price. But only the real market value is paid in the United States. The difference is deposited in a particular bank in that country in the name of this businessman so that he can spend it without the knowledge of the

Reserve Bank or the Government of India. There is also nobody to scrutinise it on behalf of the shareholder or on behalf of the Government of India.

Again many of these exporting firms do not keep the normal account. When they sell things they under-invoice things and the difference is kept there in the name of this businessman so that when he goes there every year—almost as a religious duty to travel to these countries—for business transactions, they are able to manipulate for another business transaction the excess foreign exchange there.

Shri V P Nayar (Quilon): They take their wives and servants.

Shri Narayanankutty Menon: All these things are possible because of the inadequate provisions in the Company Law and the incapacity and the inability of the Company Law Administration, because of the weakness of this Act to go deep into the question. Whatever might be the dubious methods used in manipulating accounts of a particular company, the auditor is helpless to probe into the real state of affairs of the company apart from accepting the transactions that had been given to the auditor. He gives a simple certificate that as far as the books are concerned, he has got a proper account. From the experience before us, they should have come to the conclusion that this sort of auditing and depositing of papers with the Registrar is not at all enabling us to know the real state of affairs. The Government should consider what steps they could take under this Act, or what amendments they should bring if they are unable to take steps under this Act, to scrutinise and control these transactions in a better and effective way.

All the sermons given in the Act and all the sermons that the hon. Minister is going to give us today about the interest of the small shareholders will remain on paper. The small shareholder even today after

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this Act has come into existence, is the sorrowful spectator of the whole transaction done by a few directors. All the rights he has got under this Act are only a misnomer as far as the practical transactions are concerned. In the interest of the country, the small shareholder should be given better protection and it can be done only by amending the Act

In another kind of transaction also, the Government is completely helpless. How it cannot simply do anything is demonstrated even when so many transactions which have happened are brought to its notice. A question was answered on the floor of the House yesterday. Whatever might be the merits of the case it is not proper for us to discuss the merits of that particular case, but a case has come to our knowledge where one industrialist who was given a certain amount of foreign exchange comes back from overseas, after spending almost double that foreign exchange, with double the amount of foreign exchange that was given to him. At the same time, he keeps an account of a hidden foreign exchange which is available for his benefit in the different banks overseas. If he would have been a businessman, a director of a single company, the malady would have been confined to the four corners of that particular company. But under cover of the law, under cover of Government's policy and also, to an extent, Government's own patronage and the patronage of big personalities, it is easily possible to have a situation where an individual director of one company is not a director of one company alone, but interlockingly he could control the entire finance of a big monopolistic concern which could lay its hands upon the export trade the import trade and also have a large amount of foreign exchange transactions because of the individual being a big man in a bank which controls large amounts of foreign exchange.

Sir, in spite of the working of the Companies Act, in spite of the sermon that monopoly has been put an end to, in spite of the sermon that interlocking of companies has been put an end to, these people are controlling with one hand big banks having power to transact large amounts of foreign exchange, and with the other hand they control different companies doing export trade, import trade and also home trade. Is it difficult, Sir, for a single individual to bypass the provisions of a simple, innocent Act and thus have concealed incomes in other countries where they have different Companies Acts and are able to have concealed incomes to a very large extent?

Therefore, I submit, this malady can be put an end to not only by withdrawing the patronages and privileges given to them; it can be put an end to only by exercising stricter control over these people so that they will not be allowed to put their finger into different pies. By this ramification of the whole mechanism of banking companies, export companies and manufacturing companies these people are able to accumulate, as I said, under their cover, a huge amount of illegal money both in this country and also unauthorised money overseas and the Government finds itself unable to find out.

Normally, this case having come limelight today—I am not saying anything against the particular individual, because I take it for granted that any individual of this type if he is given an opportunity to bypass and jump over law will be inclined to jump over law so that he will have more money as he himself has no security for tomorrow—that is a pointer today for the Government, that if this could happen at the Palam Airport as far as one industrialist is concerned there should be an alarming picture existing today as far as other industrialists are concerned with regard to the whole foreign exchange position and also company transactions.

My appeal to Government is, if you really want to put a stop to this malady, if you really want to put an end to this whole process of un-identified and hidden accounts, certainly you will have to do something more, certainly you will have to amend certain provisions of the Companies Act and come forward with certain aspects of the whole thing so that you may get even an idea of the whole transactions that these people are indulging in today

One more point I want to submit and I will conclude. A pointed reference has been made in the annual report about upstream loans and how the Company Law Administration look into this. Instances have come to light last year to show that the very idea of upstream loans is very fictitious in character. A loan, Sir, means that there is an intention to pay it back. If you look at these loans from this particular aspect, that essential quality of a loan is lacking; there is no intention to pay back at all. What is the result? In many textile mills, as my hon friend pointed out, we find that the managing agents who are managing the mills in a particular State take loans for some other charitable trusts or companies that they are managing. They take very huge amounts of money, during the past or preceding years and at the meeting of the next year, the whole thing is written off. I do not know whether the hon. Minister knows this. There is a very big textile mill in Kerala, managed by Alagappa Textiles. There, lakhs and lakhs of rupees have been taken every year for the past several years, as loan for a charitable institution which he runs somewhere in Karaikudi. The loan was never approved by the shareholders and then, later on, the whole question of loans came up before the body of shareholders. Some of the shareholders objected to that. But the directors simply said that the loan could not be recovered and that it should be written off. In effect, today, the whole loan was written off. In

the purchase of machinery, in the valuation of machinery, etc., it has been reported that in the same textile mill there was a lot of dubious transaction, and now, the mill is at the point of closure.

