[Dr. B. Gopala Reddi]

(h) G.S.R. 1212 dated the 15th October, 1960. [*Placed in Library. See No.* LT-2436/60].

(v) A copy of each of the following Notifications making certain further amendments to the Medicinal and Toilet Preparations (Excise Duties) Rules, 1956, under sub-section (4) of Section 19 of the Medicinal and Toilet Preparations (Excise Duties) Act, 1955:—

(a) G.S.R. 1006 dated the 3rd September, 1960.

(b) G.S.R. 1178 dated the 8th October, 1960. [*Placed in Library. See No* LT-2437/60].

(vi) A copy of Notification No. G.S.R. 1044 dated the 10th September, 1960 under Sub-section (4) of Section 19 of the Medicinal and Toilet Preparations (Excise Duties) Act, 1955. [*Placed in Library. See No.* LT-2437/60].

(vii) A copy of Notification No. G.S.R. 1090 dated the 15th September, 1960 issued under Indian Income-tax Act, 1922. [*Placed in Library. See No.* LT-2438/60].

(viii) A copy of the Report of Rehabilitation Finance Administration for the half-year ended the 30th June, 1960 under sub-section (2) of Section 18 of the Rehabilitation Finance Administration Act, 1948. [*Placed in Library. See No.* LT-2439/60].

AMENDMENTS TO DELHI SALES TAX RULES

The Deputy Minister of Finance (Shri B. R. Bhagat): I beg to lay on the Table a copy of Notification No. F. 3(42)/60-Fin.(E) published in the Delhi Gazette dated the 22nd September, 1960 making certain amendments to the Delhi Sales Tax Rules, 1951, under sub-section (4) of Section 26 of the Bengal Finance (Sales Tax) Act, 1941 as extended to the Union Territory of Delhi. [*Placed in Library. See* No. LT-2440/60].

12.11 hrs.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

SEVENTY-FIRST REPORT

Sardar Hukam Singh (Bhatinda): Sir, I beg to present the Seventy-first Report of the Committee on Private Members' Bills and Resolutions.

BUSINESS ADVISORY COMMITTEE

FIFTY-SIXTH REPORT

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Sir, I beg to move:

"That this House agrees with the Fifty-sixth Report of the Business Advisory Committee presented to the House on the 15th November, 1960."

Mr. Speaker: The question is:

"That this House agrees with the Fifty-sixth Report of the Business Advisory Committee presented to the House on the 15th November, 1960".

The motion was adopted.

12.12 hrs

COMPANIES (AMENDMENT) BILL—*contd.*

Mr. Speaker: The House will now take up further consideration of the following motion moved by Shri Nityanand Kanungo on the 15th November, 1960, namely:—

"That the Bill further to amend the Companies Act, 1956, as reported

by the Joint Committee, be taken into consideration."

The Minister of Commerce (Shri Kanungo): Mr. Speaker, when I moved in this House on the 6th May, 1959, for reference of the Companies (Amendment) Bill, 1969, to a Joint Committee of both Houses of Parliament, I briefly explained the circumstances in which Government found themselves within a short time after the enactment of the Companies Act, 1956, to be in a position to sponsor its amendment.

12.12.

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

It is not necessary for me to take the time of the House to recapitulate the reasons which led the then Finance Minister to appoint a Committee under the Chairmanship of Shri A. V. Vishwanatha Sastri. As hon. Members are aware, the provisions of the amending Bill as introduced in Parliament were largely based on the recommendations of the Committee, modified in some particulars in the light of the experience of the working of the Act of 1956 and of the views expressed by chambers of commerce and other interested persons.

The Joint Committee has very carefully considered the provisions proposed in the Bill after examining the views expressed and suggestions made by important chambers of commerce, business organisations and other interested bodies through written memoranda submitted and also orally through their representatives who appeared before it. While the Committee has thought it fit to omit a few of the clauses of the Bill and modified others after due deliberation, it has also considered it desirable to recommend a number of additional amendments, some of which are either of a consequential or clarificatory nature, intended to ensure the better fulfilment of the basic purposes. Thus, out of the 212 clauses included in the original Bill, eleven have been omitted and 14 new clauses have been inserted. The Bill as amended by the Committee now consists of 215 clauses.

Clauses 13, 25, 31, 32, 38, 44, 48, 57, 58, 70 and 197 of the original Bill have been omitted. These clauses contained minor amendments mostly relating to procedural matters, such as changes in the time within which and the fee on payment of which companies should supply copies or extarcts of documents to shareholders etc., the length of the period of notice for meetings, the manner of keeping minutes of meetings, etc. The Joint Committee considered that it was not necessary to make any changes in the provisions of the law relating to these matters.

The new clauses which have been inserted by the Committee are clauses 18, 19, 45, 47, 70, 120, 129, 135, 138, 157, 160, 168, 185 and 206. The amendments proposed in clauses 70, 120, 157, 168 and 185 which are of some importance deserve a few explanatory words. The other new clauses do not involve any significant issue of policy, being mostly either consequential, verbal or clarificatory or dealing with matters of procedure. The House will, no doubt, consider them in due course when the individual clauses are taken into consideration.

Clause 70, which provides for powers to the Central Government to direct a special audit contemplated in this clause, would be very different in scope and content from the traditional annual audit of the accounts of a company at the end of its financial year, and must be distinguished from it. Although the clause provides that this special audit, when ordered, can be undertaken only by a qualified chartered accountant, he need not necessarily be the auditor of the company.

[Shri Kanungo]

Indeed the functions that we visualise for him would be more akin to those of an inspector appointed to investigate the affairs of a company under the other provisions of the Companies Act than to those of a company auditor, although he would not have all the powers vested in an inspector. Past experience has shown that the mismanagement of companies often starts with dubious financial or commercial methods or practices or stems from *ad hoc* management decisions causing serious injury or damage to a company from which it finds it difficult to recover, because of continued complacency, neglect or inefficiency on the part of the management. I need hardly refer to individual cases, but those of you who are familiar with the history of some of our older industries in different parts of the country.....

Mr. Deputy-Speaker: When the speech of the hon. Minister is prepared, at least they should see that it is being addressed to the Chair.

Shri Kanungo: I am sorry, Sir.

Shri D. C. Sharma (Gurdaspur): This may be circulated to all Members.

Shri Kanungo: It will be done tomorrow. I was saying that the hon. Members would readily recognise the outlines of the picture which I had in mind. The powers conferred on the Registrars to call for information or on the Central Government to order investigation into such cases are specifically limited to the terms and conditions of the relevant provisions of the Companies Act, and cannot be readily invoked in all cases. Court action offers no quick remedy. Government have, therefore, considered it necessary to ask for powers to undertake summary inquiries into such cases by qualified company accountants. The clause also authorises Government to take such action on the report of the special auditor as it considers necessary, and to lay down that if no action is taken within four months of the receipt of the report Government should furnish a copy of relevant extracts from the report with its comments thereon to the company for being made known to the shareholders.

The prohibition contained in section 332 to the effect that after 15th August, 1960 no managing agency company shall manage more than ten companies at a time is liable to be bypassed by managing agency companies in the same group through the device of transferring the number of managed companies in excess of ten to other (managing agency) companies in the same group so, however, that no one company in the group has in the result more than ten managed companies under its charge. Even where there are common members, the provision can be circumvented through marginal transfer of shares. Since such manoeuvres would clearly defeat the purpose underlying the section, the Joint committee suggested certain amendments to the definition of managing agent for the purpose of this section, so as to check any tendency to circumvent the restrictions of the section by resorting to methods referred to above.

It was represented to the Joint Committe that some companies had not kept the provident fund moneys of their employees deposited in post office savings bank accounts or in separate account with scheduled banks accounts as required under section 418 of the Act. The fear was expressed that in such cases the employees of a company ran the grave risk of losing their provident fund moneys if the company utilised them for their business purposes and suddenly went into liquidation. In order that there may be an effective deterrent against wrong

use of provident fund moneys, the Joint Committee has recommended that any breach of the provisions of the section should be visited with imprisonment or a fine of Rs. 1000 (instead of Rs. 500 as at present) or with both. Clause 157 seeks to make the necessary amendment to section 420.

The object of the two remaining new clauses, *viz.*, clauses 168 and 185, is to facilitate the work of the Official Liquidator in connection with the liquidation of companies. It happens sometimes that when the Official Liquidator is appointed to take charge of the liquidation of a company and has to file a suit or application on behalf of the company for the recovery of any debt or other money owing to the company, he finds that the relevant period of limitation has either expired or is about to expire. As a result the interests of the creditors and the contributories suffer. To obviate such difficulty, new clause 168 seeks to provide that in computing the period of limitation in such cases, the period from the date of commencement of the winding up to the date on which winding up order is made (both inclusive) and a period of one year immediately following the date of the winding up order shall be excluded. By clause 185 it is proposed to authorise the Supreme Court to make rules providing that the liquidator may in specified circumstances and subject to proper limitations make any compromise or arrangement with creditors or compromise any call or liability to call debt or claim. It is expected that such a provision would enable the liquidator to expedite the liquidation proceedings in some cases as it would dispense with the necessity for obtaining the orders of the Court in each case where he considers such compromise necessary. While the provisions of these two new sections may reduce very much the delays which are common in many liquidation proceedings due to long drawn out itigation required for recovery of assets, they are a step in the right direction.

I now come to the more important changes made by the Committee in the other clauses of the Bill. I would draw attention of the hon. Members to clause 14 of the Bill as amended (corresponding to clause 15 of the original Bill) which deals with private companies a substantial part (25 per cent or more) of whose paid up capital is held by other bodies corporate. The deliberations of the Committee on this clause were long. Various suggestions, some of them of a radical nature, were made. For example, one view pressed for the abolition of the distinction between public companies and private companies urging that the same degree of control and disclosure should be enforced on both classes of companies alike. According to another view, it was suggested that whenever another company, whether public or private held shares in a private company, the private company should, irrespective of the extent of the shareholding, be deemed to be a public company and subjected to the same degree of control as for a public company. After very careful consideration of the whole matter, the Committee came to the conclusion that the time had not yet come for any such drastic change in the law as was visualised in some of the suggestions put before it. It decided upon a middle course and the clause as adopted provides that where not less than 25 per cent of the paid up share capital of a private company is held by one or more bodies corporate the private company shall be deemed to be a public company and the law will apply accordingly. In order to avoid undue hardship several important exceptions have been made. It was already provided in the clause as introduced that when the entire share capital of the private company is held by another private company or by one or more foreign companies, it should not be converted into a public company. The clause as adopted further provides that where one or more private companies hold 25 per cent or more of the share capital but the total number of individual members of the private

[Shri Kanungo]

company and the shareholding companies does not exceed fifty (the normal maximum number of members a private company can have) the private company will retain its status as a private company. Again, in computing the percentage holdings of companies in the private company the holdings of banking companies in the capacity of trustees for individual or as executors or administrators of deceased persons will be disregarded. Thus, it will be seen that the revised draft is so designed as to largely achieve what the Sastri Committee had in view and yet avoid genuine hardships as far as possible. I commend the revised clause to the House.

As regards annual general meetings and the laying of accounts before them, the Committee, while accepting the proposition that, as a rule, there should be an annual general meeting in each calendar year, was of the view that the present law, which allowed a long interval of nine months, and with the permission of the Registrar, of even fifteen months, between the close of the financial year and the presentation of the accounts to the shareholders at the annual general meeting, was unnecessarily lax and required tightening up. Many companies have been actually publishing their accounts within a much shorter time—in some case even within three months of the close of their financial year. The Joint Committee has therefore provided by an amendment of section 210 (*vide* clause 60) that the accounts must normally be presented at the annual general meeting within six months of the close of the financial year. However, to avoid genuine hardship in special cases, it has suggested that the Registrar may for special reasons grant an extension of not more than three months over the normal period of six months for holding the annual general meeting and presenting the accounts. This is sought to be done by an amendment of section 166 by clause 42. These amendments would go far to remove the complaint, at present widely heard, that the accounts of companies when they reach the shareholders and the public are chronically out of date.

As regards the remuneration of the managerial personnel of companies, the Committee has generally accepted the principle that any managerial remuneration paid to the directors or the manager of a company whether as a percentage of the net profits or by way of a salary must be subject to an overall limit expressed as a percentage of the net profits. It was, however, considered necessary in order to minimise hardship in genuine cases, particularly in case of smaller companies, to provide that the normal ceillings may be exceeded with the approval of the Central Government. The changes made in clause 111 and clause 145 are designed mainly for this purpose.

By another amendment of clause 111 the Committee has recommended that while directors should not in future be allowed to draw their sitting fees on a monthly basis, those who have hitherto been receiving such monthly payments may be permitted to continue to do so for a period of two years after the Amendment Act comes into force or for the remainder of their term of office, whichever is less. At the same time, the Committee has thought it necessary that section 360 relating to contracts between the managing agents or their associates and the managed companies should be amended so as to require the management of a company having a managing agent to obtain, in the case of a contract for the supply or rendering any service other than that of managing agent, not only the approval of the general body of shareholders by a special resolution, but also of the Central Government. Past experience has shown that this obvious loophole in the Act has been used by the mnagement of several companies to augment their earnings to the detriment

of the companies concerned. Clause 130 provides for the necessary amendment.

One important matter in which the Joint Committee has recommended extensive changes in the amendment proposed in the original Bill is that relating to the question of compulsory provision of depreciation on fixed assets before determining the profits for the purpose of distribution of dividends to shareholders. As hon. Members are aware, pursuant to a recommendation of the Sastri Committee clause 62 of the Bill as introduced provided, broadly speaking, that no dividend shall be declared or paid except out of the profits of any year unless a normal depreciation at a rate laid down in the Income-tax Act or rules made thereunder has first been provided. The Committee has thought it desirable to relax the rigours of the original provision in the Bill in several respects. According to the revised draft of the provision as contained in clause 57 of the amended Bill, the Central Government is proposed to be authorised to allow a company in the public interest to pay dividend without providing for depreciation. This power should be useful in a case, for instance, where in the initial stages of the working of a company or in the period immediately after some big expansion when the company has not yet entered into full production or is otherwise unable to earn sufficient profits to enable it to pay any dividends to its shareholders, if depreciation on the prescribed scale has first to be provided, so that shareholders may have to wait for a considerably long period of years before they can expect any return on the capital invested by them.

The Committee also is of the opinion that companies need not be compelled to provide for depreciation where dividend for any financial year is paid out of the profits of any year anterior to the commencement of the amendment Act. The Committee has also provided that depreciation may be calculated either in accordance with the reducing balance method as allowed under the Income-tax Act or the straight line method or any other recognised method as may be convenient as long as the total amount of depreciation provided over the expected life of the asset is more or less the same in each case. I need not at this stage go into further details of the provision suggested by the Committee as the House will no doubt go into them in due course, but I feel sure that the revised draft will find general acceptance.

I may briefly refer to a point which though not of great importance is of such general interest as to make it worthy of mention. This is about the form of the balance-sheet set out in a schedule to the Act, that is, Schedule VI. In clause 61 of the Bill as amended, which corresponds to clause 66 of the original Bill, the Joint Committee has so amended section 211 of the Act that it will be permissible for a company to draw up its balance-sheet either in the statutory form set out in Schedule VI or in such other form as may be approved by the Central Government either generally or in a particular case.

The idea underlying this amendment is to encourage new experiments in the form and manner of presentation of accounts, that is, in a vertical or columnar form instead of the traditional horizontal form set out in the Schedule. I may add that many companies in the United Kingdom have, in recent years, been showing their accounts in the vertical form, which according to competent accounting opinion, is more logical and brings out the significance of the different items appearing in the balance-sheet more clearly to the shareholders than the traditional form can do. I may make it clear that it is not the intention to force the columnar form of balance-sheet on companies against their wish. The new provision is an enabling one which would authorise the Government to approve of the adoption of the columnar form where a company under honest and progressive management wishes to adopt it.

[Shri Kanungo]

As to the audit of the accounts of the branches of a company, which was the subject of the amendments proposed to section 228 of the Act by clause 75 of the Bill as introduced, the Joint Committee has amplified the provisions suggested in that clause in respect of ancillary matters in section 228 and suggested corresponding amendments in section 227, vide clauses 68 and 69 of the Bill as amended. It is now proposed to authorise the Central Government to exempt any branch office from the compulsory audit where circumstances exist for such exemption. It is contemplated that Government would frame rules indicating the circumstances in which and the conditions subject to which exemption under the provision would be granted in individual cases.

The Joint Committee has revised section 250 of the Act which was sought to be amended by clause 84 of the Bill as introduced so as to make the underlying intention clear. Under the section as proposed to be revised by clause 79 of the Bill as amended, the Central Government would have the power to impose by order certain restrictions on the exercise of the voting rights attached to the shares as also restrictions on their transfer in a case where it appears to the Central Government that as a result of such transfer, whether accomplished or impending, a change in the management of a company is likely to take place and that such change would be prejudicial for the public interest. There is, of course, a provision for appeal to the court against such order or against the refusal to rescind such orders, but it has been specifically laid down that before the court makes any order on the appeal it must give the Central Government an opportunity of being heard. It is hoped that this power may be of use in preventing undesirable cornering shares or the acquisition of control which might act prejudicially to the public interest or the company's interest.

Another important matter to which the Joint Committee gave much thought was the appointment of sole selling agents, which, as explained in my speech at the time of the reference of the Bill to the Joint Committee, had lent itself to abuse by the management of some companies. Hon. Members will find the detailed proposals of the Joint Committee on this subject in this amended clause 99 of the Bill. Broadly, the scheme of the revised section is to lay down clearly that in future no sole selling agent shall be appointed for a period exceeding five years at a time, and except, subject to the condition that the appointment shall terminate if the shareholders do not approve of it at the next following general meeting; appointments made as sole selling agents of managing agents who resigned their managing agencies after the commencement of the 1956 Act either in the name of the ex-managing agent or some other name shall terminate unless Government's approval to such appointment has been obtained within six months after the commencement of the amendment Act; a person or body which has relinquished the managing agency of a company shall be debarred from appointment as sole selling agent within three years from such relinquishment, except with the approval of Government; and Government shall have the power to call for all relevant information regarding the terms and conditions of any sole selling agency by whatever name called granted by a company and the right to make such variations in the terms and conditions of appointment when such terms and conditions are considered prejudicial to the interest of the company. It is hoped that these provisions would go a long way towards curbing malpractices relating to the appointment of sole selling agents.

As regards clause 124 of the original Bill which sought to prohibit the appointment or employment by a company in future, as its managing agent of a body corporate, which is a subsidiary of another body corporate, the Joint Committee, while accepting the

proposal in principle, has recommended that the prohibition should not apply to companies which had subsidiaries as their managing agent, immediately before the commencement of the amendment Act, *vide* clause 119 of the Bill as amended.

12.37 hrs.

[MR. SPEAKER *in the Chair*]

In this connection, the Joint Committee also suggested some amendments to section 345 of the Act, *vide* clause 123 of the Bill as amended, so as to make it clear that where the shares of the holding company of such a subsidiary managing agent were dealt in or quoted on a recognised stock exchange, any change in the ownership of shares of the holding company would not be deemed to be a change in the constitution of the managing agent requiring the approval of the Central Government unless the Central Government by notification in the gazette otherwise directs. This will reduce any difficulties in working the section.

On the question of loans by companies to other companies under the same management, dealt with in section 370 of the Act, the Joint Committee has slightly expanded the definition of the term "under the same management" by providing that where the lending company makes a loan to, or provides a guarantee or security in favour of a firm in which a partner is a body corporate under the same management as the lending company, the loan, guarantee or security will attract the restrictions of the section as if the loan, etc., were made to a company under the same management. This amendment is intended to arrest a trend which has been noticed recently for companies avoiding the provisions of the section by making loans, etc., to firms in which they themselves or other companies under the same management as their own are partners. Such loans, etc., would not come within the purview of the section as it stands, although they are open to the same abuse as loans to companies under the same management. The Committee has, at the same time, considered it desirable that companies should be enjoined to open and maintain a register of loans, etc., which would attract the provisions of the section and that the register should be open to inspection by the shareholders. The modifications made in clause 133 of the Bill as amended are designed for this purpose.

Several Members of the Joint Committee were considerably exercised over inter-company investments within the same management group, the provisions relating to which were sought to be amended by clause 138 of the original Bill. After careful consideration, the Committee has, in clause 136 of the Bill as amended, suggested the following principal changes: the prescribed limits on investments should not apply to investments in the shape of right shares which stand on a different footing from investments in other shares and do not involve the acquisition of a relatively greater degree of control over the company; in applying the restrictions imposed by the section to investments in companies outside the same group, investments in the shape of debentures of those companies, which do not help in the acquisition of control over companies, should be left out of account; the restrictions imposed by the section should not apply in the case of companies like the Industrial Credit and Investment Corporation of India, Ltd., the main object of which is to finance other companies by giving loans, subscribing for shares or underwriting issue of shares or debentures; investment companies should be required, like other companies, to attach to their balance-sheets a statement of their investments with this difference that the statement instead of showing the investments during the whole year need show only the investments as on the date of the balance-sheet. There are other minor amendments suggested by the Committee, but I do not think I need go into them

[Shri Kanungo]

at this stage. I hope the redraft of the section, as proposed by the Committee, will be found acceptable to the House.

I shall refer to only one other amendment suggested by the Committee. This relates to section 411 of the Act which provides that it shall be the duty of the Company Law Advisory Commission to inquire into and advise the Central Government on all applications under the sections specified therein including applications under section 408 and 409 which are concerned with complaints of oppression or mismanagement or with changes in the Board of Directors of a company which may be prejudicial to the interest of the company. It has been the experience of the Department that if every application purporting to be made under section 408 or 409 is to be automatically referred to the Commission before orders can be passed on them, this will in many cases, specially where the complaints are particularly frivolous, lead to unnecessary work all round and waste of time. After careful consideration of all aspects of the issue, the Joint Committee had recommended amendments to the section (*vide* clause 154 of the Bill as amended) to make it clear that it shall not be necessary for the Central Government to refer such applications to the Commission, if in its opinion they were of a frivolous nature or dealt with matters of minor importance and that it should be open to the Central Government to make such interim orders in such cases as it thought fit, but that final orders should not be issued except after considering the advice of the Commission.

Sir, I have taken some time to explain at this stage the provisions of the more important clauses of the Bill now before the hon. Members, because I felt that might facilitate their examination of the detailed provisions of these clauses in due course. I am grateful to them for the indulgence shown to me.

Sir, I now beg to move.

Mr. Speaker: Motion moved:

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

Shri Asoka Mehta I will call Shri H. N. Mukerjee next and then Shri M. R. Masani.

Shri Asoka Mehta (Muzaffarpur): Mr. Speaker, Sir, there are various features of this Bill that have been improved in the Joint Committee and I do not propose to detail them. I merely want to say that the Joint Committee has given careful thought to the original Bill, and the Bill has come out considerably improved from the Joint Committee.

This Bill had to come up because the Government as well as the companies had experienced certain difficulties, and this is the outcome of the deliberations and labours of the Sastri Committee. There were practical difficulties; they are important and they need to be attended to. After all, this piece of legislation has far-reaching practical implications and whatever practical difficulties are there should be taken into account as early as possible.

There are drafting defects and obscurities. This is a reflection on the way the Bills are drawn up and the way in which we are asked to rush them through. I do not know whether measures of this kind should be rushed through and then we find there are all kinds of drafting defects and obscurities. I do not blame the officers who drafted them, because they had also to work under heavy pressure. This House also never had enough time to go through them. I think this major piece of amending legislation that we have to put through should remind us that it is not the quantity of legislation that we put through but the quality of it that is important, particularly in matters of this kind.

Thirdly, there is the question of better fulfilment. When it is a question of better fulfilment I am not sure whether all that we can expect we have got.

Mr. Speaker: Has he any suggestions to offer? The hon. Member made an observation that such Bills are introduced without giving sufficient time to the House. Of course, he has not blamed the officers. How to avoid this?

Shri Asoka Mehta: I think more time must be given. Either the Select Committee should take more time or, perhaps, the House should have more time; or, perhaps, there can be some machinery in the Ministry which tables the Bill and that Ministry can take more time. We have seen that in the Sastri Committee Report they have pointed how many out difficulties arose because of obscurity and what remarks the various High Courts have passed on our legislation that one can well imagine the difficulties that must have cropped up for the companies all over India. I do not know how they have been able to tackle these difficulties. This is a matter which I think this House must take note of and, I am sure, you, Mr. Speaker . . .

Mr. Speaker: I only wanted some guidance from hon. Members as to how I can be of help to see that this is done.

Shri Asoka Mehta: I would be quite willing to apply my mind to it and give suggestions. But, I thought at this moment of time I was only called upon to draw the attention of the House to this aspect.

I do not know whether we should confine ourselves to the amendments we want to make to remove those drafting defects and obscurities, and eliminate practical difficulties or we need better fulfilment. Perhaps only a short time has gone since the original Bill was put on the statute book and we probably need a little more time to consider whether we need have anything more drastic. But, in the mean time, the climate of opinion in the country has also changed.

May I here invite your attention to the appointment of a committee, a committee which the Prime Minister himself has suggested, to find out to what extent economic inequalities have grown up and what needs to be done to see that these economic inequalties in India are reduced. We have the experience of the two Plans before us and this is the problem which is today absorbing the attention of the country as a whole. Now if we look at our industrial economy, the industrial economy today is so organised that there is, in a sense, a kind of sponsored scarcity. Scarcity growth is possible because of import restrictions. It is not easy overnight to produce all that we have to produce and, therefore, those industrialists or those business houses that are permitted to set up industrial enterprises in India are able to make larger profits. Not only that, the same business houses, because they have expertise knowledge, because they have finance, because they have various built in advantages, because they have considerable amount of advantages against others, against competitors in developing and growing, they are able to make huge profits. This has great relevance to this whole concept of right shares. We have not touched that or we have touched it only incidentally. In a developing economy like ours, a developing economy that is sponsored, where large profits are inevitable, there is greater protection given to our industries than we should ever have given merely by providing protecting duties. The foreign exchange difficulties and the planning efforts that we are putting inevitably creates an atmosphere where certain industries will always have superlative profits. Any student of stock exchange knows how certain companies are able to make, even before their shares are made available to the public, even before the companies have started working, even before a single sod of earth has been turned, large

[Shri Asoka Mehta]

amounts of extra profits. I have made a suggestion earlier, not in the House but outside, that perhaps some new institution will have to be created.

I have suggested the setting up of a national investment corporation in which it would be possible for small investors to buy shares, and this national investment corporation, which would be a public body, would try to make it possible for a large number of small shareholders scattered all over the country to participate in the unearned increment or the capital gains that inevitably are attracted by small number of industries and by small number of companies. I have suggested that some such national corporation is necessary if we are to provide a broad base for the capital gains which are inherent, which are built in our economic policies today.

My friends like Prof. Ranga and Shri Masani who are such ardent champions of private enterprise, I hope, will agree with me when I say that there must be some effort made to see that if capitalism is to be there, it is people's capitalism; and I hope, because my emphasis is on the word people, Prof. Hiren Mukerjee will support me, and because the word capitalism is there, my friend Shri Masani will support me. It is necessary that some such instrumentality should be created.

But this whole process of right share should not be taken as a sacred right, because it is vitally connected with the question of the growing disparities. It is not enough to set up an experts committee on the one side and, on the other, forget the importance of the problem.

The next thing is, the pattern of management undoubtedly is changing. We find from the figures that are given to us that more and more managing agents seem to be disappearing and other forms of management are coming up. Whatever the figures that are given they are not wholly complete. Out of 200 instances that have been brought to attention, analysis has been offered only on about 143 or 146. Whatever it may be, here again, whether the managing agency system is disappearing in smaller companies or whether this phenomenon is there in the giant companies that are there is the question. If the phenomenon of managing agency continues as far as the giant business houses are concerned, which keep on becoming bigger and bigger, and this phenomenon is disappearing as far as the smaller or new business houses are concerned, whether we can take from that the kind of satisfaction that we seek to draw when we look at the statistics, is another problem that is worth considering.

The third problem is—because we are concerned with better fulfilment—I find that on more than one occasion the Annual Report on the working and administration of the Companies Act has drawn our attention to the fact that there is the phenomenon of judicial leniency. It was pointed out that it is not easy. This is what the report said last year:

> "It is not easy to see how these difficulties could be overcome within the existing framework of the judicial institutions, but the problem requires urgent and careful consideration so that the law may not be brought into contempt by the dubious and dilary tactics of those who indulge in practices which are *prima facie* objectionable."

And then various instances are given. I would like to draw attention to the instances on page 77 of the most recent report. It says:

> "In another case a fine of Re. 1 was imposed on a company for not filing, for two years, the necessary special resolution for appointing the relative of a director to an office of profit carrying monthly remuneration of Rs. 1,200

and for granting unsecured loans of about Rs. 2 lakhs to another company in the same management, although the Statute provides for a fine of Rs 20 for each day during which the default continues. In a second case of a similar nature, a consolidated fine of Rs. 10 only was imposed for the omission to file a special resolution for three years for the appointment of a relative of a director to an office of profit on a remuneration of Rs. 500 per mensem, and for empowering the company to give unsecured loans to the extent of Rs. 8 lakhs to another company within the same management group."

There are a number of other instances given like that. The question arises, what is to be done?

This is, again, a problem which this Bill, as it was conceived, was not competent to tackle. Here again, perhaps we shall have to consider whether fresh ground needs to be broken. I believe we cannot take away these things from the purview of the courts, unless we are also going to clip the powers of the Government on the other hand. Perhaps two reforms can be thought of at the same time. Perhaps a statutory body can be provided to imp'ement this administration of Company Law....

Shri M. R. Masani (Ranchi—East): Hear, hear.

Shri Asoka Mehta: And, on the other hand—I hope he will say "Hear, hear" to the other part also—have some kind of administrative tribunals for the purposes of implementing that law. Because, as I said, on both sides certain reforms will be necessary. I am not prepared to have administrative tribunals while the implementation is wholly in the hands of a department of the Government. At the same time, I believe that the judiciary is not able to understand, is not able to fully appreciate the implications involved in economic legislation of this type, and perhaps some type of administrative tribunal system will have to be thought of.

Then, Sir, I would like to refer to Shri Masani's minute of dissent. I refer to Shri Masani's minute of dissent, because I find that among the various minutes of dissent, his is the most critical. There are others, Shri Somani by and large agrees with him, though he belongs to another party; but he is not present here. Shri Masani has a number of criticisms to offer. With regard to his criticism on clause 70 I find it difficult to agree with his reasoning. But he has suggested certain safeguards. I do not subscribe to his reasoning, but I still feel that there is some substance in the demand he has made for the safeguards; because, some safeguards may be useful if the companies concerned are not to feel that the special audit or the Government audit that is going to be instituted is going to take them by surprise. There are other powers by which the Government or the administration can go and get hold of the books, provided the necessary permission has been obtained from a magistrate. The powers are there. But whether in the case of special audit the element of surprise is necessary, I do not know. This is a point on which I would have loved to hear my friend Shri Masani and make up my mind, but as he will be speaking after me I can only say that if he can convince me about his reasoning, I may be prepared to go with him as far as safeguards are concerned.

I am absolutely surprised by what he has to say on clause 99. On clause 99 Shri Masani says that it is "bureaucracy run amuck". May I invite his attention to the evidence that was brought to the notice of the Sastri Committee? The Sastri Committee, I find, was not composed of bureaucrats. I think there was only one bureaucrat. The others are eminent people. One was a Judge; the other is a Solicitor, a former Member of this House; the third is the President of the Institute of Chartered Accountants; the fourth is a very distinguished

[Shri Asoka Mehta]

business man. What did they find! They say:

> "In some cases, it has been found that the selling agency commission is equivalent to the entire profits earned by the company and is quite a large sum. Remuneration payable to selling agents will vary from commodity to commodity, time to time and area to area. It is, therefore, not possible to fix a ceiling on selling agency commission in every case either by reference to a percentage of the price of the goods or to the total amount of commission."

And further:

> "It is also desirable that the unhealthy tendency of managing agents to resign their office and take up sole selling agencies should be checked."

Why did they come to this conclusion? If it was "bureaucracy run amuck", surely there would not have been so much overwhelming weight of evidence which made this Committee, consisting of such eminent men from different walks of life to come to this very deliberate and very firm conclusion that here is a loophole which is likely to be mis-used.

13 hrs.

The hon. Minister for Commerce and Industry knows very well that cases have been brought to his attention. I believe one particular case is under investigation just now. I would not like to mention the name of that company. In an important textile mill in Bombay,—I think that case is under investigation now,—the selling agents have tried more less to collar the company. They have used their power and their influence. The chief selling agent has a whole group of selling agents scattered all over the country. These subsidiary selling agents are made shareholders and the influence that the chief selling agent possesses is used for the purpose of collaring, cornering, a kind of exploiting the parent company for purposes which the shareholders of the company may not like. There have been a number of cases of that kind. This is a phenomenon, a kind of interpenetration that has developed between the selling agents on the one hand and the management of the company on the other. It is a two-way phenonmenon. I am not sure whether even by amending this Act, we shall be providing against this kind of mischief. Here is an issue on which constant vigilance is necessary. I am surprised at the minute of my hon. friend Shri M. R. Masani who knows as much of these hings.—He knows more than I do because some of these persons who were very vigilant in these matters are also close friends of his: not those who were mischief makers.—How is he going to meet this if he takes up the cause of the selling agents and if he champions the case of the managing agent taking over the job of the chief selling agent also. If he thinks that bureaucracy is running amuck, it is up to him to show how this mischief can be guarded against, because the mischief is there and enough evidence is available to show that this is a thing about which we have to be vigilant.

I find it very difficult to understand why the Joint Committee thought it proper to take away the element of rigidity in the calculation of depreciation. That is clause 57. Again, here, we are not only interested in the development of our economy, we are also interested in capital formation. As it is, I think, by and large, the incentives are tending to be far greater than is good for our economy. Is it proper that we even allow the depreciation to be eaten into in order that certain dividends or certain profits are distributed? When we determine our policy, should we be looking only from the point of view of

the need to distribute dividends at a particular time, or the overall effect of this on the economy as a whole? After all, the undistributed profits are going to remain with the company. To what extent special assistance should be made available to distribute profits even at the cost of depreciation allowance is a matter on which I have been most un-convinced by the reasoning of the Joint Committee.

There have been cases—some of them have been reported in the Annual report and others are not reported there, but are known to us—where various malpractices have taken place. There was a very important case in Ahmedabad in which our Finance Minister was called upon to arbitrate. I think the award that he gave as arbitrator was a very sound one. But, look at the facts of the case. I do not know, I am not sure whether the enquiry into the matter is over and whether I am free to mention the names of the companies concerned.

Shri Kanungo: It is still before the Commission.

Shri Asoka Mehta: I would not like to mention any name. I was not sure whether the Ahmedabad case was also before the Commission. As it is before the Commission, I would not like to abuse my privilege as a Member of the House and mention names. Here it is a very big company, a company with long traditions, with illustrious names, with very important personalities on its Board of directors, running a number of industries which are of outstanding importance to the economy of the country, and we know the kind of things that were happening. If some of those inside the administration had not fallen out, if they had not divulged the facts, I do not know if the administration would ever have been wiser. How long did it take for the administration to become aware of the facts? How hard the shareholders had tried to induce the administration to look into this question? They had to go to the High Court over and over again. I do not know how much money the shareholders must have spent in order to see that some of the malpractices were brought out. It was then belatedly that the administration moved in. If things like these are happening, the question is this. Shri M. R. Masani says that it is bureaucracy running amuck. If business is running amuck, what do we do? Will he give us any kind of assurance to show that here are the ways and means by which business will not run amuck? We are called upon today to support the bureaucracy: not when it runs amuck, but to strengthen the powers of the bureaucracy. Not because we love bureaucracy, but because we find that even eminent business houses are behaving in a manner which makes it impossible for us to leave anything much to self-regulation. Here, again, I find Shri M. R. Masani's minute of dissent is not illuminating at all. I hope and trust that when he speaks, he will be able to tell us how he hopes the trusteeship idea that he propagates is going to be observed in practice by the business houses.

I am somewhat surprised to find that in 50 cases, the administration and the Ministry has sanctioned increased minimum remuneration. Fifty thousand rupees was considered to be too small a remuneration and in 50 cases affecting 41 companies remuneration has been increased. I would like to know since when he has come to the conclusion that Rs. 50,000 is too low and needs to be increased. Particularly, why is it to be increased? Because, the profits of the company managed by the particular managing agency were not enough to give Rs. 50,000 on the basis of 10 per cent or whatever it is, which means that all the concerns under him were not making a total profit of Rs. 5 lakhs. If the management is of a character where it is not able to make even that much a profit, as it is pointed out that most of these cases were those of managing agency firms, if the managing agency has proved itself to be inefficient, I am surprised why it should be bolstered up by sanctioning increase in the manimum remuneration.

[Shri Asoka Mehta]

An interesting case has been cited in the Annual report.

> "It may be mentioned, incidentally, that between the date of the annual general meeting in which the proposal for issue of bonus shares was made and the date on which the Board of Directors informed the shareholders of their intention to pay *interim* cash dividend, about 1,84,000 shares of the company representing approximately 12 per cent of the entire equity capital of the company changed hands."