Shri Satish Chandra: Who gave that loan?

Shri Narayanankutty Menon: The managing agents

Shri Satish Chandra: I mean the loan to the company. Was it given by the Government?

Shri Narayanankutty Menon: No, no. The Alagappa Textiles gave the loan to some charitable trust in Madras whose director is the late-lamented Alagappa Chettiar. The director of the managing agency firm was also Shri Alagappa Chettiar and the director of the Alagappa Textiles was also Shri Alagappa Chettiar. Now, what happened today is, the loan has been written off because it could not be recovered. During the last year, when the workers demanded bonus, the accounts were shown and it was pointed out that Rs 8 lakhs have had to be written off and that therefore no bonus could be given not only this year but also for subsequent years. It was said that the loans could never be recouped and the losses never recouped.

I have also heard recently that the entire affairs of the company have been in such a condition that something has to be done about. The Company Law Administration has to go into the matter. I have pointed out specifically this company. But there are other such companies in other places too. The industrial crisis, if such are the affairs, will become a major problem. The question of retrenchment will become a major problem. All these questions are posed before the Government, and the Government tries to solve these problems in a different angle. But the main, root cause of all these problems lies

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in the conscious mismanagement of the private sector where there is absolutely no obligation to carry out the so-called policies laid down by the Government, and the real policies laid down by the Parliament. Their only obligation is obligation for themselves, namely, to accumulate more money, if required without the knowledge of the shareholders, necessarily without the knowledge of income-tax authorities and absolutely without the knowledge of the Government, so that in such an unsocial and irresponsible way they could carry on. The control over this is lacking, and the Government looks for remedies in some other sector. The mills are closing down, and in some cases the managing director is among those at fault, because of such troubles. All these maladies

All these maladies are mainly due to the irresponsible control over the private industries. I am not submitting that the whole thing could be nationalized in one day, but in consonance with the declared policy of the Government, if the Government want a certain extent and quantum of control, if they really want to exercise that control, if they do believe in their policy, that amount of control could not be exercised as far as this particular Act goes at present. If they really want to exercise that control, certain amendments will have to be made to the existing Act.

Further, the Company Law Administration should be the real watchdog of the private capital which is so essential as far as our Plan is concerned, and as far as our entire national economy is concerned. Even though, because of expediency of the Government's policies, today, the Government decides on the principle of mixed economy, as long as there is the socialist pattern of society, private capital here will not be in favour of socialism, and.....

Mr. Chairman: His sentences are interminable. I wanted to stop him when he finished his sentences on a particular point but he goes on, sentence after sentence without finishing the point. I request him to stop now since he has already taken more than 40 minutes.

Shri Narayanankutty Menon: 15 minutes were taken away by interruptions.

Mr. Chairman: Interruptions are as a rule counted in the time allotted for the Member. That was the practice announced when I was speaking two days back when the hon. Deputy-Speaker was in the Chair. I would now request the hon. Member to finish. His sentences are interminable.

Shri Narayanankutty Menon: At least you might rule that the time taken by interruptions will not be counted

Mr. Chairman: I have already said that the hon. Member should close now.

Shri Narayanankutty Menon: I shall conclude by saying that this private industry which is really controlling a large sector of our economy, should be effectively controlled. It should be put in its own place in the socialistic economy of the country. Till the socialist pattern is worked out completely, there should be stricter control which is absolutely necessary. Further, the Company Law Administration should act as the watchdog of the unruly elements which are let loose on our economy, and until such time as the Government and this Parliament ends the private sector, the Company Law Administration should act as the watchdog over the private sector, so that they will not trample upon the national economy hereafter.

Shri Achar (Mangalore): Though the new Act has worked only for a

year and it is too early to pass any judgment as to the effect of this new Act, I fear that the facts disclosed in this report gives rise to certain grave doubts. The Opposition Members would like to see that private limited companies are wiped out and probably they would like to have the funeral oration to the private sector. From their point of view, they think that the control is not sufficient, but seeing the facts disclosed in this report, one feels certain grave doubts as to what has happened to the private sector, especially with regard to limited companies. Whatever my friends from the Communist side may say, at least the Government feels that there is a certain scope for the private sector.

The report clearly discloses that the number of registered companies are decreasing. Not only that. The capital invested is also decreasing. With regard to that, I might refer to Table I, because it gives all the figures. In 1954-55, the figures are number of public companies registered 211, private companies 992 and total 1203. In 1955-56, the figures are public companies 186, private companies 1262 and total 1448. Let us look at the figures subsequent to the coming into force of the new Act. The new Act came into force after almost a revolutionary change after a century. The registering of companies started sometime in 1853. It was to a certain extent modified in 1930, but more important changes were brought about in 1956. We know that a committee was appointed as early as 1952. The committee considered the whole matter for a long time and the new Act was passed in 1956. The new Act came into force on 1st April, 1956.