This particular company decided that no dividend would be paid, but bonus shares will be issued. After some time, the Board changed its decision and said, no bonus shares, we are now going to distribute 20 per cent dividend. In between, so many shares, 1,84,000 shares had been transferred and so many people were made suckers of this whole transaction. I would like to know from the Minister whether, if there was a loophole of this kind, it has been plugged. If it has not been plugged, it is not too late to plug it. Here is a concrete case which has been reported. I hope we should have the power to see that that kind of fleecing is not permitted in future.

Shri Naushir Bharucha: It cannot be plugged.

Shri Asoka Mehta: I am sorry if all the legal brains here are not able to devise means by which this is plugged.

Shri Naushir Bharucha: Yes, the game goes on merrily.

The Asoka Mehta: The next point is about minority shareholders. On page 62 of the report it is said:

> "While it is too early to attempt an assessment of the efficacy of this provision as a means of securing relief in the case of oppression of the minority shareholders by the majority or the mismanagement of the affairs of a company, it is encouraging...."

This is a matter which must be kept constantly before us. I hope in future when we get the annual report, there will be a separate chapter on this because only when we gather enough information will we be able to decide in the light of experience. I do not find enough information given to us. I do not know whether the administration is collecting enough information. The whole problem of minority shareholders has agitated not only companies in India or shareholders in India, but in other countries of the world also. While I would not suggest any special change to be made,— I agree with the Shastri Committee that it is too early probably to change what we decided a few years ago— this is a matter on which a lot more information needs to be collected and communicated to the general public, so that we may be able, in the light of facts available, to decide what steps should be taken in future.

Lastly, I have to refer to what Shri Masani has aptly called corporate finance for political parties. This is a thing which we have discussed often enough. On a previous occasion when I had to raise this discussion and my hon. friend the Minister of Commerce and Industry was there to reply to the discussion, I pointed out that it was so embarrassing to bring up this discussion when the reply was going to be given by our esteemed friend, the Minister of Commerce and Industry, because, as I said on that occasion I say it to day, for us he is an embodiment of honesty and integrity. Therefore, I hope the Minister, when I say whatever I have to say on the subject, will not allow any kind of personal feeling to come in the way.

He is an outstanding leader of the party in power, and he is also the organiser of victory. He was responsible for organising the victory of the

Congress Party in two previous elections, and I think very rightly the party has chosen him to be the captain of the ship once again. But would he like that the sails of the ship should be filled with contributions made by big business houses? Is that the way in which the ship of the Congress Party will go to the harbour of safety? Will it be able to guarantee us the argosy of prosperity if its sails are to be filled with this kind of ill, ugly, undesirable winds? If contributions are to be made, why should the companies be asked to contribute? Individuals can contribute. Why should we go into this, and why do companies contribute? Have companies got souls, have they got conscience, minds? Is it that the companies sit and decide whether the Swatantra Party or the Congress Party or some other party is right? The directors are allowed to give Rs. 25,000 or 5 per cent, whichever is higher, I believe, of the total profits.

Shri Kalika Singh (Azamgarh): I think an impression should not be created that the parties are asking all the companies to contribute to their funds. It is being created in a very wrong way.

Shri M. R. Masani (Ranchi East): That is exactly what you do.

Shri Asoka Mehta: We shall find out. After all, there were two elections in the past. You may not know anything about it, I do not know, but I know one thing that my hon. friend the Minister of Commerce and Industry knows whatever was done and has the strength of character to admit whatever was wrong; as to what was not wrong, he will also have the strength of character to say it was right. He is not a man who is going to draw an opaque curtain on what is happening. I do not mind which party wins, barring, of course, friends on this side, but let us not try to gain victory in a manner whereby we are going to destory or undermine the very fabric of democracy that we cherish.

I refer to the Congress Party because when the amendment on this question is moved and when the voting is taken, you will find that the Congress Party is on one side and the other parties on the other. Maybe you say that is because grapes are sour, the other parties are not going to be benefited. I am not so sure whether the Swatantra Party will not be with the Congress, but they can have the advantage of opposing this amendment, and later on being benefited by it because it wil be carried by the Congress Party. This is one of those rare instances where you can have the cake and still eat it. But then, of course, the Congress Party has put the Swatantra Party on the velvet in many matters like this.

Sir, if you will permit me, I wish to make a personal, direct appeal to Shastriji. He is here in a dual capacity. He is the Minister of Commerce and Industry piloting this measure, but he is also the man on whose shoulders has been put the responsibility of seeing to it that the Congress Party emerges triumphant out of the next elections. How far have the provisions that have been made in connection with corporate financing of political parties been coloured by the needs and requirements of the Congress Party? And is the Congress Party so poor, so weak, are the leaders of the Congress Party so ineffective in the public life of our country, that without going to those big business houses, without putting pressure on them they cannot win? There are innumerable instances that are known to Shastriji and known to many of us. Without or with putting pressure, is it necessary that this kind of money should be obtained for purposes of political activities? Only one year is there for the elections, and whatever decision we take here is going to affect, severely affect, not the results of the election, because, wheher this amendment is passed or not, I think the Congress Party is in a strong position, but the devotion of the people to the fabric of democracy.

[Shri Asoka Mehta]

We are all concerned about it, we talk about frustration, we talk about many things that are happening. Some people try to put two and two together, that so much money is being given by so and so and therefore certain things are done. What is the atmosphere in the country?—lack of faith, the feeling that somehow or other, in spite of all the big plans, the rich are becoming richer and the poor are becoming poorer. Every single member of the Congress Party, when he gets up in the committee meetings, asks: what are you doing about it? They are all victims of this atmosphere, this climate of opinion, this articulate major premise of all our thinking, and the feeling is that the political parties are sought to be made handmaids of certain big business houses, because at the time of every election even the biggest and mightiest of the political parties goes and knocks at their doors.

I am sure the Minister has given the fullest and profoundest thought to this, but I would appeal to his conscience and his patriotism, and may I hope that in this matter he will show his characteristic strength to rise above the partisan requirements of his position to the patriotic requirements of our country. I have no doubt that this appeal will not go in vain.

Shri H. N. Mukerjee (Calcutta—Central): I am supposed to represent a somewhat singular point of view in this House, but I do not hesitate to say that when last year the Minister brought forward the amending Bill and the matter was referred to a Joint Committee, I had serious expectations that perhaps we would take an appreciable step forward, effectively speaking, towrads preventing the concentration of economic power which continues in our country. I regret to have to say that even though certain improvements have been incorporated by the Joint Committee, particularly in regard to the matter of special audit of refractory companies, the original amendments have in some cases been watered down, or they have been given such bewilderingly complicated forms that I am afraid they are likely to be ineffective.

When the Companies Act was passed in 1956, it was said on behalf of big money interests in this country that its provisions were so complex, and necessarily so, and they would hamper the growth of joint-stock enterprise. The experience of the last few years have belied those fears, and the size of the corporate sector as measured by share capital has been expanding steadily and almost spectacularly. There was a study by Professor S. K. Basu, in 1958 which pointed out how there were some 3944 managing agencies managing 5,055 joint-stock companies, whose aggregate paid-up capital amounted to 48 per cent of the paid-up capital of the entire corporate sector. The fears, therefore, of big money interests have been belied. And my worry is that the intentions which have been announced on behalf of the community generally that the strategic and commanding sectors of the economy will be effectively controlled by the community and not by self-interested individual interests, do not appear to be advancing towards fulfilment.

The objective of this Act of 1956 was to eliminate the managing agency gradually. In this amending Bill, however, the most important changes do not relate to the managing agency system, even though by certain provisions like the provisions in regard to sole selling agents, certain blatant abuses of the managing agency system have been sought to be counteracted; but I feel that more effective steps are needed, more effective than what the Joint Committee has suggested.

In illustration, I may point out that the amendment of section 332 which lays down that no managing agent shall manage more than ten companies after the 15th August, 1960, is a good thing as far as it goes. It seeks to plug loopholes by providing for a wider definition of persons who can be deemed to be managing agents, the definition including any person in accordance with whose directions or instructions any director or, as the case may be, any member, in the opinion of the Central Government, is accustomed to act. We know that there is no limit to the number of companies which secretaries and treasurers could manage, but as far as this provision is concerned, surely, it has for its aim restrictions on the concentration of control, and it brings about some reduction in the remuneration paid by managed companies. It is good that section 332 is amended and specifically mentions the opinion of the Central Government in finding out the nominees of managing agents.

But what I am surprised to notice is that a similar provision has not been made in the proposed amendment to section 370 which refers to companies under the same management. In the case of companies managed by persons other than managing agents, therefore, the onus or the responsibility of proving that certain other companies managed by nominees of their directors, shareholders etc. belonged to the same group, would rest on the Government. Here is certainly an omission which Parliament is called upon to rectify because this is rather a blatant omission which I do not know why, has escaped the notice of the Joint Committee.

I wish to say also that it would have been better if the Joint Committee had paid more serious attention to the entire question of private and public limited companies. The number of private companies is growing. I find from page 145 of the annual report for the year ended the 31st March, 1959, that the number of private companies has grown from 896 in 1957-58 to 1,037 in 1958-59, and the authorised capital has risen from Rs. 49·97 crores to Rs. 225·68 crores. On the contrary, the number of public companies has decreased from 65 in 1957-58 to 58 in 1958-59.

Shri Morarka (Jhunjhunu): Most of those companies were Government companies, and Government companies were called private companies at that time.

Shri H. N. Mukerjee: Now, these private limited companies which we exonerated from many of the restrictions which are imposed by legislation are increasing in number.

I know that there are genuine private companies to which reference was made by the Sastri Committee, and the Sastri Committee had said that they were nothing but glorified partnerships, and that they should be outside the orbit of the kind of legislation intended for public limited companies, but I do not know why these genuine private limited companies cannot function by way of partnerships, and we say this because the Sastri Committee's report itself says that many private companies with large capital are doing extensive business and are controlling a number of public companies.

The evidence which has been given to us includes the evidence of so many people, which amplifies this point regarding the control exercised by private companies by hook and by crook over a number of public companies as well, the evidence, especially, as certain spokesmen of the press employees pointed out, of how there were wonderful cases of two gentlemen ostensibly investing Rs. 2000 as their capital and running a daily with assets running to several million rupees in this city of New Delhi. This kind of thing has gone on for too long.

There can be no very valid reason for the differentiation which exists in our legislation in regard to private

[Shri H. N. Mukerjee]

companies and public companies, and I feel that this matter should be considered very carefully, and restrictions in regard to public companies should be extended so that they might apply to private companies as well.

In this regard, the Joint Committee has made a certain effort. There is no doubt about it, but in so far as that effort is made to check the abuse implicit in the existence of these private limited companies, I fear that the confusion has been worse confounded. I find that this view is even supported by more or less orthodox proponents of economics in our country, and I find in the latest issue of *The Economic Weekly* an editorial comment in regard to the amendment with reference to private companies, which supports my proposition.

I am quoting from *The Economic Weekly* which writes in its issue of the 12th November, 1960, as follows:

> "The amending Bill as introduced in the Lok Sabha in May last year laid down a new section 43A that where not less than 25 per cent of the paid-up share capital of a private company is held by one or more bodies-corporate, the private company will be deemed to be a public company unless its entire share capital is held by another private company or by one or more foreign companies. The purpose of the new clause was to curb the propensity of public companies to have their enclosed preserves, and for large groups to have chains of interlinked companies in the form of jointly owned private companies which are exempt from most of the onerous provisions of the Act. The Joint Select Committee, however, has added so many qualifications to it that it would be practically impossible to administer and implement this section."

I also find it extremely difficult to understand new section 43A. As I said, it makes confusion worse confounded. I notice that even in regard to section 4, the clear formulation which was suggested in the Sastri report has been clouded over so that darkness is made more visible. In the Sastri Report, the recommendation in regard to section 4 was to the effect that a private company which is registered in India and which is a subsidiary of a foreign public company shall be deemed to be a subsidiary of a public company for all the purposes of this Act. To my mind, this seems to be a very clear formulation which ought to have been incorporated in our legislation, but the Joint Committee has added so many clauses and intra-clauses and so many variations which to the laymen are absolutely incomprehensible that I am sure to the commercial specialists and lawyers it would be only an opportunity for hedging round decisions with all kinds of advantages to themselves, as far as the vested interests are concerned.

One feature which I very unequivocally welcome is the provision for special audit which now clause 70 brings into the picture. In this connection, I wish to refer to the responsibility of auditors which as far as I can understand in a free country with a feature to work for and live for the auditors themselves should be conscious of. Actually, what happens is that the auditors merely look at the returns and merely certify that in accordance with the papers and documents presented before them, that report is a correct statement. But the responsibility of auditors should go very much further than that. This is because I find that just as in the case of officers of court, whether they are solicitors of counsel who help the Judges in the task of adjudication, the auditors' job should also be in the kind of society which we are trying to build, to see to it that these big money interests do not get away with a kind of malpractice which has become so egregiously common these days.

I need not refer to so many cases which are *sub judice,* but it is common knowledge—everybody knows all about it—that big money is behaving in a manner which is rather shameful. But the auditors have a responsibility in this regard. Now, as regards their own standards of conduct, I find they have themselves been trying to formulate certain principles. It is in accordance with the best traditions of audit practice to make sure that there are no irregularities as far as the accounts that they certify are concerned. I find in the Annual Report of the working of the administration of the Companies Act for the year ended 31st March, 1959 a quotation from the presidential address at the Association of Chartered Accountants in London in May 1956. It is like this:

> "Our function is to provide professional services, not to provide a cloak or a cover for the clients' deficiences, whether due to carelessness or to other causes.".

I do not wish to blame all our auditors, but it does remain on record that even our Finance Minister, Shri Morarji Desai, has had occasion to remark that it is the responsibility of auditors very largely to bring many of these people in the company sphere to book. I know that many of these auditors' firms, who have their assignments with the large firms, enormous concerns dealing with massive sums of money, naturally want to be sure of their assignments from year to year and they do not want to be thrown off, so to speak.

It is necessary, therefore, for Government to consider the matter very carefully and to have a cadre of auditors. If we cannot have government auditors going everywhere all the time, let Government, at any rate, have a list of auditors and let Government have the power also to be exercised at its option to allot certain auditors to certain companies from time to time. Let us make sure that our honest auditors are not pushed off the path of honesty merely because they are afraid that if they go a little too deeply into the malpractices of their clients, their occupation itself would be gone and their financial success would be in jeopardy.

Therefore, a great responsibility rests on the auditors; like officers of court who help Judges in the adjudication of matters, the auditors help the Company Law Administration, and the Company Law Administration in its turn should find out ways and means of mobilising the service of our professional people like auditors in order to help cleanse the Augean stables of company administration.

The Company Law Administration also should be more particular about the returns which are filed with it and take action. Recently there has been some improvement in this regard. But till recently the Company Law Administration had to be actully goaded before it took action against so many egregious things which have taken place. I know that there is section 234 and it should be used more; there are wider powers with the Registrar which also should be utilised a great deal more. Auditors must help Government to enforce the provisions of law much more strictly than they have done so far.

I wish also to refer to the question of political parties and the contribution to political parties which these companies are now enab'ed to make. This matter has been discussed over and over again in this House as well as in the other House, and the country has taken very serious note of this point As is very well known, judicial note has been taken of this malpractice, I should say, of political parties having large contributions paid to them from out of company funds. Some time ago in this House there was produced a certain book published by the Tata Iron and Steel Company which showed that in the election year 1957, the Tatas paid

[Shri H. N. Mukerjee]

Rs. 10,30,000 to the Congress Party,—Rs. 6,00,000 to the All India Congress Committee, Rs. 3,00,000 to the Bihar Provincial Congress Committee and Rs. 1,30,000 to the Orissa Provincial Congress Committee. We know also how Chief Justice Chagla in Bombay had referred not only to a certain uneasiness but also to what he called 'a sinking feeling in the heart' when this question of contribution of companies to political parties came before him. He called it 'this evil'. He said also that it was likely 'to strangle democracy almost in its cradle'.

Government says—let there be publication of the information regarding the payment by certain companies of whatever sums they pay out to political parties. But that is surely not enough. These companies make no bones about it; they openly declare that they want a *quid pro quo*. We know that after 1957, there have been estimable gentlemen, representatives of big business, some of whom sit in the other House, who have said very openly that they had expected certain benefits because they had made a contribution to the Congress Party, but they were dissatisfied. That did not, of course, goad them to give up their support for the Congress Party because of their further expectations in the future. So the Congress Party cannot honestly say that it takes money with no kind of obligation whatever. I do not know how morally it can get away with it by having large sums of money paid to it. It applies to every other Party also—I certainly would concede that.

Shri Kalika Singh (Azamgarh): In Kerala.

Shri H. N. Mukerjee: But I would say that surely it is not the business of these companies with shareholders —minority shareholders and majority shareholders and all that sort of thing —to pay sums of money out of their funds to political parties. Even in the Trade Unions Act, there is a provision that if there is a contribution to be paid to political parties, it has to be from a special fund to be collected only from voluntary contributors, and then alone can the trade unions make contributions to political parties, if they choose to do so. But I would say that this evil which Justice Chagla himself referred to as 'this evil which is likely to strangle democracy almost in its cradle', this evil which gives Justice Chagla 'a sinking feeling in the heart' should no longer be tolerated. I do hope that Government still has fresh thoughts in this matter regarding the contribution of companies to political parties. This is a matter on which there is a great feeling in the country and I do plead with the hon. Minister to consider it with the kind of seriousness which it deserves.

I have noticed in the Minutes of Dissent, a very distinguished statement by my hon. friend, Shri M. R Masani. But he refers to what he says 'the autonomy of joint stock enterprise' which he feels is rather offended by the goings-on of the Joint Committee. As I said earlier, I am not happy enough with the work of the Joint Committee, but whatever the Joint Committee has done seems to be bad enough for Shri M. R. Masani to be rather perturbed in regard to the autonomy of joint stock enterprise having been offended. I fear that Shri Masani harps on an ideological tune that this country has definitely discarded. After all, we have moved from status to contract and from contract to relation and it is no good talking about the autonomy of joint stock enterprise at a time when the community is coming into the picture in a very different way. There might be weaknesses as far as the working of nationalised industry is concerned. Bureaucracy might very well be there. After all, we have the hangover of the past which we cannot just wish away. But if there is an iota of patriotism in the private sector,

which Shri Masani so eminently represents, I would say, let the services and the talents of those who are doing such good work, according to his own computation, in the private sector in the running of these companies, be put at the disposal of the country. Why cannot they for once say that 'we are going to work these companies which would work for the community and we shall be satisfied not only with eating the cake and having it too, but we shall be satisfied with a sense of having done good service to the country as a whole.' I, therefore, would say that it is important that Shri Masani rethinks his position and changes the position that he has taken up today. But I do know that is a hope that is not likely to have fulfilment. I do know also that the hope that I have from time to time about the hon. Minister and his party changing their mind or taking more really effective steps towards the achievement of a socialist pattern of society is not likely to be fulfilled. They are not doing it; they are so inhibited. And, I do not know why they do not shed their inhibition when there is so much of unanimity in the country in regard to what we desire. I am sure that in regard to such measures as this he will bring about certain practicable improvements here and now which would go somewhat further than what the Joint Committee has recommended.

Shri M. R. Masani: Mr. Speaker, Sir, this is no ordinary piece of legislation. I think the Minister and the House will agree that, on the soundness of this legislation and the effect it has on the functioning of joint-stock enterprise in our country will depend, to a large extent, the success or failure of our hopes of economic advancement and prosperity.

I find that three others have spoken already, but that I am the first person to speak who seems to give some weight and importance to the proper functioning of joint-stock enterprise in this country, and to the principle for which it stands. Till now, one would have thought that it is a kind of necessary evil to be tolerated and limited; its wings clipped, so that no harm may be done. If I may say so, this is an entirely wrong and mis-conceived approach to the problem.

The problem before us is how is joint-stock enterprise, which is the modern, twentieth century way of industrial organisation, to be allowed to thrive for its own benefit and for the benefit of the country. How is this instrument, through which one nation of the world after another has achieved prosperity and social justice in increasing measure, to be harnessed to the needs of our country? How is this great vitality and force to be let loose so that it may produce the largest volume of goods and services needed for this country? That, Sir, is how this issue has to be posed. And this Bill is to be judged by the extent to which it helps or hinders this vital process.

The Bill which has been introduced and now presented before us is a kind of consequence of the Sastri Committee's appointment and report. But I do not feel that it can claim true lineage from that background. When Government appointed the Sastri Committee on 15th May, 1957, the terms of reference were:

1. To overcome certain practical difficulties in the working of the Companies Act, 1956;

2. To remove such drafting defects and obscurities as may be interfering with the working of the Act; and

3. To consider what changes in the form or structure were necessary or desirable in order to simplify it.

So, there were only three purposes for this proposed legislation, removing the practical difficulties in implementation, removing drafting defects and simplifying the law. Anyone who looks at the Bill as it has

[Shri M. R. Masani]

emerged now from the Joint Committee will agree that it has very little in common with these three objectives. The present Bill goes way beyond the terms of reference of the Committee on whose report it is presumed to be founded. As I have said it cannot claim any true lineage from that background.

What has happened is that second thoughts have intervened and the Bill has changed its character to a very radical extent. These second thoughts are, unfortunately, of a doctrinaire nature. And that doctrine on which this Bill has now been transformed is that it is not you or I or the man in the street or the man in his home or any of us who knows what is good for him but the government of the country; that none of us is a fully grown adult who knows to run his business; that, even when we are trying to make a profit for ourselves and to improve ourselves in life, we are such fools or we are such knaves that the constant intervention of the police and the Company Law Administration is necessary to stop us from going astray. This is a pernicious doctrine on which many of the provisions of this Bill are based; and this doctrine poses very squarely the issue between those who believe in joint-stock enterprise and those who believe in State monopoly capitalism, even if it comes step by step eating into the vitals of the very system.

What is joint-stock enterprise? Our Prime Minister and many leaders of Government talk day in and day out of co-operation. If they were sincere in their desire to help all kinds of geninue co-operation, they would be the best champions of joint-stock enterprise because joint-stock enterprise is the application of the principle of co-operation to industry and business.

What is joint stock enterprise? It is the coming together of small and big people scattered throughout the country in different walks of life with different ideologies because they believe that there is a demand or a want for a certain commodity or service on the part of the people of this country and that that want should be met. And, that in meeting that want, they will make a profit as a result of their efficiently meeting that want. That, Sir, is the application of the principle of co-operation to business or industry. And, if there is one kind of co-operation that is successful or deserving of support in India along with others, it is joint-stock enterprise.

If that is the correct background, then I say that the background of this Bill is all wrong. There are, of course, many good features in this Bill. I am not suggesting that everything in this Bill is restrictive or reactionary or pernicious; but I do say that along with many good provisions for which all of us are responsible in the Joint Committee, there are certain provisions which will definitely do more harm than good. I think that on balance, if this Bill is passed in its present form, it is likely to do more harm than good to the cause of joint-stock enterprise and the industrial development of this country. I am driven to the conclusion that whatever its background may have been, in its present form, in many important parts and aspects, this Bill is bad and needs to be improved.

The philosophy on which I proceed is that the shareholders of a company are full-grown citizens of our country knowing what they are about, that they are the best judges of their own interests and not a set of bureaucrats or politicians in office and that, therefore, control of their activities under Company Law should be minimum control, as little control as possible and as much freedom for them to function as is possible. That is my principle; and judging by that principle, the Bill unnecessarily over-regulates and interferes in matters with which

the Government of our country and the law should have no concern.

The theory of the Bill, on other hand, is that the Company Law Administration and the officials who make it up are rather better judges of the interests of the shareholders than the shareholders themselves. We have it on the evidence of the Shareholders' Association before the Joint Committee that they also object on behalf of the shareholders to this unwanted interference and patronage on the part of Government. If really we had their interests at heart, then those amendments which they suggested would have been made. But, as I have often pointed out, there is a new ruling class that has come into existence, a class of bureaucracy and state management trying to usurp the authority of those who could and should be allowed to run the company.

I shall give the example of only four clauses, if you like, to show how over-regulatory and unecessarily regulatory the Bill is. The first clause that I would like to refer to by way of illustration, is clause 70 which my hon. friend, Shri Asoka Mehta referred to. He said that he failed to understand why I objected to the statutory audit which the Government can direct at any time that they wish. Let us consider the grounds on which the Government can authorise a statutory audit. The grounds are as follows. The Government should be satisfied that certain things happen. 'Satisfaction' is purely a subjective feeling. The clause here says:

> "Where the Central Government is of the opinion that the affairs of any company are not being managed in accordance with sound business principles or prudent commercial practices;. . . ."

Now, Sir, every business man and every sensible man knows that other businessman is always prudent or sensible. Every businessman will disagree with another businessman about something. When one manager is replaced by another, he starts trying out new policies. One business consultant will recommend one measure, and another will recommend something quite a different one. In other words, there is no foot-rule or measuring yard as to what is sound business principle or prudent commercial practice. Everyone has his own concept of soundness and prudence. Now, the Government or the Company Law Administration, after having come to that very interesting decision, can direct a special audit.

Mr. Speaker: I ought not to be misunderstood when I way this. Would the hon. Member like that the Government should nominate Members of the Estimates Committee and the Public Accounts Committee?

Shri M. R. Masani: For joint stock companies? No, Sir.

Mr. Speaker: The Members of these Committees are elected by this House so that they may scrutinise their accounts for which the Government is responsible. Would he allow the Finance Minister to nominate Members to these Committees? The shareholders are not much in the picture. No doubt at a general meeting, they appoint the auditors but their remuneration depends upon the recommendations of the directors?

Shri M. R. Masani: If I may point out the difference between the two illustrations, the parties have a right to probe into their own affairs, their own property. If the President is the sole shareholder of a company or corporation, it is right and proper that a certain measure of parliamentary control and supervision should be exercised But we are here discussing the companies which are the property of their own shareholders.

Mr. Speaker: Is he discussing the private companies now?

Shri M. R. Masani: That is what we are discussing. This Bill is about the

[Shri M. R. Masani]

private companies and I am saying that it is not the business of Government to interfere with how I administer my property or my affairs or my land . . .*(Interruptions.)*

Mr. Speaker: Does this refer only to private companies as defined in the Act? . .*(Interruptions.)*

Shri Asoka Mehta: No, Sir. It is for both the private and public companies.

Shri M. R. Masani: May I say that the Government companies will be exempted from the provisions of this Bill by the dictate of Government.

Mr. Speaker: Where the shares are thrown open to the public, it is a public company; it is a joint stock company. Apart from this, there is a private company, as defined in the Act. It is a private (limited) company.

Shri M. R. Masani: All the joint stock companies are the property of their owners, whether their capital is subscribed in the market or whether five people get together in private. The principle I am advancing is that it is no business of the bureaucracy or the Minister of the day to sit in judgment on whether the owners of a certain property—farm or shop or factory—administer that property by prudent practices or not. Every grown-up citizen in a democracy must take on his own shoulders that amount of responsibility. Abraham Lincoln spoke a hundred years ago on this and said that the Government cannot do for the people what the people must do for themselves; he enunciated a truth a hundred years ago on what sound administration should do.

We are talking about grown-up people who invest their money in a company, public or private. They must be allowed to administer the property according to their conception of prudence. If they incur a loss, it is their loss. The whole essence of joint stock enterprise is that people must learn to risk their capital to make a profit or to make a loss. It is not part of the Government's business to stop people from making a loss because that would kill and cut at the root of the principle of risk-taking, which is the essence of free-enterprise. Therefore, if we want joint stock enterprises to survive in this country, we cannot do it under the tutelage of a set of bureaucrats who know nothing about business.

Shri Khadilkar (Ahmednagar): May I ask an explanation? The capital of a joint stock company is thrown open to the public and ninety per cent of the shareholders are at the mercy of five or ten per cent who manage it. Is it not the duty of the Government to give protection to the 90 per cent shareholders who are putting their trust in the company?

Shri M. R. Masani: Yes, Sir. That is what the company law is for: to see that the shareholders are able democratically to control the working of the company. Not only that, I will go further than my hon. friend. Even a minority of shareholders—not the 90 per cent which he speaks of—even a ten per cent who might be oppressed must be protected by the laws of the country. Therefore, wherever there is provision to protect even the minority shareholders from the domination of the directors of the majority, I am a hundred per cent for it and I support every clause in this Bill which seeks to protect the minority group of shareholders from the domination of those who are in power or authority in the company. But that is not what we are discussing. We are discussing the unwanted intervention of the Government against a hundred per cent opposition of the shareholders who say: 'You leave us alone; we know our business; we do not want to be treated like children.' But the trouble with the socialist pattern is that it does not

accept the grown up character and adult nature of the individual human being..... (*Interruptions*). I can see that my remarks are getting under the skin of some of my friends here. They can answer when they have the chance.... (*Interruptions*).

Mr. Speaker: There are points on both sides. So, let there be no interruption.

Shri M. R. Masani: This attempt to sit in judgment as to whether the affairs of a company are being run on sound business principles or prudent practice is highly objectionable. The same principle will tomorrow be applied to a *kisan* and he will be told: "You have got 20 acres of land. You are not growing as much out of it as we thought that you should grow. Or, you are not growing the crops which we want you to grow. So, we shall take it away and pool it in a co-operative farm." This strikes at the root of the safeguards given under our Constitution. Either we stand by the Constitution and say that private property is sacred and belongs to the person concerned and he can do what he likes with it or we say that the Government will sit in judgment through our bureaucracy on every one of us and see whether or how we spend the Rs. 10 in our pocket and whether it is right or wrong. This is the thin end of the totalitarian wedge which lays down the principle that Government knows better what you should be doing with your money. It is a highly objectionable principle in any free society.

The second test is that the Government must be satisfied that the company is being managed in a manner which is likely to cause serious injury or damage to the interests of the trade, industry or business to which it pertains. In other words, I may be running my business very effectively. But if it hurts somebody else, on behalf of somebody else who cannot face fair competition, you go and put me in fetters. I would like to say a word to my hon. friend, Shri Asoka Mehta, at this stage since he fails to understand my objection to statutory audit? He asks: "How will I stop business running amuck, being run in a bad way?" My answer is that the laws of competition are the best correctives to anti-social behaviour and to unproductive enterprise. It is the law of the market the law of supply and demand, the laws of the free competitive society that are a sovereign check on unproductive enterprises and anti-social practices.....

An Hon. Member: The past has given enough indication.

Shri M. R. Masani: The future is going that way, as you will find if you study the economic history of the world. I will request my hon. friend, Shri Asoka Mehta, if he wants to understand this philosophy—I have no time to go into it now—to read the excellent book of Ludwig Erhard, the man who is responsible for the German miracle—*Prosperity Through Competition*. When a man does not run his business in a prudent way, he has to shut it down and somebody more effective who can serve the country better takes his place. That is how the country advances by eliminating the incompetent and corrupt and by supporting and rewarding those who are enterprising and productive. Once you kill this competition, you are heading for such a state capitalist system as Mr. Djilas, the communist of Yugoslavia has so well described in his book—*The New Class*—where a more exploitative and oppressive class of State capitalists replace those who they claimed were exploitees themselves.

14 hrs.

So, Sir, this is my answer, that the Government directive can ruin the reputation of a business. Now, I will be told, let a special audit take place, after it is over and it is found no harm is done the company will be cleared. Sir, that argument betrays great ignorance of the very delicate

[Shri M. R. Masani]

mechanism of the market. If it becomes known that the Government has directed a special audit in the affairs of a company that company's name is marred from that moment onwards. It is no good if after one year it is cleared from the charges. The very fact that the Government had intervened over the head of the management of a company will destroy its reputation and it will be too late to do anything about it. Similarly, the appointment of a statutory auditor is an insult and a reflection on the ordinary auditor who will be honourably doing his job. So an action which is capable of being construed as libellous of an enterprise or an auditor can be taken at the whim of a bureaucraft, a deputy secretary to Government speaking in the name of the Government of India.

Now, I am glad that my hon. friend Shri Asoka Mehta agreed that, even though he could not accept my reasoning, there was something in the safeguards that I suggested in this particular section. What are those safeguards? What I suggest is compatible with elementary equity and justice. The first safeguard that I suggest, which I still request the Minister to consider, is that, before you have a statutory audit, give the company a chance to listen to what you have against it and to give a reply. We know that before a man can be dismissed from a job, expelled from a club, put in any position of discrimination or inferiority, he is given a chance to say what he has to say. Let the Company Law Administration call the company or its directors and say: "Gentlemen, we have this worry about you. If we appoint a statutory audit, have you anything to say?" Listen to them, and after that, if you still want to go ahead, go ahead. That is the first safeguard.

The second safeguard is today the clause does not even say that when the special audit is completed a copy of the report will be given to the company. In other words, a man is judged but the judgment is not given to him. The judgment is hidden from him, and the Government acts on the judgment behind his back. What kind of rule of law, what kind of equity are we trying to operate, not against criminals but against law-abiding citizens carrying on the country's business? The safeguard is: present a copy of the report to the company as soon as it is available.

The third safeguard is, when Government decides to have a statutory audit, let the company have a right of appeal to a court of law to set aside that audit, so that the court of law will be able to decide—not a deputy secretary of the Government —whether or not there is a *prima facie* case for an enquiry. Surely, Sir, these are very modest suggestions to make to safeguard the rights of citizens against the arbitrary interference of bureaucracy.

A similar clause is clause 79. Here the danger is that the shares might change hands and so the Government is given a veto to prevent shares being passed from one hand to another. A take-over bid must be frustrated. But Sir, in what circumstances have Government been given this power? The law says: "when Government is of the opinion that change in the management is prejudicial to the pubic interest". Where does the 'public interest' come in? If five shareholders are going to remove five other shareholders, if the management of a company is to pass from group A to group B, the public interest is completely irrelevant. What we are concerned is the interest of the shareholders of the company. Will it harm the company or not? How is the public interest concerned with whether A or B controls a particular company? The whole concept of bringing in "public interest" here shows the mind of those who are behind this measure. If it is said that it is injurious to the shareholders of the company and a kind of moratorium may be established unitil the rights or wrongs

or quarrels between two groups of shareholders are settled, I will be prepared to support it. But this descretion given in such wide terms, that whenever the Government feels like it they will say that it is against the public interest because they know best what is the public interest, is not desirable. We cannot give the administration of the day, the ruling party and the officials, the right to decide what is in the public interest. Either a court of law must decide or the company itself must democratically decide it.

Shri Asoka Mehta, again, complained that he could not follow my logic about selling agents. I think I have said enough to show the logic on which I am proceeding. If a company appoints a wrong kind of selling agent, if the selling agents are allowed to make too much of profits, then sooner or later that company will go off the market, and the sooner it goes off the market the better for the country, because somebody else will manufacture and sell those goods at a lower cost and of a better quality to the public. This is the whole philosophy of a competitive society on which every country has so far advanced to prosperity. To say that the Government will decide who the selling agents shall be is not correct. Not only that. Under the clause as it stands at present the Government are given the right to write the contract, to dictate the terms of the contract between the company and the selling agent they appoint. They are given the right to decide on what terms a company shall appoint a particular person they select. If this is not bureaucracy run amuck, I do not know how else to describe it. Therefore I say, the selling agents are a particular part of the management. You might as well tomorrow say that the managing director shall be appointed by the Government, you might as well say that the Personnel Officer shall be appointed by the Government. Certainly not. Management is an integrated thing. You cannot take away the rights of a management about the selling part and then ask it to run the company, because if you arrange for that company a poor kind of selling mechanism then that company will not be able to carry on.

Sir, may I sound a note of warning here. We all talk about the need to increase our exports. But if we are to ham-string our business by imposing on them State approved selling agents on State-approved terms, then our exports will not be able to compete in the world market with those that come from other countries. If you want our country to export, give our people the right to sell. Let them appoint whoever they like and sell in their own way, because the right to sell is an integral part of the right to produce and to do business.

In fact, the extent to which this section has now gone, which is much farther than the original, shows that there is some after-thought behind this. There are uncharitable people who have suggested to me that perhaps this is the thin end of the wedge by which the State Trading Corporation will utilise the Company Law Administration to get themselves appointed selling agents of companies by the backdoor. I do not want to accept that charge but, considering some of the other methods of the State Trading Corporation and their attempts to establish monopoly wherever they enter, I think it is very significant that powers are being taken by Government today which might enable them to tell a company that they will be very nice and very reasonable in every respect if only they appoint the STC as their selling agents. I do not think they will do it so long as my hon. friend sitting on that side is there but we are not legislating for Shri Lal Bahadur Shastri, to whom Shri Asoka Metra paid an extremely well-deserved tribute in which I would like to join respectfully. We are legislating for all time. We are legislating for good Ministers, also we are legislating for bad Ministers, we are legislating for the honest officials who are sitting in the gallery today, but we have also to legislate for dishonest and corrupt officials who

may take their places tomorrow. Therefore it is no good saying we are all good people and you must trust us. No law can trust those in authority with absolute power, because we know that absolute power tends to corrupt people.