After this Act came into force, the figures for 1956-57 are: public companies 84, private companies 764 and total 848. So, the total number which was 1448 in 1955-56 had come down to 848 in 1956-57. As I said, though the Communists and other people who

are complete advocates of the public sector and who would like to have a funeral oration for the private sector, might think that the situation is very good, still there are some of us who feel that the private sector has also got some scope in this country.

16.25 hrs.

[MR. SPEAKER in the chair]

I am certain about this point. Government are in favour of private sector and public sector. From that point of view, I would say these figures are thought provoking. Not only that. It may also be remembered that when we look into the capital invested after this Act came into force, we find that it is very much less. In addition to that, even in the figure are included a large number of companies sponsored by the Government itself. Even including that the capital is not very much. I am referring to page 10, "The size pattern". If you look into the table on the next page about the size-distribution of companies in 1954-55, 1955-56 and 1956-57, you will find that companies having an authorised capital of Rs. 1 crore or more during 1956-57 was 28, as against 42 in 1954-55. Even here we must remember the more important flotations with an authorised capital of Rs. 5 crores and more are the National Coal Development Corporation Private Ltd., Heavy Electricals Private Ltd., Neyveli Lignite Corporation Private Ltd., Western Shipping Corporation Private Ltd., Indian Rayon Corporation Ltd. and so on. If we exclude this capital we can realise what exactly the private sector is prepared to invest after this Act came into force. The Government, rather the report, refers to these facts in page 9. I will only read a portion of it, and not the whole. It says:

"The small deviation in the percentage of new companies formed cannot be attributed entirely to the greater degree of disclosure and control imposed on public companies and private companies which are their subsidiaries.

[Shri Achar]

The trend is, however being studied. There was also a fall in the number of companies registered in 1956-57, as compared with those registered in 1954-55 and 1955-56, although their aggregate authorised capital exceeded the corresponding figures in 1955-56. The fall in the number of companies registered in 1956-57 is attributable to several causes. Exaggerated apprehensions about the provisions of the new Companies Act may have led to a rush of registrations during the last quarter of 1955-56, just before the enforcement of the new Companies Act. This naturally affected the number of subsequent registrations. Company promoters and others interested in corporate activities may have also wanted fully to understand the ramifications and implications of the new Company Law before forming companies under the present Act. Further, the limit set on the number of companies with which a managing agent or a director could remain associated may have also partially encouraged the recent tendency to set up new departments of existing companies rather than incorporate new companies."

Whatever it be, one thing is certain. The private sector is getting very shy. There is no doubt that less amount is being invested by them. The Government, at least this Report, seems to think that it may be due to the fact that they did not know the provisions of law or it may be due to the fact that when they knew that a new Act is coming into force they were not prepared to register the companies. With all respect, I would like to submit that industrial magnates or people who invest and promote these companies are not such people who do not understand matters. My submission is that it is not because of these facts that investments are not made in registered companies. There may

be certain difficulties. I do not say that, in our present set-up of things, there should be no control over the private companies. The very basis of the Act was also that we want control over them. At the same time, we have also to consider this aspect of the question. Why are these private individuals not coming forward with capital? How is it that companies are not being registered as they were formerly? I do not feel that the reasons given in the annual report, that the business people are ignorant people, people who do not know the matter and that is why they are not coming forward, would be the proper reasons. We are, as the policy of the Government shows, in need of capital. There is no doubt about that. We want even to attract foreign capital. I remember, the other day, the Deputy Minister made a statement that foreigners, including the Americans and British, are willing to invest money in this country. For our development, we want money, not only from our own people, but from foreign countries also. Our taxation laws, our Company laws are coming in the way of getting sufficient capital. I do not say, all of a sudden, we should change or anything of that kind. My submission is only this. This requires considerable amount of thinking. I do not think that this going down of the number of companies or this withdrawing of the capital is simply due to any ignorance. Capital is shy. Our economy has both a private sector and a public sector. From that point of view, I would like the Government to consider this matter seriously.

Another aspect of this matter is further illustrated from the facts disclosed regarding winding up of several companies. I would like to draw the attention of the House to page 41. During the year, that is, the year of report, 333 companies were reported to have gone into liquidation. Of these, 223 cases were of members' voluntary liquidation, 59 of creditors' voluntary liquidation, 47 of compulsory liquida-

ion and 4 of liquidation under the supervision of the Court. In addition, 184 companies were struck off the register by the Registrars of Companies under section 560 of the Companies Act, 1956, and 141 were reported to have been finally dissolved after the completion of the winding-up proceedings. Certainly, this is not a very happy state of affairs so far as the position of these companies is concerned. I know a Committee has been already appointed under the Chairmanship of Shri Viswanatha Sastri, an ex-Judge of a High Court and his report has also been circulated to Members. That Committee has been requested to suggest certain amendments. But, I find, in the report, the Committee restricts itself and restricts its scope to suggest amendments only with regard to minor changes. That Committee does not seem to go into the question of policy. I would appeal to the Government as well as to the Minister to consider whether the position now we are in with regard to these private companies, does not require careful consideration. I do not for a moment say that companies which are maintaining false accounts or committing fraud, or making huge profits and not allowing anything to the servants, should be encouraged. That is not my view. At the same time, we should not entirely sap the source of the private sector from our point of view of economy of both a public sector and a private sector. I would submit that this aspect should be considered. Though one year by itself may not be sufficient, I submit, there are certain indications and I appeal to the Government to consider this aspect.