Finally, Sir, a last word, by way of illustration, on clause 154. There is an Advisory Commission. One would have thought that the Government having created an Advisory Commission would give them the fullest power. But we find that in clause 154 the discretion under sections 408 and 409—complaints under the Act— is sought to be taken away from the Advisory Commission and a part of those powers are sought to be given to the Government of the day. This, Sir, I think, is very unfortunate. I hope even now the Government will drop it, because it does not show very great confidence in the Advisory Commission that they themselves have introduced.

Then I come to the vexed question of corporate contributions to political funds. Sir, this is a very vital issue. My hon. friend Shri Asoka Mehta made a very eloquent and a very noble appeal to the Minister even now, in the interests of clean politics, in the interests of the flowering of democracy in our country, to think again. I have reason, knowing what I do as a member of the Joint Committee, to feel that he still has an open mind on the subject. He as a Minister, as an individual, has not made any commitment on the subject yet, and I would appeal to him to consider whether the time has not come now when this matter should be regarded as a broad matter of policy where all democratic political parties are equally interested in clean politics and giving the common people of our country the freest chance to express themselves. What is the present position? The present position is that a company can, by the general body, vote away unlimited amounts of money to any political party or funds. On the other hand, clause 293 says that the directors of a company can, without sanction of the general body, vote away every year, Rs. 25,000 or five per cent of the net profits, which may go to lakhs of rupees in some big companies, to political parties or funds.

Shri C. R. Pattabhi Raman (Kumbakonam): They are all grown up people with independent judgment.

Shri M. R. Masani: I know. It is interesting. While they are not allowed to carry on their business without interference, they are now allowed to do something which is not part of their business and for which money was never taken by them from the public by subscription. When a company floats its shares, is there any man who pays a hundred rupees or a thousand rupees who thinks, "well, Rs. 20 out of this will go to the Congress Party or Rs. 10 will go to the Swatantra Party?"

Mr. Speaker: Does the hon Member mean to say that if the clause restricting the authority of the shareholders or the directors appointing their own auditors is amended according to the desires of the hon. Member, the clause regulating the contributions may stand?

Shri M. R. Masani: I am going to point out some weighty public reasons why I think that this particular liberty should be denied to the shareholders and I am going to make the case in a moment. It is true that you may say that the shareholders who want to give away half their money to the Congress Party may give it and "why should we stop them?" They are grown up people. I agree, but was that the basis of the contracts? When I subscribe to the shares of a company and later on, when the company modifies its article to open the door to political contributions, I may be told, "You sell out your shares and go away now that your eyes are

opened". How many shareholders do that? What I am trying to say is, when a man subscribes to the shares of a company, he subscribes to the major purpose mentioned in the memorandum which is to produce certain goods or to render a certain service and thus to make a profit. In other words, he does not think that his money is going to be distributed to the coffers of any political party, whichever it may be, and I object equally strongly to whatever party it may go.

The Minister of Commerce and Industry (Shri Lal Bahadur Shastri): What happens if it is provided originally in the articles and memorandum?

Shri M. R. Masani: I suppose, if it is provided originally, I would say that the shareholder himself is to be blamed and he must take the rap, but we know, most companies do not have it in their memoranda and are now changing it.

Under clause 203, the directors are given the discretion, without reference to the shareholders, to vote away five per cent of the profit—it may go into several lakhs a year in some companies.

The practice in other countries varies. I am not saying that all democratic countries, all decent countries curb corporate contribution. Let me quote two leading democracies, the United States and the United Kingdom. In the United Kingdom, there is no ban on corporate contributions. Companies are allowed to contribute to political funds without let or hindrence, though recently, Mr. Gaitskel, the leader of the Labour Party has expressed the view that in his opinion that should stop. In America, on the other hand, there is a ban. There are laws that prevent any corporate enterprise from voting corporate funds to any political campaign, committee or fund. In fact, they go further and put a ceiling on individual contributions also, and no American citizen can pay more than 5,000 dollars a year to the same political party more than once a year.

That is another point and we do not go into individuals. We want to chat with Company contributions here. In the United States, joint stock enterprises are prevented notwithstanding the fact that they do not interfere in other ways with the shareholder's autonomy from doing this—not because of their interests but because of the interest of the community in running its business. Here, we want to consider the autonomy of the shareholders as it affects the political life of the country.

I want to show that there are three or four very good reasons why it is bad for the country if corporate enterprises' funds are allowed to be raided or levied for this purpose. As I said, first, the purpose is that the funds are meant for production. Every rupee taken away from investment in business and given to a political party, to that extent does not help production of the goods and services for which the company was formed. If we agree that maximum production is what we want—and we all agree, from our Prime Minister downwards—then surely, anything that we do to stop money from being diverted from the purpose of production to the purpose of fighting campaigns and elections is a good thing. It is a wrong use of money which was dedicated to a particular purpose.

Secondly, if you are allowing a company to give away their money, they are not going to bear the loss. They will pass the burden on to the consumer, because the donation to the political party will become part of the cost of business. It will be like an advertisement; like a public relations campaign. It will be added on to the cost of business. So, in the end, the consumer pays; the price goes up and the consumer will suffer, and the inflationary tendencies will

[Shri M. R. Masani]

further be aggravated. If we want the consumer to be protected, then there is no reason why a company should be allowed to add the cost of political patronage to the price that it puts to the consumer.

Then, what about the minority shareholders? For them, in other parts of the Bill, great concern has been shown. I share that concern; I am very much a champion of the minority shareholders' right to fair-play. But what happens to the minority shareholders here? Suppose a majority of a company's shareholders are for party A and a minority are for party B, then are supporters of party B to have the humiliation and the annoyance of seeing their money going not to those whom they want to help but going to their enemies whom they want to see defeated? Are they going to allow the shareholders contracting out? That proposal was made and that was not accepted by the Minister. As was pointed out earlier, under the British Trade Unions Act, if a member of a trade union does not want this money to go to a political levy, if he happens to be a conservative and belongs to a union backing Labour, he has a right to say, "my money must be contracted out and not a penny out of it should go to the Labour Party", if he belongs to the conservative or any other party. Are we going to accept an amendment on the floor of the House to the effect that a minority shareholder can say, "Not my money"? I can understand that. It is a palliative for those whose feelings would otherwise be outraged at their money being used for causes which they do not like and which they hold in abhorrence. And yet, you will force the minorities to give money, to agree to the wishes of those in the majority.

My friend Shri Jaya Prakash Narayan speaks about a non-party democracy. Many of us agree that party democracy can run wild sometimes. We want party's to be limited to certain spheres. Most democratic parties in India, and certainly mine, agree that we should keep party elections, party labels, etc., out of panchayat elections and elections to municipal and local bodies, and that the major political parties should only fight the battle at the Assembly and the Parliamentary level. While this happy trend of thought is being spread by those who preach the Sarvodaya ideal, to which many of us are sympathetic—though we cannot practice all of it—what does this Bill do? It takes party strife into joint stock enterprises which have so far been relatively free from party strife. I can imagine that if this Bill is not amended, in the next few months, you are going to get groups of shareholders in major companies campaigning on behalf of their respective political parties. The Boards of Directors will be approached by petitions and counter-petitions saying, "we want the money to be given to party A." Somebody else will come and say, "We want the money to be given to party B." So, you will make the Board of Directors and the company meeting a cockpit of political warfare between the elements who want their particular party to be supported.

Shri D. C. Sharma: Whatever happens, the Swatantra Party will get the lion's share!

Shri M. R. Masani: I am not interested in this party or that party. This shows that the hon. Member has not understood the level at which I am trying to speak and at which my hon. friend Shri Asoka Mehta spoke. We want that money power should be limited. Money power cannot be eliminated, but money power should be limited. Individual citizens should put their hands into their own pockets, whether rich or poor, to help the party which they want to

support. That is necessary. Political parties do want funds. But the citizen, as a citizezn has to contribute and not put his hands into somebody else's pocket which happens to be a shareholder's. That is what we are objecting to.

Finally, I come to the actual state of affairs in which we live. We live in a controlled economy. If this was a *laissez faire* State, you may say, "What has got a company to do with Government, and they may do whatever they like". But we are living today in a State where the power of life and death is in the hands of my hon. friend's Ministry and other Ministries of the Government over the fortunes of business enterprises. If we are told that this contribution will be a voluntary gift, we have a right to suspect and to be sceptical and ask, "Will the contributions be really voluntary?" If I am a businessman, I know that by pleasing a particular Minister, I can get a licence, I can get a permit and that I can get other facilities, and then, it is asking too much of human nature to expect not to say, "I will go and offer him a donation to his party in the hope that I shall get a *quid pro quo*". That is exactly what is happening. This is what the people of India believe is happening. So, there is no voluntariness about corporate contribution in a controlled economy. In a controlled economy, it is viewed with suspicion and is felt that there is coercion.

I do not want to generalise, but I know businessmen who have told me that at the time of the last general elections, they were asked by emissaries of the Congress Party to pay so many rupees per loom in a weaving mill and so many rupees per truck in the case of transport companies. I am told that if in that election this amount per truck was X thousand rupees, it has now become 3 X or 4 X thousand rupees per truck in the case of certain States in the South and collections are being made per truck, and looms will no doubt follow in the next few months. I am not saying that my hon. friend opposite knows this or connives at it. But when we are legislating for all kinds of, people in authority and all kinds of citizens, and when we show so much suspicion about private businessmen and try to stop them from becoming anti-social, we have a corresponding obligation to see that those in office, those in power and authority in the country also have reasonable checks put on them so that power is not abused.

So we come to this that a company today does not subscribe because of ideological purposes. As Shri Asoka Mehta has rightly said, a company has no ideology because it has no one thinking mind. When it subscribes, it does so because it hopes to get something in return or it is coerced to do so. And this is the beginning of a very vicious kind of vested interest. We talk so much of vested interest. Here is a new vested interest which I at least see growing before my eyes and it is growing in a controlled economy, a vested interest of those in Government and their hangers-on and satellites in the ranks of business people who work together for the exploitation of the common people and the community's needs. It is a vested interest—I do not care how many business people are in it—which needs to be checked, and I think if we amend the Bill in the way some of us have suggested we shall strike a blow at the further development of this vested interest which is worse than any other in our country.

Mr. Justice Chagla, to whom the previous speaker made a reference, pointed out with what apprehension he viewed the possibility of business houses subscribing to political funds and in his judgement he made two suggestions. One was this:

[Shri M. R. Masani]

"The least that Parliament can do is to require the sanction of the court efore any large amount is paid by a company to the funds of a political party."

Naturally, there is no question of going to a court of law for approval if the Bill is passed as it stands at present. The other requirement that he has suggested also is, unfortunately, not in the Bill; that is, advertising immediately the fact of the donation. I am very sorry that the Minister has not accepted a suggestion to that effect made by another hon. Member. It is true that the Bill provides for the balance sheet to include a reference to the grant. But that balance-sheet is only read by the shareholders of the company and it is published after the end of the financial year.

Shri Lal Bahadur Shastri: Who has moved that amendment?

Shri M R. Masani: Shri Naushir Bharucha made the suggestion.

The result would be that the balance-sheet would be published after the election and when the people go to the polls they will not know which political party has received what contribution from which public company. Therefore, I would even now plead with the Minister to accept an amendment that the moment the Board of Directors or a company makes a grant let it be published and advertised at the cost of the company in the daily newspapers, as Mr. Justice Chagla had suggested.

Mr. Speaker: Does this prevent any shareholder from going to the press?

Shri M. R. Masani: So far as the Board of Directors is concerned, he would not know what is happening there. He will know the position only after the balance-sheet is received. Therefore, in the interests of the shareholders and in the interests of the public the least that needs to be done is to give maximum publicity to that fact and I know that if day after day a man opens his newspaper and finds that only one party is receiving contributions from big business houses, then he will know which is the capitalist party of India and which is not. I say this because the leader of the Government, the Prime Minister, has been uncharitable enough to say times without number . . .

Mr. Speaker: Does it not adversely affect the hon. Member's party?

Shri M. R. Masani: No, Sir. And I do not care if it does.

The Prime Minister has, more than once, taken the liberty to suggest that the party to which I belong happens to be a projection of this or that business group. If it were so, I would not be making this point. Now, I see nothing wrong in having good industrialists and good businessmen among my associates. I am proud of such people and I think it is no slur on our party if people say that we have good industrialists or good businessmen in our ranks. I think everybody should be proud of that, because they are serving the country in their own way. But since the Prime Minister seems to think that this is a useful way of smearing political opponents, let me say this that if, unfortunately—and I do hope that he will still consider our plea—if, unfortunately, the Bill stands as at present and the Government defeat in this House the amendments that we seek to move to stop this mischief, then who will be able to blame any man in the street who, by the same logic, says that the capitalist stooge No. 1 is nobody but Pandit Jawaharlal Nehru, the leader of the only party that wants corporate funds to be used for political purposes?

श्री रामसिंह भाई वर्मा (निमाड़) : माननीय अध्यक्ष महोदय, कमेटी ने जो रिपोर्ट पेश की है और जिस पर बहस आज इस सदन में चल रही है, उस रिपोर्ट का मैं समर्थन करने के लिए खड़ा हुआ हूं। जो कम्पनी एक्ट बनाया गया है वह इस उद्देश्य के लिए बनाया गया है कि कारखाने ठीक ढंग से चलें, वे जनता के हित में चलें, उनका मैनेजमेंट एफिशेंट और ईमानदार हो, अधिक उत्पादन हो और अच्छी क्वालिटी का हो। लेकिन इस कानून को बने हुए तकरीबन सौ बरस होने को आए हैं और तब से आज दिन तक इस कानून का उपयोग होता रहा है। गवर्नमेंट इस बात को समय समय पर महसूस करती रही है कि इस कानून को ईफैक्टिव बनाया जाए जिसमें मिसमैनेजमेंट समाप्त हो और इसका लाभ पूंजी लगाने वालों को, देश को और श्रमिकों को, सभी को बराबर मिले लेकिन ऐसा नहीं हो रहा है और यह एक चिन्ता का ही विषय है। चन्द लोग हैं और उनके बारे में यह कहा जा सकता है कि दूध देने वाली गाय उन्हीं के लिए बन गई है, ऐसा हमें अनुभव से देखने को मिला है। मिसमैनेजमेंट के सम्बन्ध में समय समय पर शिकायतें गवर्नमेंट के सामने आती रही हैं। जितनी भी कमेटियां कायम हुई उनके सामने भी ये शिकायतें रखी गईं। मैं भी उन व्यक्तियों में से हूं जो समय समय पर गवर्नमेंट के सामने मिसमैनेजमेंट के उदाहरण रखता रहा हूं। लेकिन नामालूम किन कारणों से गवर्नमेंट मजबूर थी और वह कोई एक्शन नहीं ले सकी।

मैं मान . कि इस वक्त एमेंडिंग बिल कम्पनी कानून में जो पेश किया गया है, उसके लिए जो ज्वाएंट कमेटी बैठी थी, उसके सामने भी एक खास चीज यही थी कि मिसमैनेजमेंट को कैसे रोका जाए और कम्पनी कानून को कैसे ईफैक्टिव बनाया जाए।

14:27 hrs.

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

इस बिल में जितनी भी क्लाजिज हैं वे प्रोसीजरल नेचर की हैं। एक नई क्लाज इसमें डाली गई है और वह स्पेशल आडिटर्स मुकर्रर करने के बारे में है। यह कहा गया है कि कम्पनी के हिसाब किताब की जांच कभी भी गवर्नमेंट करवा सकती है। यही एक महत्वपूर्ण क्लाज है। हमारे माननीय सदस्य श्री मसानी जी ने इसके बारे में अपने नोट आफ डिसेंट में काफी कुछ लिखा है और दूसरे एम्पलायर्स के जो लोग ज्वायंट कमेटी के सामने आए थे उन्होंने भी काफी इसके बारे में विलाप किया है और ऐसा करना उनके लिए स्वाभाविक ही था। लेकिन मुझे डर लगता है और मुझे आशंका होती है कि क्या गवर्नमेंट जो यह नई क्लाज इसमें डाल रही है, इससे फायदा उठायेगी यह बात न केवल शंका की दृष्टि से बल्कि अनुभव के आधार पर मैं कह रहा हूं। ऐसे उदाहरण हमारे सामने और मेरे सामने कितने ही आए हैं कम्पनी कानून के सम्बन्ध में जिन को कि गवर्नमेंट के सामने लाया गया है, लिखा गया है, चर्चा का विषय बनाया गया है लेकिन परिणाम आज दिन तक कुछ नहीं निकला है। मैं समझता हूं कि कम्पनी ला आथोरिटी जो है, एम्पलायर के बजाय उसे ज्यादा ईफैक्टिव बनाने की आज जरूरत है। सारी गड़बड़ी जो पैदा होती है वह वहीं होती

है। जब इन गड़बड़ियों को रोका नहीं जाता है, इनको टाला जाता है तो फिर बाद में नौबत कारखाना-बन्दी की आती है, बेकारी की आती है, उत्पादन घटने की आती है और इस सब में नुक्सान गरीब का होता है और फायदा अमीर का। मैंने बम्बई में एक मिल को देखा है जोकि मिसमैनेजमेंट के कारण बन्द हुई और बन्द होने के बाद उसको बेचा गया। जितना भी कैपिटल उसमें लगाया गया था उससे भी ज्यादा कीमत में उसकी जमीन बिकी। जो बिल्डिंग, मशीनरी चूना, पत्थर इत्यादि बेचा गया उसकी कीमत तो अलग से मिली लेकिन सारा का सारा कैपिटल जो था उससे भी ज्यादा मालिकों को जमीन की कीमत से प्राप्त हो गया। इस वास्ते मैं समझता हूं कि स्पेशल आडिटर्स के बारे में जो क्लाज इसमें डाला गया है उसको अमल में लाना गवर्नमेंट का काम है? वह सारी की सारी चीज गवर्नमेंट के ऊपर छोड़ दी गई है क्योंकि हमारे पहले कानून में भी ऐसी बहुत सी चीजें थीं जिन्हें गवर्नमेंट के जरिये ही किया जा सकता था। मान लीजिये कि मुनाफा होने पर मैनेजिंग एजेन्ट्स, मैनेजिंग डाइरेक्टर या दूसरे डाइरेक्टरर्स को १० परसेन्ट, ११ परसेन्ट और ७ १/२ परसेन्ट मिल सकता है लेकिन अगर मुनाफा न हो तो मिनिमम ५०,००० रु० मिल सकता है। लेकिन इस में गवर्नमेंट को यह अधिकार दिया गया है कि वह चाहे तो मुनाफा कम होने पर या नुक्सान होने पर जो मिनिमम कमिशन ५०,००० का रक्खा है उस से भी अधिक लेने की मंजूरी दे सकती है। एक बैलेन्स शीट हमारे सामने है कारखाने की उस में मैंने देखा कि सन १९५७ में उसे लगभगग २२ लाख रु० का घाटा हुआ। लेकिन जो उस के डाइरेक्टर्स थे उन्हें जो रकम कमीशन की मिली वह एक लाख बारह हजार रु० थी जब कि मिनिमम ५०,००० ही रक्खा गया है। ए डाइरेक्टर को १२ लाख के घोटे में भी ५४,०००, बी डाइरेक्टर को ३६,००० और सी डाइरेक्टर को ३०,०००। इस प्रकार से १ लाख २० हजार इन डाइरेक्टरों को दिया गया। मेरा यह निवेदन है कि गवर्नमेंट को यह अधिकार इस लिये दिया गया है कि कारखाना साउंड केसिस पर चले, ईमानदारी से चले, और मिसमैनेजमेंट जहां हो वहां उत्पादन जनता को मिले और एम्प्लायीज को कम मिले। लेकिन यहां तो १२ लाख का घाटा हुआ, उस पर भी १ लाख २० हजार कमिशन में दे दिया गया। इस में क्या बात है इसे आप समझते हैं। कमिशन आप इसमें ५०,००० दे रहे हैं, आप इस को १ लाख भी कर दें तो मुझे कोई एजतराज नहीं आप अगर कमिशन मैनेजिंग एजेन्ट को न भी दें तो भी उस की चिन्ता नहीं है। चिन्ता तो दूसरे लोगों को होती है। मैं तो कहता हूं कि अगर गवर्नमेंट स्पेशल आडिटर रक्खे जो कि जब चाहे चेकिंग कर सके, तो मैं इस काम को करने के लिये तैयार हूं। एक कारखाना है जो कि नया बना और जब से वह बना तब से ही नुक्सान उठाता रहा। कई वर्ष तक बराबर वह नुक्सान उठाता रहा। मालिक ने वह कारखाना बन्द कर दिया। मैं यहां पर उद्योग मंत्री जी के पास आया और निवेदन किया कि यह जो नया कारखाना है चल सकता है, चूंकि इस को बन्द कर दिया गया है इस लिये