An Hon. Member: What is your concrete suggestion?

Mr. Speaker: Shri P. R. Patel: Before the hon. Member begins, may I know how many other hon. Members want to speak?

Shri A. C. Guha: My name is appended to the motion.

284 (A) LSD—8.

Mr. Speaker: Unless the hon. Member stands up, how can I know?

Shri A. C. Guha: I stood up several times.

Mr. Speaker: I do not know why he did not catch the eye of the Chair

Well, Shri Guha and Shri Chaudhuri. And then, how long will the hon. Minister take?

Shri A. C. Guha: I think both of them will speak.

Shri Satish Chandra: I will speak at the end and take about 20 or 25 minutes. *Twenty minutes, I think,* should be enough, but the Commerce and Industries Minister wants to intervene for five or ten minutes.

Mr. Speaker: Both of them will take 30 minutes. We are rising at 5.30. Therefore by 5 O' Clock these hon. Members should finish.

Shri P. R. Patel (Mehsana): The report gives some idea about the administration of companies. It makes happy reading and at the same time unhappy reading. The happy reading is that we are having good control over public and private companies, and when there is any misappropriation or any offence committed, we look into it, prosecute them and see that in future no such thing happens.

We cannot do away with the private sector. We know it has served the country well in the days of the Britishers and thereafter. We are putting steps in the public sector, but we cannot do away with the private sector. Naturally there would be misdeeds in the private sector as well as in the public sector, and because there may be some cases here and there, we cannot condemn the private sector altogether.

Though after much labour we had the new company law, one year's experience shows that it requires some

[Shr P. R. Patel]

modifications, some changes here and there. It requires to be revised. I hope the hon. Minister in charge will look into the matter.

16.38 hrs.

[PANDIT THAKUR DAS BHARGAVA in the Chair]

At page 41 the report says:

"Section 463 for the first time gives statutory control for the Central Government over the work of Official Liquidator. The exercise of these powers will ensure greater despatch in the disposal of liquidation proceeding and greater control over accounts of liquidations."

However, there were certain companies registered under the old law and there are certain difficulties. I shall read out paragraph 92:

"As regards the administrative difficulties experienced by the Government, the most important was the one of exercising adequate control over the work of the liquidators of companies which had gone into liquidation under the 1913 Act. Clause (ii) of section 647 of the 1956 Act stipulates that, except in regard to the companies' liquidation account mentioned in sub-section (7) of section 555, the other provisions of the present Act relating to winding-up would not apply to companies which had gone into liquidation before the commencement of the 1956 Act."

And as many as 2,280 of such companies are under liquidation. The liquidators are there, but the Central Government has no control over them, nor can Government ask them to finish the matter early.

Some days back I put a question regarding one company registered in Calcutta, i.e., Jenak Limited, which is

under liquidation, and the reply was that as the company under liquidation was registered under the old law, it was outside the scope of Parliament and that it was a State subject. That is nice and good, but once the Companies Act is within our purview, we must change the law so that we may look into all these things. The Jenak Co. Ltd. is in liquidation for the last eight or ten years. Some lakhs of rupees have been collected by the Liquidator, but that is not distributed, and we cannot do anything. In para 92 of the report, the Government also feel that something must be done. I hope Government will do that as early as possible.

Then, we find that some public companies are turned into private companies. That is just natural. I do not complain against it, because under the Companies Act, if the number of shareholders is less than 50, and they so choose, they may change the character of the company from public to private, because, in private companies, they have got certain concessions, so far as control etc. are concerned. After all, it becomes an individual company or the company of a family, and the powers regarding public companies cannot be exercised in the case of private companies.

However, I would like to suggest that we must enquire into the reasons why public companies have been turned into private companies and why the tendency is increasing, and we should consider whether we should have some change in the law, so that the tendency may not be on the increase.

We look rather with suspicion at the private sector. We may have the public sector, and we should invest more and more in the public sector, but looking at the private sector with suspicion makes the private sector rather shy in regard to their progress. If there be some mistakes here and there, they may be prosecuted. I do not say, no, to that, but it is not proper to give bad names always.

After all, we require industry in our country, and the private sector serves the country that way. I would, therefore, submit that the administration should not see with a suspicious eye at the private sector.

Then, there is a clause in the Companies Act under which directors are required to furnish names of their near relatives. I do not say it is bad. But I would suggest that in Government companies also, the managing director or whoever be in charge should be asked to furnish names of persons in service, if they are related to some persons in the high offices of Government. The tendency is that even foreign companies engage some near relatives of the officers, and sometimes, Ministers; and some private companies of Indians also engage such persons. The result is that they get the monopoly to go on with the concern in the way they like.