[श्री रामसिंह भाई वर्मा]

मालिकों को मजबूर किया जाना चाहिये कि वे उसे चलायें। वह कहने लगे कि हम क्या करें? मैंने कहा कि उस को गवर्नमेंट चलाये, फिर भी वह कहने लगे कि इस में हम क्या करें? मैंने कहा कि अच्छा, मैं चलता हूं और प्राफिट पर चलाता हूं अगर गवर्नमेंट मंजूर करे। उन्होंने कहा कि मैं इस मामले में हैल्पलेस हूं। मैं प्लानिंग मिनिस्टर साहब के पास गया, प्राइम मिनिस्टर साहब के पास गया। लेकिन कुछ नहीं हो सका।

कारखाने में घाटा किस तरह से हुआ इस के भी कुछ फिगर्स मैं सदन के सामने रखना चाहता हूं। अगर गवर्नमेंट स्पेशल आडिटर मुकर्रर कर के जहां पर मर्ज हो वहां फौरन नश्तर लगाये तो कारखाना ठीक से चल सकता है और इस बिल का पूरा पूरा अमल हो सकता है। दो कारखाने एक ही स्थान पर हैं, एक बड़ा कारखाना है और एक छोटा कारखाना है। छोटे कारखाने की जो प्रोडक्शन कैपेसिटी है बड़े कारखाने की कपैसिटी उस से दुगुनी से भी ज्यादा है। सारी चीजें एक ही तरह की लगतीं हैं, क्वालिटी एक ही है, मैटिरियल एक ही है। उन के फिगर्स मैं सदन के सामने रखना चाहता हूं और दिखलाना चाहता हूं कि कम्पनी ऐक्ट में जो गड़बड़ियां उत्पन्न होती हैं वे सारी मिसमैनेजमेंट के कारण उत्पन्न होती हैं। मैं बड़े कारखाने को ए कारखाना कहूंगा और छोटे कारखाने को बी कारखाना कहूंगा। ए पुराना कारखाना है और बी नया कारखाना है। ए कारखाने का प्रोडक्शन दूने से ज्यादा है वह चल रहा है और बी कारखाना बन्द हो गया। ए कारखाने में जो रुई खर्च होती है वह ११ आ० १.४१ पाई पर पांउंड की है और बी कारखाने में जो रुई इस्तेमाल हुई उसी साल में वह थी १४ आ० १०.२ पाई पर पाउंड। एक पाउंड रुई पर ३ आ० ९ पाई का फर्क होता है। जहां तक बैलेंस शीट की बात है, आडिटर उस को आडिट करता है, रसीदें लीं, वाउचर लिये, उस पर दस्तखत भी हो गये, कम्पनी ऐक्ट के अनुसार तमाम हिसाब किताब बराबर है। रकम दिखला दी गई और वाउचर पर दस्तखत हो गये। इस समय गवर्नमेंट को यह देखना चाहिये कि किस समय कारखाने के लिये रुई खरीदी गई उस समय किस काउंट की रुई खरीदी गई, मार्केट का ट्रेंड क्या था, बाजार भाव क्या था। अगर इस तरह से एक पाउंड पर तीन आने ९ पाई का फर्क आ जाता है तो जिस कारखाने में लाखों पाउंड रुई का खर्च है वहां पर इस का क्या अगर होगा? यह तो एक साल का फर्क है। दूसरे साल का फर्क भी देखिये। ए कारखाने में रुई खरीदी गई १३ आ० ७ पाई पर पाउंड जब कि बी कारखाने में खरीदी गई १ रु० १ आ० २ पाई के हिसाब से। तीसरे साल ए कारखाने ने खरीदी १३ आने ७.४ पाई पर पाउंड और बी कारखाने में खरीदी गई १ रु० १० पाई पर पाउंड के हिसाब से। यह तो मैंने आप को रुई की बात बतलाई। इसी प्रकार से बिजली और पावर का खर्च भी है। ए कारखाना, जिस की कैपैसिटी बी कारखाने से दुगुनी से

ज्यादा है, उस का बिजली का खर्च साल में आता है, १४,२८० रु० ६ आ० ३ पाई और बी कारखाने का खर्च बिजली और पावर का आता है ३२,६३६ रु० ६ आ० १० पाई। जहां पर उत्पादन ज्यादा है वहां पर १४,००० के लगभग खर्च आता है और जहां पर उत्पादन कम है वहां पर ३२,००० के लगभग खर्च आता है। आखिर इस का मतलब क्या है? इस का कोई तो कारण होना चाहिये, लेकिन इस को कौन देखे? बैलेंस शीट, रसीद और वाउचर सब ठीक हैं। लेकिन आखिर हुआ क्या? सेठ जी के घर में लड़के की शादी थी, फिर लड़की की शादी थी। लड़के की शादी होने के कारण बड़ा भारी जलूस निकलना चाहिये, सब जगह पर लाइट करनी है, सारा साज सामान करना है। सब कुछ कर लिया लेकिन खर्च डाला गया मिल के नाम पर। मिल के खर्च से लड़के और लड़की की शादी हुई है। सारी डिफिकल्टी यह है जिस की और ध्यान देना चाहिये।

जब यह कारखाना बन्द हुआ तो मैंने इस के लिये आन्दोलन चलाया क्योंकि गवर्नमेंट ने इसके ऊपर ध्यान नहीं दिया। लेकिन आखिर में हुआ क्या? वह आन्दोलन सत्य और अहिंसा के आधार पर इस तरह से चला कि छठवें दिन सेठजी को हमसे समझौता करना पड़ा और उन्होंने कहा कि इस झगड़े को तय करने के लिये कोई आरबिट्रेटर मुकर्रर कर लिया जाय। मैंने कहा कि मंजूर टेक्स्टाइल कमिश्नर को आरबिट्रेटर बना दिया गया। अगर वह ऐसा फैसला करेंगे कि एक भी मजदूर नहीं रहेगा या वह कहे कि उन का वेतन कम कर दिया जाय, तो मैं उस के लिये भी तैयार हूं, लेकिन वह जो भी अपना फैसला दें उसे आप को भी मानना होगा। और कारखाना चालू करना होगा। टेक्स्टाइल कमिश्नर साहबने आरबिट्रेशन दिया और फैसला दिया कि ३२ लाख रु० के लगभग सेठ जी ने नाजायज तौर पर लगाया है उस को कम्पनी को वापस किया जाय और जब तक कम्पनी प्राफिट नहीं करती है तब तक वे किसी तरह का कमिशन न लें। रामसिंह भाई जो हैं इन की सलाह से मैनेजमेंट को चलाया जाय। मैं निवेदन करना चाहता हूं कि वे सेठ जी तो रवाना हो गये लेकिन उस जगह पर वह कारखाना आज भी प्राफिट कर रहा है। मेरे प्रदेश में इतना प्राफिट आज एक भी कारखाना नहीं कर रहा है। मैं यह निवेदन करना चाहता हूं कि दर्द कहीं होता है और मालिश कहीं और की जाती है। सवाल तो यह है कि जो प्वाइंट है उसे पकड़िए। मैं निवेदन करूं। एक बोनस का केस था। सेठ जी ने बताया कि कोई प्राफिट नहीं है इसलिए ट्राइबुनल के फारमूले के अनुसार मजदूरों को बोनस प्राप्त करने का कोई अधिकार नहीं है। उन्होंने जो फिगर रखे उनके अनुसार मजदूरों को बोनस नहीं मिल सकना था। उनके यहां एक टाइपिस्ट था जिसको गवर्नमेंट को दिखाने के लिए एक हिसाब रखना पड़ता था और अपने लिए दूसरा हिसाब रखना पड़ता था। जैसा कि मिनिट आफ डिसेंट में श्री तंगामणि जी ने कहा है केवल प्राइवेट और पबलिक सेक्टर ही नहीं है, एक परसनल सेक्टर भी है जो कि हर जगह चलता है। तो उस क्लर्क के पास जो सही किताब था उसको उसने कोर्ट के सामने पेश कर दिया। उस पर सेठ जी ने केस किया कि इसने हमारा हिसाब गायब कर दिया है। यह चीज गवर्नमेंट के सामने आयी। आखिर को सेठ जी से कह सुन कर केस को विदड्रा कराया गया, लेकिन जो हिसाब कोर्ट के सामने पेश किया गया था उसी के अनुसार मजदूरों को बोनस मिला। तो मेरा निवेदन मिसमैनेजमेंट के बारे में है,। कई बार ये बातें मैं मिनिस्टर साहब के ध्यान में भी लाया हूं, लेकिन कहा जाता है कि हम देखते हैं, जांच करते हैं, और इस तरह वह मामला ने जाने कहां गायब हो जाता है।

मैं आपको बैलेंशसीट के बारे में निवेदन करूं। एक कनसेन का तीस जून को साल पूरा हो जाता है और उस दिन तक बैलेंसशीट पूरा समझा जाता है। अब ३० जन के बाद एक कारखाने में किसी प्रकार से दुर्घटना होती है, गोदाम का माल बिगड़ जाता है, सड़ जाता है और उस कारण उसकी वैल्यू में कमी हो जाती है। तो ३० जून तक का बैलेंसशीट है उसमें जो आगे के महीनों में कमी हुई है उसको दिखाया जाता है। मैं समझता हूं कि ऐसा कानून कहीं भी नहीं है कि साल के क्लोजिंग और ओपनिंग स्टाक में इस तरह से फर्क दिखाया जाए। लेकिन ऐसा किया जाता ह। तो आज सबसे बड़ी जरूरत यह है कि यह एडमिनिस्टेशन स्टेटवाइज होना चाहिए जो कि हमारे यहां आज है नहीं। इसलिए जो भी बैलेंसशीट आते हैं उनमें इस तरह से हिसाब किताब में फर्क कर दिया जाता है और उसको कोई नहीं देखता।

तीसरी बात जो मैं निवेदन करना चाहता हूं वह बहुत महत्वपूर्ण है। एक कम्पनी बैलेंसशीट तैयार होता है और उसमें ३१ मार्च, १९५६ का क्लोजिंग स्टाक होता है। श्रीमन्, वह क्लोजिंग स्टाक ३१ मार्च १९५६ का १ अप्रैल, १९५६ को किस तरह घट या बढ़ सकता है। रात के १२ बजे तक का क्लोजिंग स्टाक रात के १२ बजे के बाद दूसरे वर्ष नहीं बदला जा सकता, लेकिन उसको बदल दिया जाता है और उसमें लाखों की कमी हो जाती है। यह चीज मेरी समझ में नहीं आती। यह इस ख्याल से किया जाता है कि करेंट इअर में उनको फायदा दिखाना है या नुक्सान दिखाना है। अगले साल का ट्रेड किस तरह का है उसे देख कर सारे का सारा हिसाब बनाया जाता है।

१९४० में एक कोर्ट के अन्दर जब डिअरनेस एलाउंस का केस फाइल किया गया तो उसमें मिल ओनर्स ऐसोसिएशन के प्रसीडेंट थे और नन्दा जी उस केस को प्लीड कर रहे थे और जब कोर्ट के सामने बैलेंसशीट फाईल किया गया और चर्चा की गई तो मिल ओनर्स ऐसोसिएशन के प्रेसीडेंट कहते हैं कि यह तो हमारा अपना हिसाब है, हम जैसा चाहते हैं बैलेंसशीट बनाते हैं, तो यह सारा कारोबार इस तरह से चलता है और बैलेंस शीट तयार होते हैं। इस प्रकार से एक साल नहीं, दो साल नहीं, लगातार कई सालों से होता आ रहा है। उस कम्पनी के क्लोजिंग स्टाक और औपिनिंग स्टाक के अन्दर काफी फर्क रहा है। यह सारा काम मैनेजिंग डाइरेक्टर करते हैं और शेयर-होल्डर्स की बुरी हालत है। अधिकांश शेयर्स के ऊपर तो मैनेजिंग डाइरेक्टर, मैनेजिंग एजेंट और डाइरेक्टर कब्जा करके बैठे होते हैं। वही सब कुछ करने वाले हैं। फिर डिवीडेंड का सवाल आता है।

मैं इस चीज का स्वागत करता हूं और मिनिस्टर साहब से निवेदन करना चाहता हूं कि जो क्लाज आपने रखा है वह बहुत कीमती है। उसके ऊपर आपने ध्यान दिया तो मैं यह मानता हूं कि चाहे हम मिस-मैनेजमेंट को बिल्कुल खत्म न कर सकें लेकिन हम उसको बहुत हद तक कम जरूर कर सकेंगे।

दूसरा मेरा निवेदन वर्कर्स के सम्बन्ध में है। ५३० धारा के अन्दर कमेटी ने कुछ संशोधन किया है। और उसमें इंडस्ट्रियल डिसप्यूट्स ऐक्ट के हिसाब से रिट्रेंचमेंट कम्पेन्सेशन और ले आफ कम्पेन्सेशन जोड़ दिया गाया है। मूल कम्पनी ऐक्ट में यह रखा गया था कि अगर कोई कारखाना बन्द हो या लिक्विडेशन में जाए तो मजदूरों

[श्री रामसिंह भाई वर्मा]

के वेतन को प्राथमिकता दी जानी चाहिए। लेकिन उसमें रिट्रेंचमेंट कम्पेन्सेशन और ले आफ कम्पेन्सेशन नहीं था। उस वक्त यह था कि वेतन की जितनी चार माह जितनी रकम हो या १००० रुपया तक दिया जाय। लेकिन अब जो अमेडमेंट किया गया है उसमें ले आफ कम्पेन्सेशन और रिट्रेंचमेंट कम्पेन्सेशन भी जोड़ दिया गया है। मेरी समझ में नहीं आता कि फिर भी १००० रुपये की रकम क्यों रखी गई है। यह तो बहुत कम है और इससे मजदूरों को काफी नुकसान होगा। मैं तो मानता हूं कि जो पहले १००० की कम रखी गई थी उसके हिसाब से भी मजदूरों को काफी नुकसान हो सकता था, लेकिन दुर्भाग्य से कहिये या सद्भाग्य से कि ऐसा मौका आया नहीं, और एक दो जगह आया भी तो उसके लिए आगे कोशिश की गई। लेकिन अब सवाल यह है कि श्रमिकों के जीवन स्तर में फर्क पड़ गया है, उनके वेतनों में वृद्धि हो गई है, डिअरनेस एलाउंस काफी बढ़ गया है। सन १९५६ के अन्दर जब मूल कानून के अन्दर अमेंडमेंट किया गया उस वक्त जो वेतन और डिअरनेस एलाउंस था उससे ज्यादा बढ़ गया है। अभी टैक्सटाइल वेज बोर्ड की रिपोर्ट आयी, उसके अनुसार वेतनों में फर्क हुआ। सीमेंट वेज बोर्ड की रिपोर्ट आयी, उसके अनुसार वेतनों में फर्क हुआ। इसी तरह से हाल में शुगर इंडस्ट्री की रिपोर्ट आने वाली है, जूट इंडस्ट्री की रिपोर्ट आने वाली है, एक के बाद एक इस तरह की रिपोट आने वाली हैं। उनसे वेतनों में फर्क पड़ेगा। लेकिन जो मुआवजे की १००० की रकम पुराने जमाने में रखी गई थी वही अब भी रखी गई है यह मेरी समझ में नहीं आया। अब जो आप अमेंडमेंट करेंगे उसमें आप ले आफ कम्पेन्सेशन और रिट्रेंचमेंट कम्पेन्सेशन और जोड़ रहेहैं। मान लीजिए कि एक कारखाना बन्द हो और मान लीजिए कि किसी मजदूर की बीस साल की सरविस है तो बीस साल का कितना रिट्रेंचमेंट कम्पेन्सेशन और ले आफ कम्पेन्सेशन होगा। उसी हिसाब से आपको रकम निश्चित करनी चाहिए।

अभी हमारे यहां एक कारखाना है। उसकी हालत बहुत डावांडोल है। वह कभी भी बन्द हो सकता है। अगर वह गवर्नमेंट के भरोसे होता तो कभी का बन्द भी हो गया होता। लेकिन वह मजदूरों की मेहनत और ईमानदारी से अभी तक चल रहा है। तीन तीन चार चार महीनों से मजदूरों को वेतन नहीं मिला है। लेकिन मैं उनसे कहता हूं कि घबराओ मत और काम बन्द न करो। मिल मालिक तो चाहता है कि मजदूर अपने आप काम बन्द कर दें तो उसे रिट्रेंचमेंट कम्पेन्सेशन न देना पड़े और ले आफ कम्पेन्सेशन न देना पड़े। लेकिन मैं तो मजदूरों से कहता रहा कि काम बन्द न करो। कारखानेदार इसलिये कारखाने को चला रहे थे कि उसे रिट्रेंचमेंट और ले आफ कम्पेन्सेशन न देना पड़े। बीस लाख रुपया प्रावीडेंट फंड का उस कारखाने वाले के पास जमा है। इसके अंदर अमेंडमेंट है कि प्रावीडेंट फंड की रकम समय के ऊपर जमा करानी चाहिये।

यह अमेंडमेंट तो है और कानून भी है। पहले से भी आपकी कारपोरेशन का कानून है लेकिन महीने नहीं दो महीने नहीं साल नहीं दस साल नहीं आखिर यह क्या चीज है ?