I would suggest that the public companies, private companies as well as Government companies should be asked to furnish lists of employees who may be related to some persons, in the government office and so on.

There is one thing I would like to mention. The industries must also treat labour fairly. Labour also should have their dues. I have received a complaint that one textile company in Bombay State has engaged a near relative of a union worker. Once this is done, the Company is saved from the duty of doing justice to labour. The result is that the old labourers have been removed from the service of the company and new ones engaged. I would suggest that in the next report that may be put before us this information may also be furnished.

Lastly, the Report does not contain one piece of information, and that is, contributions made by private and public companies to political parties or to elections. I would suggest that disclosure of such information would

help us to know what contribution is made by limited companies to the funds of political parties.

Shri A. C. Guha: The working of the Companies Act can be reviewed only in the background of the purpose for which this Act was passed. There was a Company Law Committee which made certain suggestions. Most of those suggestions were accepted. The Committee itself said that acceptance of certain broad social objectives and some recognised standards of behaviour was the purpose of this Act. While piloting the Bill the Finance Minister also mentioned about the attainment of the ultimate end of a social policy. He also mentioned that this was a question of balancing the interests of the private sector with the social interests. So we should consider the report of the working of the Companies Act during the first year in the light of these objectives.

One objective is that there should not be concentration of wealth in a few hands. It is also the objective of the Second Plan that the disparity between the richer and the poorer sections of the people should be reduced and there should, more or less, be equal distribution of wealth, at least equal distribution of opportunities. In the Report, the first thing we find is that the number of companies has gone down during the first year, but the share capital of these companies is higher than that in the previous years—though the number is more than 35 per cent less than the previous year. Even if we exclude a few government companies, I think the trend is towards having bigger companies with bigger share capital. It has been said in the Report that 28 companies would cover about 81 per cent of the entire share capital of all the companies registered during the year. Of course, out of the 28 companies some were government companies. All these 28 companies would have about Rs. 161 crores out of Rs. 211 crores of share capital of all the companies. Excluding the government

[Shri A. C. Guha]

companies—5 or 6 of them—the other bigger companies would have a very bigger share of the total share capital of the companies registered during this year. This is a trend which would go to show that nothing has been done to check the concentration of wealth in fewer hands.

My friend, Shri Bimal Ghose, is rather happy at this trend because he has said that mushroom companies should not be encouraged. But smaller companies need not necessarily be mushroom companies. I think Shri Ghose is also connected with some of the smaller companies which cannot be called mushroom companies. The policy of the Government should be to see that poorer people, people with modset means, are allowed to play their part in the industrial development of the country at least as long as private enterprises in this field is allowed. *(Interruption.)*

During this year about 1,041 companies have gone into liquidation out of which 987 were with a share capital and the others were associations without any share capital—not for profit earning. Total share capital involved in these companies is Rs. 759 lakhs. I do not know what has happened to the shareholders of these companies. I think liquidation proceedings even under this Act are as tortuous as you can possibly imagine.

I would like the hon. Minister to say something about the fate of the shareholders of these nearly 1,000 companies who invested about Rs. 760 lakhs—to be accurate, Rs. 759 lakhs—of their hard-earned money. How much would they get back as a result of these liquidation proceedings?

In the Act, there are some provisions for investigation into the working of the companies. In the report we find that it is hardly possible to get the adequate number of

well-qualified inspectors. Apart from that, their powers are limited. If the management declines to submit the reports, they can only file cases in the court which means that the management may carry on for two, three or even four years with the work of doing all sorts of mischief. Neither Government nor the Inspector has got any authority to compel the delinquent managing authorities to submit report or surrender their books or to take some interim measures to prevent them doing further mischief.

In this connection I may also mention about certain provisions for safeguarding the interests of the minority shareholders. There also the report does not give any encouraging picture. I feel the process is somewhat rigid and formal. I know of several cases where the minority shareholders approached the Company Law Department or the Regional Registrars but could get hardly any protection or relief. That aspect should engage the attention of Government and they should try to give real protection to the minority shareholders against the mischievous activities of some people who might have a majority of shares or have covered the shares. Then, cases are sent to the Court for not holding the annual general meetings in time or for not submitting the balance sheets in time or for not preparing the annual reports in time or for other things. There also I find the Court is taking a very lenient view. Out of 573 cases, the penalty imposed comes only to Rs. 28,954 in the form of fines. It is a little over Rs. 50 per case. In the now famous Mundhra cases we have seen several cases against him. He paid the fine and came out to enjoy all his adventurous pursuits in the industrial field.

I can understand it is difficult for the Government to say anything to the Court but still it should be mentioned that the Court should take not so lenient a view of the violations of

this Act. That would practically nullify the purpose for which the Act was passed. If necessary the Government should bring forward an amendment to raise the penal provisions of the Act so that the court may have not so low a limit of punishment. The courts generally inflict the minimum punishment which is very low at present. If necessary, those provisions may be amended to raise the minimum limit of punishment so that adequate penal measures may be taken against the violators of the provisions of this Act.