श्रीमान ने नवम्बर '५८ में इस कारखाने के बारे में एक कमेटी मुकर्रर की थी और उस कमेटी की रिपोर्ट में यह बतलाया गया था कि ५ लाख रुपया प्राविडेंट फंड का कारखानेदारों ने जमा नहीं किया है और अब नवम्बर '६० में २० लाख रुपया जमा हो गया है। मेरा निवेदन है कि आप कानून बनाते हैं आप संशोधन करते हैं लेकिन आप उसके सही तौर से अमल होने का क्या इंतजाम करते हैं ?

मेरा यह निवेदन है कि इस एक्ट की धारा ५३० के अन्दर जो अमेंडमेंट किया गया है उसमें १००० रुपये की जो मुआविजे की रकम थी उसको वैसा का वैसा ही रक्खा गया है। इस मुआविजे की रकम को बढ़ाने की जरूरत है और मेरा सुझाव है कि वह रकम बढ़ा कर २००० कर दी जाय।

एक बात मैं यह निवेदन करना चाहता हूं कि जो गवर्नमेंट को यह अधिकार दिया गया है कि अगर डैप्रीशिएशन न काटा जा सकता हो तो भी अगर सेंट्रल गवर्नमेंट चाहे तो डिवीडेंड बांटने का अधिकार दे सकती है, मेरी समझ में यह गलत है। डैप्रीशिएशन तो काटा ही जाना चाहिये। मैं यह बात मानता हूं कि गाय को चारा जरूर मिलते रहना चाहिये अगर हम दूध और बछड़ा चाहते हैं। डैप्रीशिएशन एक ऐसी जरूरी चीज है और डैप्रीशिएशन तो किसी भी हालत में काटा ही जाना चाहिय। सरकार को टैक्स और शेयर होल्डरों को डिवीडेंड न मिले तो भी कोई हर्ज नहीं लेकिन कारखाने को बरकरार बनाये रखना बहुत जरूरी है और यह भी देखना बहुत जरूरी है कि जो डैप्रीशिएशन निकाला जा रहा है उसका बराबर उपयोग होता है कि नहीं। हम यह खुद मानते हैं कि अगर कारखाने को डैप्रीशिएशन नहीं मिलता तो हम बोनस की मांग नहीं करेंगे। बोनस क्या चीज है? अगर प्रोफिट होता है तो जाहिर है कि गवर्नमेंट को टैक्स मिलना चाहिए क्योंकि गवर्नमेंट को टैक्स मिलना सारे देश को मिलना है। इसमें कोई एक मजदूर का सवाल नहीं है बल्कि सारे देश का सवाल आता है। इसी तरीके से डैप्रीशिएशन निकालना और कारखाने को बनाय रखना देश के उद्योग व्यवसाय को बढ़ाना है और उसको उन्नत करना है। लेकिन शेयर हाल्डरों को १०० रुपये के ऊपर ६ रुपये न मिलें तो वह दुबले हो जाने वाले नहीं हैं लेकिन कारखानेदार अगर डैप्रीशिएशन नहीं निकालें तो कारखाने बंद हो जाने वाले हैं। हिन्दुस्तान के अन्दर एक दो तीन नहीं बल्कि सैकड़ों कराखाने बंद हो गये। लड़ाई के जमाने में अनाप शनाप प्राफिट इन लोगों ने किया। उसमें से डैप्रीशिएशन तो निकाला नहीं लेकिन डिवीडेंड १५० परसेंट तक बांट दिया। डैप्रीशिएशन न निकालते हुए ब्लाक की कीमत कम करते गये। इससे क्या होने को है। आज यह खराबी यूनिफार्म है। हमारे माननीय मंत्री इंडस्ट्रीज की बात करते हैं लेकिन उसमें यह कुछ आज भी पाने वाले नहीं हैं। मैं इन कारखानेदारों को बखूबी जानता हूं। उनकी वही पुरनी बिल्डिंग है जिसमें कि सांप बच्चे देते हैं और घुग्घू बोलते हैं। उनके पास पैसा नहीं है। मैं एक कारखाने की बाबत बतलाऊं कि एक कारखाने को इंडस्ट्रियल फाइनेंस कारपोरेशन ने नई मशीनरी के लिए ८ लाख रुपया दिया था लेकिन उन्होंने वह तमाम रुपया तेल और डस्टर वगैरह में खत्म कर दिया और मशीनरी डाली ही नहीं। इसलिये मैं निवेदन करना चाहता हूं कि यह डैप्रशिएशन प्रोफिट में से पहले गिना जाना चाहिये।

चोथी बात जिसकी कि अभी यहां सदन में थोड़ी चर्चा हुई वह पोलिटिकल पार्टीज को फंड्स देने के बारे में है। मुझे इस चीज का काफी कटु अनुभव हुआ है और हो रहा है। इसमें किसी खास राजनैतिक पार्टी को रुपया मिलने का सवाल नहीं है मैं तो निवेदन करना चाहता हूं कि इससे कोई भी पार्टी बरी नहीं है सबको उनकी शक्ति और काम के परिमाण में पैसा मिलता है। कोई भी देश की राजनैतिक पार्टी इससे बची नहीं है और सबको किसी को कम और किसी को ज्यादा पैसा मिलता रहता है। इसका इतना बुरा नतीजा हो रहा है कि कारखाने नुकसान कर रहे हैं और मैं ने देखा है कि

[श्री रामसिंह भाई वर्मा]

लगभग कुछ ऐसे कारखाने हैं जो कि पोलिटिकल पार्टीज को तो २५ हजार या इससे अधिक रुपये देते हैं लेकिन मजदूरों को उनका वेतन का पैसा नहीं देते। अब इसमें पोलिटिकल पार्टी का ही सवाल नहीं है बल्कि ट्रेड यूनियंस का भी सवाल है। कुछ ट्रेड यूनियनें इसीलिए खत्म हो गईं कि मालिकों ने उन्हें अपनी जेब डाल में दिया और वे उनके हाथों बिक गईं। अनुभव बतलाता है कि कोई भी अगर जरा मजदूरों के हक की बात करने लग जाय तो सेठ जी उसको अपने पास बुला लेते हैं और कहते तो यह हैं कि हम सब ठीक कर देंगे लेकिन होता यह है कि मजदूर बेचारे तो भगवान भरोसे रह जाते हैं और दुर्भाग्यवश सेठ जी रुपये के बल से उसका मुंह बंद कर देते हैं और वह उनके हाथों बिक जाता है। मैंने देखा है कि हिन्दुस्तान के अन्दर ट्रेड यूनियंस साउंड बेसिस पर नहीं चल पाईं और इसका कारण यह है कि इस तरह से उनको तोड़ा जाता है। जब उन्हें प्राफिट न होने पर भी मिनिमम ५०००० रुपया मिलता है तो उस ५०००० के अन्दर से १०,००० रुपये राजनीतिक पार्टियों को वे दे सकते हैं। मैंने यह देखा कि गांधी स्मारक निधि में भी इन बड़े बड़े कारखानेदारों में से कितनों ही ने अपनी जेब से एक पैसा नहीं दिया लेकिन कारखानों से दिया और वाहवाही मालिकों को व्यक्तिगत मिलती है जब कि पैसा वह कारखाने में से देते हैं और वह पैसा मजदूरों का ही जाता है। मेरा यह निवेदन है कि पोलिटिकल पार्टीज हों या कोई भी हों, डोनेशन का सवाल आता है तो जैसा जिसकी शक्ति हो डोनेशन दे लेकिन कारखाने में से मजदूरों का पैसा बतौर डोनेशन देना किसी तरह भी उचित नहीं है। मैंने देखा है कि बहुत सी जगह एक खर्चा उसकी ठीक जगह पर न लिखा जा कर दूसरी मद में लिखा जाता है। मैं नाम ले कर नहीं बतलाना चाहता लेकिन कई जगह इस तरह की गड़बड़ियां चलती हैं। आज जो हमारे कुछ नेता ट्रेड यूनियनों और कोआपरेटिव बेसिस पर कारखानों का मैनेजमेंट चलाये जाने का विरोध करते हैं तो वह जानते हैं कि अगर यह कारखाने प्राइवेट लोगों के पास किसी भी सेठ जी के पास रहते हैं तब तो उनको उनसे डोनेशन मिल ही जायगा लेकिन अगर यह कारखाने कहीं रामसिंह भाई के पास चले गये तो फिर हम क्या करेंगे। इसलिए वे गवर्नमेंट या इसी तरह की किसी कोआपरेटिव सोसाइटी के मातहत इन कारखानों का इंतजाम चलाने के विरुद्ध हैं।

अब वैसे तो यह कम्पनी ऐक्ट एक अथाह सागर है लेकिन मैं ने ज्वाएंट कमेटी की रिपोर्ट और जो अमेंडमेंट बिल आया है उस को देखते हुए कुछ जरूरी सुझाव सरकार के विचारार्थ पेश किये हैं और मुझे आशा है कि मंत्री महोदय उन पर विचार करेंगे। यह मिसमैनेजमेंट की बात और स्पेशल आडिट की जो बात है उसे आप एफेक्टिव बनायेंगे। दूसरे धारा ५३० के अन्दर मुआविजे की रकम को १००० से बढ़ा कर २००० रुपये कर दें। बस यही मेरा निवेदन है।

श्री राम कृष्ण गुप्त (महेन्द्रगढ़) : उपाध्यक्ष महोदय, मौजूदा कम्पनी ऐक्ट को जो इस अमेंडिंग बिल के जरिए अमेंड किया जा रहा है इस के बारे में में दो, तीन तजवीजें हाउस के सामने रखना चाहता हूं।

यह तो बात ठीक है कि यह जो हमारा मौजूदा सन् १९५६ का कम्पनी ऐक्ट है, हिन्दुस्तान में जब शुरू शुरू में सन् १८५० में ज्वाएंट स्टौक कम्पनी एक्ट बनाया गया था तो यह ज्यादातर उसी पर दारोमदार रखता था। कुछ समय गुजरने के बाद जो प्रैक्टिकल डिफिकल्टीज आईं उन को मद्देनजर रखते हुए तमाम कम्पनी ला को कंसौलिडेट करने के लिए सन् १९५६ में पहला ऐक्ट बनाया गया। इन ५, ६ सालों के तजुर्बे के बाद जो प्रैक्टिकल डिफिकल्टीज आईं और आये साल कम्पनी ला ऐडमिनिस्ट्रेशन की तरफ से जो सालाना

रिपोर्टें आती थीं उन रिपोर्टों की रोशनी में उन दिक्कतों और खामियों को दूर करने के लिये आज फिर इस ऐक्ट को अमेंड किया जा रहा है ।

इसलिए आज हमारे सामने सब से अहम सवाल यह है कि इस ऐक्ट को अमेंड करने से क्या जो दिक्कत हमारे सामने हैं वे दूर हो जायेंगी ? और अगर वह दिक्कतें दूर नहीं होंगी और खामियां पूरी नहीं होंगी तो वह कौन सी चीजें हैं जोकि होने से बाकी रह गई हैं । हमें यह देखना है कि इस ऐक्ट को क्यों अमेंड किया जा रहा है ? जैसाकि मैं ने आप से कहा कि इस ऐक्ट की वर्किंग में जो प्रैक्टिकल डिफिकल्टीज आईं उन को मालूम करने के लिये एक कमेटी मुकर्रर की गई जोकि आमतौर पर शास्त्री कमेटी के नाम से पुकारी जाती है । उस कमेटी ने देश के मुख्तलिफ हिस्सों का दौरा किया और उन प्रैक्टिकल डिफिकल्टीज को मालूम करने की कोशिश की जितनी अमेंडमेंट्स हो रही हैं, वे ज्यादातर उसी कमेटी की रिपोर्ट पर हो रही हैं । उस कमेटी का यह कहना है—

15 hrs.

"It was considered desirable in the public interest, and in order to prevent the diversion of companies' funds for purposes that thwarted national economic policies or approved economic objectives, that the Government should have greater control over the formation and management of joint stock companies. A minimum standard of good behaviour and business honesty in company promotion and management, ..."

अब हम ने यह देखना है कि कमेटी का जो मकसद था, वह इस मौजूदा अमेंडिंग बिल से कहां तक पूरा होगा । सब से पहले मैं हाउस को यह बताना चाहता हूं कि इस सिलसिले में क्या डिफ़िकल्टीज थीं । सालाना रिपोर्टें जो पेश की गई, उन में भी इन बातों का ज़िक्र किया गया । सब से बड़ी डिफ़िकल्टी यह थी कि पब्लिक कम्पनीज़ कुछ फ़ैसिलिटीज़ से एग्जेम्प्टिड थीं, जोकि प्राईवेट कम्पनीज़ को मिली हुई थीं, इसलिये आम तौर पर यह टेंडेंसी थी कि पब्लिक कम्पनीज़ को प्राइवेट कम्पनीज़ में कनवर्ट किया जाता था । इस दिक्कत को दूर करने के लिए इस एक्ट को अमेंड किया जा रहा है । यह बड़ी खुशी की बात है और मुझे पूरा विश्वास है कि सैक्शन १४ को अमेंड करने से कुछ न कुछ रेस्ट्रिक्शन्ज़ लग जायेंगी ।

आडिटर का सवाल भी बड़ा अहम है । मुझ से पहले मेरे दोस्त, श्री रामसिंह भाई वर्मा ने इस पर काफ़ी रोशनी डाली है । मैं तो सिर्फ़ इतना ही कहना चाहता हूं कि अगर हम यह चाहते हैं कि कम्पनीज़ का स्टैंडर्ड ऊंचा हो, तो कम्पनीज़ के एकाउंट्स और बैलेंस शीट पर पूरा कंट्रोल करना पड़ेगा । मुझे पूरा विश्वास है कि इस से हमारे बहुत से झगड़े खत्म हो सकते हैं और खास तौर से मालिकों और मजदूरों का जो झगड़ा है, वह काफ़ी हद तक निपटाया जा सकता है । मौजूदा लेबर ऐक्ट के तहत मज़दूरों को फ़ैसिलिटीज़ देने की कोशिश की जा रही है और उन की तन्ख्वाहें बढ़ाने की कोशिश की जा रही है, इसलिए बनावटी तरीके से कम्पनियों को घाटे में दिखा कर सारा काम किया जाता है । अगर आडिटर्ज़ पर हमारा पूरा कंट्रोल हो जाये, तो ये तमाम दिक्कतें दूर हो सकती हैं । इस बारे में एक नहीं हज़ारों किस्म की मिसालें पेश की जा सकती हैं और वे ऐसे कनसर्न्ज़ से ताल्लुक रखती हैं, जोकि हिन्दुस्तान के बिज़िनेस हाउसिज़ में से चोटी पर हैं । मैं उन तमाम बातों को दोहराना नहीं चाहता, लेकिन मैं यह ज़रूर कहना चाहता हूं कि क्लाज़ ६६ के ज़रिये सैक्शन २४ को जो अमेंड किया जा रहा है, उस से हमारा यह मकसद पूरा नहीं होगा । इस को और ज्यादा सख्त करने की ज़रूरत है । इस को मद्देनज़र रखते हुए मैं ने एक अमेंडमेंट पेश की है । मुझे पूरा विश्वास है कि उस पर पूरा विचार होगा और उस को स्वीकार किया जायगा ।

[श्री राम कृष्ण गुप्त]

जहां तक एकाउंट्स का ताल्लुक है, उन को देखने के लिए और डाकुमेंट्स हासिल करने के लिये बड़ी दिक्कत आती थी । इस दिक्कत को दूर करने के लिए इस एक्ट को अमेंड किया जा रहा है । इन तमाम बातों के लिए मैं मिनिस्ट्री को मुबारकबाद पेश करता हूं और मैं समझता हूं कि इस एक्ट के पास करने से कुछ न कुछ दिक्कतें जरूर दूर हो जायेंगी ।

मैं हाउस के सामने तीन चार नई तजवीजें रखना चाहता हूं, जिन पर अमल करने की मेरे ख्याल में बहुत ज्यादा जरूरत है । अगर हो सके, तो इस बिल को पास करने से पहले उन को भी इस में शामिल किया जा सकता है ।

मैं हाउस का ध्यान मौजूदा एक्ट के सैक्शन २७५ और ३१६ की तरफ़ दिलाना चाहता हूं । मैं समझता हूं कि ये सैक्शन्ज बहुत अहम हैं । इन सैक्शन्ज में इन बातों का जिक्र किया गया है कि डायरेक्टर्ज की क्या तादाद होनी चाहिए एक आदमी कितनी कम्पनीज का मैनेजिंग एजेन्ट हो सकता है, उन के ऊपर कितनी रेस्ट्रिक्शन्ज होनी चाहियें । शास्त्री कमेटी ने भी अपनी रिपोर्ट में इस बात का जिक्र किया है, लेकिन मुझे बड़े दुख के साथ कहना पड़ता है कि इन दो सैक्शन्ज को अमेंड करने के लिए न तो शास्त्री कमेटी ने सिफ़ारिश की और न ज्वाएंट कमेटी ने इस मसले पर विचार किया । इस रिपोर्ट में सफ़हा १०३ पर यह कहा गया है—

"There are, on the other hand, complaints that the limit of twenty directorships and ten managing agencies is too high and that there is a tendency for a few businessmen and the members of their families to concentrate in their hands enormous industrial power by virtue of their position as managing agents of a large number of public companies. We have been informed that, in practice, the average number of directorships held by an individual in the U.K. or in the U.S.A. is much less than the number permissible under our Act."