Then, there is the creation of loans to directors. I find a very dangerous concession allowed by the Department in some cases. Within one year from the commencement of the Act, the loans had to be approved or to be repaid. But in many cases, the loans have not been repaid and "in order to obviate the hardship fresh loans for limited periods have been allowed" That means the same loan has been made to appear as a fresh loan to these directors. I think the Department should not be a party to this attempt to by-pass the provisions of this Act. This is a bad precedent and this should not be allowed any further

The inter-company investment which was one of the main allegations against the private enterprise;—this point was very much raised when the law was discussed—has been going on even now. Several cases have been mentioned in this report. We have also reports from other sources, apart from what are mentioned here. The inter-company investments, an unhealthy phenomenon in the economic life of our country, is still going on. Along with this would come the question of the cornering of shares. One case has been mentioned here in which the beneficial ownership in respect of 79,359 ordinary shares and also a number of preference shares stood in the names of individuals "belonging to an identifiable family group". In another company, about more than 86,000 shares belonged to the members of the same family. These things are

going on even now. Only about two or three days ago, I received the copy of a telegram to the Minister of Commerce and Industry. Only this morning I have received the copy of a long letter sent to him. It has been stated there that practically the entire capital of this company, a very important and useful company in Calcutta, is held by members of the same group or same family and they have been playing with the funds. Now the company has come almost to a crisis. This is a very useful company. I do not like to mention the name, but I shall pass on the papers to the hon. Minister, and I hope he will take necessary action in this matter. This will show how the managing authorities have been wasting public money and have been playing with some very useful industrial units.

17 hrs.

In this connection, I should also like to say that along with this Company Law there are other matters connected with it which should have been under the Company Law Administration. This very case of the Company which I have just mentioned has also been referred to the hon. Minister so that he may take certain action under the Industries (Development and Regulation) Act. This is a fit case also for the Company Law Administration to tackle. When this Department was formed certain other things were allotted to it. Suddenly those subjects have been removed. It was not that those subjects were given to this Department without any reasonable basis. That was on the recommendation of the Company Law Committee and also according to the suggestions of the Members of this House. It has been mentioned in the Company Law Committee's report that stock exchange, capital issue and some other things should be under the control of the same department or commission whichever may be put in charge of the Company Law Administration. It is mentioned in the report:

"As we have already said, it would be impossible for the com-

[Shri A. C. Guha]

mission to function in isolation from the main currents of economic policy and administration and indeed its usefulness and efficiency would be greatly impaired if it did so."

Sir, I do not know why an arrangement which was made on the basis of this recommendation and on an assurance given on the floor of the House by the then Finance Minister was suddenly changed and some other arrangement has been made. Even if that arrangement has been made on some whimsical basis, I think it is now time for the Government to reconsider the whole thing anew and come to some rational distribution of work along with this Company Law Department. This Department cannot properly function if it has not got the control over some other allied subjects. I hope the hon. Minister will look into this matter.

The Minister of Commerce and Industry (Shri Lal Bahadur Shastri): Mr. Chairman, Sir, I shall merely take a few minutes, because the main reply has to be given by the Deputy Minister, Shri Satish Chandra. I would in the beginning say that the Company Law Administration has on whole functioned well in the changed context after the passing or after the enactment of the last Company Law. It is true they have not been very harsh in the beginning, for example, in regard to the submission of balance-sheets, profit and loss accounts or their annual report, because those companies had to function in a different context altogether after the passing of the Company Law Act, and not only the private companies but others have also failed occasionally and sometimes frequently. But, as some time has now passed, the Company Law Administration will have to function and it will function more effectively, and it will have to be more strict on the companies in so far as the submission of profit and loss accounts, balance-sheets or other reports is concerned.

As regards the question of public companies being converted into private companies, the matter is before us, and I do not want to say much on that at the present moment. But, as it has been said in the report, we are keeping a watch over it, and I can assure the House that in no case shall we tolerate any kind of subterfuge in regard to these conversions. More than that I shall not say at present, but we will certainly bear in mind what has been said here in the House in regard to this matter, and would take appropriate action at the appropriate time.

As regards inter-company investments, there also I agree that cases have come to our notice in which undue advantage has been taken by certain companies and certain concerns. I personally feel that we should have power to regulate such transactions and we have to consider this matter in connection with the amendment which we propose to make in the Companies Act.

I have now to mention only one or two matters to which reference was made by Shri Bimal Ghose. Shri Guha has also said something about the social objectives of this law and he has also mentioned about the smaller companies. In fact, I am inclined to agree with Shri Bimal Ghose that there should neither be mushroom companies nor big monopolistic concerns or huge companies. We will have to strike a middle course. Two suggestions which Shri Bimal Ghose has placed before the House deserve consideration, especially the one relating to creating consciousness, as he put it, among the shareholders, of their rights. He made reference to the elaborate procedure regarding passing of special resolutions, etc. I shall not go into the details because there is not much time, but I do agree that we should consider whether we should have some public relations officers

in order to educate the shareholders in regard to their rights. We will also have to consider what ways and means we should adopt in order to improve the quality of management.

It was said that the present Company Law Administration is not fully authorized to deal with all matters concerning the companies. There is truth in it. Certain branches are with the Economic Affairs Department of the Ministry of Finance; some others are with us. For example, cases which come under the Industries (Development and Regulation) Act are dealt with by a different section in the same Ministry of Commerce and Industry. I have been thinking over it, but I have not been able to take a final decision. However, I would like to inform the House that this is an important matter, specially the work which is being done in a different section in our Ministry. We should try to co-ordinate these things; not only co-ordinate but we should try to see whether that work could also be done or taken over by the Company Law Administration. That aspect is receiving my attention. I hope it will be possible for us to decide this matter, or take a decision on this matter, rather early.

Shri A. C. Guha: What about those items which are now with the Department of Economic Affairs of the Finance Ministry?

Shri Lal Bahadur Shastri: That will have to be taken up by the Finance Ministry. I want to confine myself to my own Ministry. At least I should see that whatever work concerns my Ministry is carried out quickly.

Shri Bimal Ghose: Will the hon. Minister take it up with the hon. Finance Minister?

Shri Lal Bahadur Shastri: I have not personally done it myself, but I was told that it was taken up before.

I do not know. I shall consider that matter. I cannot say anything off-hand about it.

Shri A. C. Guha: An assurance was given on the floor of this House that these sections will be under the same Company Law Department. That was on the recommendation of an expert committee.

Shri Lal Bahadur Shastri: If an assurance was given, I shall certainly look into it.

Shri Menon has raised a number of matters and Mr. Guha also has raised some points about liquidation proceedings. I would merely say that we have already prepared our draft of the company law amendments and we want at least to introduce it in this session. Those amendments are rather vital and I think the House will get an opportunity again when the amendments are considered to consider the other matters relevant to the Bill which were raised in this House today. I have nothing more to say.

Shri Satish Chandra: Mr. Chairman, many important points have been raised and I am grateful to Members who have made constructive suggestions. But I may respectfully say that the debate has been more or less like a general debate on the Company Law Amending Bill which is likely to come only after some time when Members will have an opportunity to suggest new provisions for incorporation.

Some Members have referred to the social objectives of the Plan. The Company Law Department is not presumptuous enough to claim entire responsibility for the achievement of those social objectives. It can only make a contribution towards the achievement of those objectives and its role is very much limited. Many extraneous things have been brought into the discussion. Something has been said about cost accounting procedures and about deficiencies in various laws which do not fall within

[Shri Satish Chandra]

the administrative scope of the Company Law Department. The Company Law only attempts to safeguard the interests of the shareholders. That is its primary object and it also attempts to create an atmosphere in our industries and trade so that healthy management practices may be gradually evolved in the corporate sector.

The old Act was passed in 1913. The country had since then made a tremendous progress in the field of trade and industry. It was necessary to bring that law in conformity with the present conditions. With that object in view, a Bill was brought before the House three years ago. It was considered by a joint select committee of the two Houses and considerably amended in the Committee stage as well as in the House. The present Act of 1956 is the result of the long deliberations in this House. Now I will request the hon. Members to judge the performance of the Company Law Administration in the light of the existing provision in the Companies Act. Of course, many good suggestions have been made today, but the right stage to consider them will be when the new Company Law (Amendment) Bill, over which Government have given considerable thought, is brought before the House.

Something has been said about discouragement to capital formation after the enactment of the present law. I would like to say in this connection that the number of companies, newly registered in the year immediately after the passing of the Indian Companies Act of 1956, declined suddenly as compared to the previous year. It came down from 1,448 in the previous year to 848 in the next year. The new registrations in the subsequent year, in 1957-58, have however improved over 1956-57. The number was 961 against 848. From April to October this year it was 892 in six months. So, it will be evident that the number of registrations is going up.

My esteemed friend, Shri A. C. Guha, referred to falling investments in companies. I would submit that it is not so.

Shri A. C. Guha: I have not said that. Somebody might have said that. I have said the number is falling down but the share capital has increased.

Shri Satish Chandra: I am sorry. If that is so, I have nothing more to say on this subject.

Mr. Chairman: It was said by Shri Achar.

Shri Satish Chandra: What I wanted to say in this connection is that the real measure of success of the corporate sector is the capital investment attracted to it and not so much the number of companies.

Shri Achar: Even with regard to the capital, it is less. I am only speaking of that one year. Added to that, most of the companies are Government-owned and not private-owned.

Shri Satish Chandra: In 1955-56, the year just before the Act came into force, the money invested in Government companies was Rs. 6.7 crores. In non-Government companies it was Rs. 50 crores and odd, making a total of Rs. 57 crores. In the following year, that is, immediately after the Act was passed, the investment in Government companies increased from Rs. 6.7 crores to Rs. 8.2 crores. In the case of non-Government companies it increased from Rs. 50.4 crores to Rs. 83 crores. These are separate figures for Government companies and non-Government companies.

Shri Achar: It includes both?

Shri Satish Chandra: I gave the figures separately. The investment in the year following the passing of the Act, was Rs. 91.2 crores, as against

Rs. 57 crores in the preceding year. It has increased in both the cases. It has increased only by Rs. 1.5 crores in the case of Government companies and Rs. 28 crores in the case of private companies. Therefore, the fears entertained by some hon. Members are not correct.

Several other points raised by hon. Members will deserve consideration at a later stage. Shri Ram Krishan said something about the T.I.T. company. According to my present information, there is no such company registered under the Companies Act. The T.I.T. in Bhiwani is a Technological Institute of the textile industry. That is what T.I.T. means. Some complaints about it were made to the Punjab Government. No representation appears to have been received by the Company Law Department. That is the position as far as the T.I.T. is concerned.

Shri Narayanankutty Menon spoke something about Dr. Alagappa Chettiar Mills. He said that the complaints were not enquired into and money was given to some Trust.

Shri Narayanankutty Menon: I did not say that the complaint was not enquired into. The money has gone and the workers have not got their bonus.

An Hon. Member: After all, it has gone to charity.

Shri Narayanankutty Menon: Charity at the expense of the workers.

Shri Satish Chandra: He said something about a resolution having been passed giving the money in charity. The company did not pass any resolution.

An Hon. Member: Loaned?

Shri Satish Chandra: As soon as we received a complaint about this matter, we instituted a proper investigation. There is something in what my hon. friend Shri Bimal Ghose has said that we carry on a post-mortem examination rather than watch the interests of the shareholders from

to day. Within the limitations of the administrative machinery at the disposal of the Company Law Department and the existing provisions of the Company law, we try to perform our functions to the best of our ability. But, if some money is passed on from a company to another institution without the knowledge of the Board of Directors or the shareholders of a company, action is possible only when the fact is brought to the notice of the Company Law Department. Action has been taken and investigations are going on to ascertain the circumstances under which this money was transferred from the mills to another society

I wish to touch very briefly on inter-company investments. It is true that there have been many inter-company investments. Some of them may be said to be of a dubious character. The shares of other companies have been cornered by the directors by utilizing the funds of a company under their control. The cornering of shares as well as investments of the funds of one company in another company are matters which require serious consideration. The Company Law Amendment Committee has suggested some measures to plug the loop-holes and they shall be brought before this House for consideration. If hon. Members have any other suggestions to make, they can do so at the proper time.

Shri Ram Krishan: May I know when this Bill is coming?

Shri Satish Chandra: It is likely to be introduced before this session ends or early next session.

Many members have pointed out that the definition of relatives is absurd and leads to a lot of harassment. That will also be amended suitably

The liquidation proceedings of the old companies have presented some difficulty. Under the law, the liquidation proceedings started under the 1913 Act are dealt with by liquidators

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or receivers appointed by the respective High Courts, over whom the Company Law Department has no control. It is only after the passing of the 1956 Act that the Company Law Department became entitled to appoint official liquidators for looking after the liquidation of companies under the new Act. An official liquidator has been appointed at Bombay. Some part-time officers have been appointed at other places, and the number can be increased as soon as there is more work for them. In order to expedite the old cases, we have requested High Courts to transfer them to the new official liquidators, but the High Courts have been reluctant to do so, and therefore the Company Law Department has found itself helpless in expediting those cases, though we would very much have liked to do so.

There is another section under the Companies Act under which we can call upon the liquidators appointed under the old Act to submit periodical returns to us, but it is not possible to expedite the cases, and the Company Law Administration cannot be held responsible for these delays.

Cost accounting procedures of industrial undertakings is not so far the responsibility of the Company Law Administration. I am repeating this because the scope of the company law must be clearly understood.

Shri Menon spoke very strongly about the foreign oil companies, and said that they do not submit their accounts as required under the Companies Act. Some section was quoted. I may respectfully point out that these companies have to submit their returns and profit and loss accounts, but these are not exclusively for the operation of their business in India. A copy of their world balance sheet which they submit to the Registrar in the country of incorporation is also filed here with the Registrar at New Delhi. Of course, it is open to the Company Law Department to ask questions, or to get more information, but the costing of the products of a

company or the agreements that may have been entered into at earlier stages are not matters which come within the purview of the Company Law Department.

In spite of such criticism, I wish to say that many constructive suggestions have been made today. We are bringing forward a very comprehensive amending Bill.

An Hon. Member: This session?

Shri Satish Chandra: This session or the next session. It may be introduced by the end of this session or early next session. Anyway, it will be before the hon. Members in the Budget Session. That will be the right time when we will be able to thoroughly examine every aspect of company management, and try to bring the law in conformity with the present needs and requirements consistent with our industrial and commercial progress and the social objectives which all of us hold dear.

There are legitimate complaints that investigations carried on in respect of certain companies have been delayed. Due to certain steps taken by company owners such as obtaining injunctions from the High Courts or the Supreme Court or filing of a writ petition, the investigations are delayed. It is for this House to find some remedy. The Department of Company Law Administration cannot be held responsible for such delays which result from the directions given by the High Courts or by the Supreme Court to which the matter may have been taken.

I would request hon. Members to consider all these matters dispassionately. Government will be glad to examine constructive suggestions which may be offered for the improvement of the Company Law Administration.

17.32 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Monday, the 1st December, 1958.