आज हम देखते हैं कि हमारे देश की तमाम दौलत इन इंडस्ट्रियल कनसर्न्ज के जरिये चन्द बड़े बड़े खानदानों में इकट्ठी हो रही है । इस का सब से बड़ा कारण यह है कि डायरेक्टरशिप्स और मैनेजिंग एजेन्सीज पर जो कंट्रोल होना चाहिये, वह इस वक्त मौजद नहीं है । इस के बारे में मैं चन्द मिसालें भी हाउस के सामने पेश करना चाहता हूं । मुझे बड़े अफ़सोस के साथ कहना पड़ता है कि कमेटी का ध्यान इस तरफ़ नहीं गया है कि किस तरीके से चन्द बड़े बड़े खानदान तमाम इंडस्ट्री को कंट्रोल कर रहे हैं, वर्ना इन सैक्शन्ज को भी अमेंड करने की जरूर कोशिश की जाती । मिसाल के तौर पर २५० इंडस्ट्रियल कनसर्न्ज को सिर्फ़ ९ लीडिंग ब्रिटिश मैनेजिंग हाउसिज कंट्रोल करते हैं । इसी तरीके से २२० इंडस्ट्रियल कनसर्न्ज को ११ इंडियन हाउसिज कंट्रोल करते हैं । यही १०० आदमी १७०० के करीब डायरेक्टरशिप की पोस्ट्स होल्ड करते हैं । १९५६ के इंडस्ट्रियल पालिसी रेज़ोल्यूशन का भी यही मतलब था ।

"The Industrial Policy Resolution, 1956 has emphasised the urgency to reduce disparities in income and wealth which exist today and to prevent private monopolies and the concentration of economic power in different fields in the hands of small members of industrial concerns.".

इसलिए मैं यह अपील करता हूं कि इन दो सैक्शन्ज को जरूर अमेंड किया जाये, क्योंकि ऐसा किए बग़ैर हमारा मकसद पूरा नहीं हो सकता है । इस के बारे में मैं एक आर्टिकल की तरफ इस हाउस का ध्यान दिलाना चाहता हूं । डा० एम० एम० मेहता ने अपनी किताब में एक जगह इस का जिक्र किया है और लिखा है :—

"For all practical purposes, a few leading families in India

control and guide the industrial destinies of the country.".

इस से आप अंदाज़ा लगा सकते हैं कि यह कितने दुःख की बात है । मैं समझता हूं कि इन दो सैक्शन्ज़ को एमेंड करने की सब से ज्यादा जरूरत है और ऐसा करने की कोशिश की जाय ।

तीसरी बात मैं फिक्टिशस शेयर्स के बारे में कहना चाहता हूं । इस का जिक्र जो सालाना रिपोर्ट हाउस के सामने पेश की गई हैं, उन में भी किया गया है । एक सवाल मैं ने पेश किया था और उस के जवाब में मुझे बताया गया था कि इस किस्म की बहुत सी कम्पनियां मौजूद हैं जिस के शेयर्स फिक्टिशियस नामों से हैं, यानी शेयर किसी और के नाम से हैं और दरअसल में मालिक कोई और है । इस वास्ते इस ओर ध्यान देने की भी बहुत ज्यादा जरूरत है । अभी तक इस के बारे में कुछ नहीं किया गया है । जब तक ऐसा नहीं किया जायेगा मैं समझता हूं कि जो बड़ी बड़ी कम्पनियां हैं, उन के अन्दर जो मैल-प्रेक्टिसिस चलती है, उन को नहीं रोका जा सकता है ।

आखिर में मैं चन्द लफ्ज़ डोनेशंस के बारे में कहना चाहता हूं । इस का हाउस में कई बार जिक्र आया है । डोनेशंस का सवाल किसी एक पार्टी से ताल्लुक नहीं रखता है । हम नहीं चाहते हैं कि कोई ऐसा काम किया जाये जिस से हिन्दुस्तान की आम गरीब जनता पर बुरा असर पड़े और वह डिमारेलाइज़ हो । मैं ईमानदारी के साथ महसूस करता हूं कि जो डोनेशंस दिये जाते हैं ये पोलिटिकल पार्टी को डिमारेलाइज़ करने के लिये दिये जाते हैं । इन पर जरूर रेस्ट्रिक्शन लगनी चाहिये । मुझ से पहले बोलने वाले माननीय सदस्यों ने इस का जिक्र किया है और मैं समझता हूं कि कोई भी सरकार हो उस पर इस का बुरा असर पड़ता है । उस पार्टी की उस सरकार की जो पालिसी है, जो आबजैक्टिव है, जो प्रोग्राम है उस के अन्दर वे घुस कर उस को खराब करने की कोशिश करते हैं और इस को साबित करने के लिये कई मिसालें भी पेश की जा सकती हैं । लेकिन मैं मिसालें पेश करना नहीं चाहता हूं । लेकिन मैं महसूस करता हूं कि जो डोनेशन देने वाले हैं, जिस ज़रीके से वे अंडर-हैंड मींस के ज़रिये से हमारी पालिसी और हमारे प्रोग्राम को खत्म करने की कोशिश करते हैं, उस पर रोक लगनी चाहिये । इस वास्ते मैं चाहता हूं कि इस किस्म की चीज़ों पर रोक लगाई जाये । यह बात इस वास्ते भी जरूरी है क्योंकि जैसा-कि हमारे माननीय सदस्य श्री रामसिंह भाई वर्मा जी ने कहा कि डोनेशन की रकम दर-असल में गरीब मजदूरों की कमाई का हिस्सा होता है और कोई भी मिल मालिक या कनसर्न अपनी जेब से, अपने परसनल मुनाफे में से एक पैसा भी डोनेशन के तौर पर नहीं देता है बल्कि और आगे बढ़ कर इस बात की जरूर कोशिश करता है कि दान अगर १०,००० का दिया गया हो तो कागजात के अन्दर एक लाख दिखलाया जाय ताकि नब्बे हज़ार रुपया नाजायज़ तौर पर उस की पाकेट में जा सके । इस के बारे में मिसालें भी पेश की जा सकती हैं लेकिन मैं ऐसा करना नहीं चाहता हूं । इस वास्ते इस तरफ ध्यान देना भी बहुत लाज़िमी है ।

मैं समझता हूं कि जो दो तीन बातें मैं ने आप के सामने रखी हैं उन की तरफ जरूर ध्यान दिया जायेगा और जो कमियां हैं उन को दूर किया जायेगा । मैं ने कहा है कि जहां तक प्राइवेट कम्पनियों का सम्बन्ध है उन के बारे में मैं समझता हूं कि प्रेक्टिकल तौर पर प्राइवेट और पब्लिक कम्पनीज़ में कोई फर्क नहीं होना चाहिये और तमाम एग्ज़ेम्प्शन्ज़, तमाम लिमिटेशंस, रेस्ट्रिक्शंस जो पब्लिक कम्पनीज़ पर लागू होती हैं, प्राइवेट कम्पनीज़ पर भी लागू होनी चाहियें ।

[श्री राम कृष्ण गुप्त]

दूसरी बात मैं ने आडिटर्ज के बारे में कही है कि उन की एप्वाइंटमेंट्स का काम, हिसाब किताब चैक करने का काम, बैलेंस शीट्स को कंट्रोल करने का काम ज्यादा से ज्यादा गवर्नमेंट के हाथ में होना चाहिये और मौजूदा सैक्शन को इस ढंग से एमेंड किया जाना चाहिये जिस से बैलेंस शीट्स में कम से कम गड़बड़ी हो । मैं आशा करता हूं कि मेरी इन सजैशंस पर गवर्नमेंट जरूर ध्यान देगी ।

Mr. Deputy-Speaker: Is there no other hon. Member who wants to speak? In that case, I shall call the hon. Minister to reply.

The Minister of Health (Shri Karmarkar): I would beg of you to call at least one more Member to speak.

An Hon. Member: There is no Minister also to reply to the debate.

Mr. Deputy-Speaker: Shall I have to adjourn the House, or is some hon. Member going to speak?

श्री भर्तीहरि भाई वर्मा : अगर समय है तो फिर दुबारा बोलना शुरू कर दें ?

उपाध्यक्ष महोदय : दुबारा बोलने के लिए समय नहीं है । एक बार बोलने के लिये बहुत है ।

Shri Tangamani (Madurai): I shall speak.

Mr. Deputy-Speaker: Now, Shri Tangamani.

Shri Tangamani: I am one of those who was a Member of the Joint Committee. The Joint Committee have taken more than one year to submit their report. As has been pointed out by the hon. Minister, many amendments were moved there. There were several clauses which were of a non-controversial nature. Of course, there were also clauses which were of a controversial nature. Shri H. N. Mukerjee has already referred to four or five important points which have been brought out in this amending Bill as it has emerged from the Joint Committee.

I would briefly refer to some of the points which I have brought out in my minute of dissent. With your leave, I shall also refer to certain clauses, although they may not have been directly referred to in my minute of dissent.

In the first place, I would like to point out that if the Bill had emerged from the Joint Committee in the same form in which it had been introduced in May, 1959, it would have served the purpose for which it was introduced here. It was pointed out at that time that certain amendments were necessary as a result of the recommendations of the special committee which was set up under the chairmanship of Mr. Sastri. The Sastri Committee have made several recommendations on the basis of which this amending Bill has been drafted. But I must point out that in regard to certain clauses where there has been definiteness in the Sastri Committee's report, the clauses which were adopted in the amending Bill have been considerably modified, and considerably watered down also, so much so that the main purpose and the main direction of the amending Bill has been lost. I have pointed out that in the light of this, some further amendments may have to be brought forward, which may not be strictly relevant to this Bill. In other words, my fear is that very soon, another amending Bill will have to be brought forward, because of the things that have happened here.

My first point will concern the question of 43A companies. The original clause 15 has defined 43A companies and I would certainly commend that clause as against the present clause 14 of the Bill as it has emerged from the Joint Committee. Clause 15 of the original Bill reads as follows:

> "43A. (1) Notwithstanding anything to the contrary contained in this Act, where not less than twenty-five per cent. of the paid-up share capital of a private com-

pany is held by one or more bodies corporate, the private company shall, on the date on which the aforesaid percentage is first held by such body or bodies corporate, or where the aforesaid percentage has been first so held before the commencement of the Companies (Amendment) Act, 1959, on the expiry of the period of three months from the date of such commencement, become by virtue of this section a public company. . . .

Mr. Deputy-Speaker: It is very unfortunate that there is no Minister present on the Treasury Benches to listen to the debate.

Shri M. L. Dwivedi (Hamirpur): The Prime Minister is there.

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Of all the Ministers, he is there.

Shri Tangamani: (2) Within three months from the date on which a private company becomes a public company by virtue of this section, or within such further time as the Registrar may allow in this behalf, the company shall, by ordinary resolution, change, if necessary, its name in conformity with clause (a) of sub-section (1) of section 13 and alter its articles in such a manner that they no longer include the provisions relating to any of the matters specified in sub-clauses (a), (b) and (c) of clause (iii) of sub-section (1) of section 3.

(3) The company shall file with the Registrar a copy of the ordinary resolution referred to in sub-section (2) within one month of the date on which that resolution was passed.

(4) Section 23 shall apply to a change of name under this section as it applies to a change of name under section 21 and any alteration of articles made under this section shall be deemed to be an alteration made in pursuance of section 31.

(5) If a company makes default in complying with sub-section (2) or sub-section (3),—

"(a) the company shall be punishable with fine which may extend to five hundred rupees for every day during which the default continues; and

(b) every officer who is in default shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees for every day during which the default continues, or with both."

(6) Nothing in this section shall apply to a private company of which the entire paid up share capital is held by another private company or by one or more bodies corporate incorporated outside India.

I submit that this original clause which introduces 43A companies is concise and self-explanatory, but the present clause 14 which seems to modify and amend this clause is much more cumbersome. I would only refer to the dissenting note of Shri Naushir Bharucha. This is what he says:

"New section 43A has been completely overhauled by the Joint Committee which was perhaps inevitable having regard to the purpose it was intended to serve. Of necessity, this new clause has become extremely complex and may impose a burden of work out of all proportion to the purpose it might serve, particularly in case of small companies. . . "

My main purpose in reading out this clause in full and also certain comments from the Notes of Dissent is to stress that wherever there has been opposition to particular clauses which were of a progressive nature, amendments have been introduced which seek more or less to restate the old provision but put in such a

[Shri Tangamani]

complicated way that it would yield to all kinds of interpretation. This will be borne out by a comparison of old clause 15 and the new clause 14.

Another point is about clause 3 of the original Bill which is also clause 3 of the present Bill. The original dealing with a private company says:

> "A private company, being a subsidiary of a body corporate incorporated outside India, which, if incorporated in India, would be a public company within the meaning of this Act, shall be deemed for the purposes of this Act to be a subsidiary of a public company if the entire share capital in that private company is not held by that body corporate".

Here also certain amendments have been made by the addition of the following words:

> "whether alone or together with one or more other bodies corporate incorporated outside India".

This may at least be slightly more explanatory than the original one. But my point is that when we have now created 43A companies and we have also created new companies, namely, companies defined in section 4 of the principal Act—sub-section (7)—the distinction which is sought to be created between the private companies and public companies must gradually vanish. I submit we have not proceeded in that direction in the Joint Committee. To this also I have made a reference in my Minute of Dissent—I shall, as far as possible, confine myself to those points I have raised in my Minute of Dissent.

Already many speakers have referred to new clause 70 which creates a special auditor. It is a very welcome provision. I do not propose to add to the many points and arguments advocated in favour of this clause by Shri H. N. Mukerjee.

As you are aware, there was clause 58 of the original Bill which reads as follows:

> "In section 197 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—
>
> "(1) No document purporting to be a report, or forming a part, of the proceedings of a general meeting shall be circulated or advertised at the expense of the company unless the matters required by section 193 to be contained in the minutes of the proceedings of such meeting are also circulated or advertised".

The main purpose was to see that whenever the Chairman's speech was circulated at the expense of the company, the minutes of the proceedings was also published at the expense of the company. This is what I recorded in my Minute of Dissent:

> "The Committee had felt that the Chairman's speech was useful and any obligation to publish summary of the proceedings of the meeting would entail unnecessary expenditure. Actually, when it is known that the shareholders of company are widely dispersed and it is not possible for many of them to attend such meetings, it was necessary to make it obligatory to publish the summary of the proceedings in order to enable the shareholders to take intelligent and informed interest in the affairs of the company".

I do not know why this particular clause was deleted. No reason has been given, and I have very strongly recorded my protest also at the way in which this clause has been deleted.

Next I would refer to the original clause 179 of the amending Bill (present clause 181) which seeks to include retrenchment compensation payable to the worker in being included in the items of preferential payments under section 530 of the original Act when a company is wound up. It is good so far as it goes. But the proviso to sub-section (2) of section 530 of the original Act puts a ceiling of Rs. 1000

for such preferential payments. In my opinion—and I have also tabled an amendment to that effect—that should be enhanced to Rs. 2,500. If we are now allowing the compensation or the gratuity which is payable to them under the Industrial Disputes Act to be included as preferential payment, there is absolutely no purpose unless we say that the original Rs. 1,000 is increased to at least Rs. 2,000 or Rs. 2,500. Otherwise, what is sought to be given by this amendment is taken away by the ceiling which has already been imposed in the original Act itself. I hope this particular position will be accepted by the House because this is only carrying out the intention of the original amending Bill and also the intention of the Bill as it has emerged from the Joint Committee.

The previous speakers have already referred to contributions to political parties. It may be argued that the contributions made to political parties will be publicised. But the mere publication at the time of the publication of the balance-sheet is not going to meet the ends of justice as it has already been pointed out. There is already provision in section 293(e) of the original Act which provides that the Board of Directors can contribute either Rs. 25,000 or 5 per cent. of the net profits. Even this has been abused; contributions to political parties were also termed as charitable purposes.

I can understand the position where the Government takes the view that certain companies and Boards of Directors also treat contribution to political parties as contribution to charitable purposes. If they say that a certain amount has been contributed to political parties under the original section 293(e), it must be publicised. But here what happens is that a sort of blanket power is given allowing the Board of Directors the same powers, namely, up to 5 per cent. of the net profits, and also allowing a company as a whole by way of resolution to contribute any amount of money to political parties. This is opening the flood-gates to contributing any amount of money out of the profits at the expense of the shareholders to various political parties.

I would also like to refer to certain observations not only by the Judges of the Bombay High Court but also of the Calcutta High Court who make a reference to this. This is what the learned Judge says:

> "To induce the Government of the day by contributing money to the political funds of the political parties is to adopt the most sinister principle fraught with grave dangers to commercial as well as public standards of administration. Persuasion by contribution of money lowers the standard of administration even in a welfare State or democracy. To convert convictions and conscience by money is to pervert both democracy and administration. Joint Stock Companies are not intended to be adjuncts to political parties and possible sources of revenues for these parties. It will induce the most unwholesome competition between business companies by introducing the race who could pay more to the political funds of political parties. In that competition business is bound to suffer in the long run. In the bid for political favouritism by the bid of money, the company who will be the highest bidder may secure the most unfair advantage over its rival trader companies. It will mark the advent and entry of the voice of big business in politics and in the political life of the country. The tune of political life is liable in the long run to become the tune of the big trading companies and concerns. They will be bad both for business and for politics. It will be alike bad for public life as well as commercial life."

Some of the witnesses who came ad gave evidence before the Joint

[Shri Tangamani]

Committee have also referred to this practice of contributing to political parties. I have in mind one Mr. Chandy. This is what he says. He was asked certain pointed questions by a number of members of the Joint Committee including the late respected Shri Feroze Gandhi. This is what he says.

"*Shri K. T. Chandy*: I think that instead of dragging companies too much into politics, it would be much better to leave them out and if they chose to make contributions to political parties, let them do so.

Shri Feroze Gandhi: Why do they pay?

Shri K. T. Chandy: I do not know why. But as far as I can see from papers they pay political parties for various reasons. The political party may have a group of people working or engaged in some constructive work and a company may earmark its fund for that purpose. A new political party is born which says that it stands against nationalisation. It may be that a number of people who feel the threat of nationalisation, may say that they have every right to protect themselves against nationalisation and they may contribute. Any number of reasons may be given.

Shri Feroze Gandhi: Do companies pay on their own or are they approached by people?

Shri K. T. Chandy: I do not speak on matters which are not in my personal knowledge.

Shri Feroze Gandhi: You refer to the election manifesto. But even before the manifesto is published, how do they pay?

Shri K. T. Chandy: Since it is not in my personal knowledge I cannot depend upon heresay."

Even in the Joint Committee, when quetions were put to the various interests, they were not confident, they were not definite that this kind of contribution will be the proper thing. I have given only one instance.

Another point which I would like to mention is the question of managing agencies now converting themselves into sole selling agents. This is also revealing to show how big business reacts to the present restriction or the restriction which we are trying to impose. I would submit that the restriction that we are seeking to impose does not go far enough. This is what one witness says.

Question: "You were telling us about the selling agents. Do you agree that after the 1956 Act, many of these managing agency companies and managing agents have become selling agents?

Shri J. D. Choksi: Whose fault is that?"

Question: "I would like to know whether it is not a fact that managing agency companies and managing agents have now become selling agents and some kind of restriction is necessary if you are to carry out the spirit of the 1956 Act.

Shri J. D. Choksi: Unfortunately, the legislature did not appreciate the services of managing agents and in fact managing agents are now under approbrium. As managing agents have got nothing but approbrium some wanted to give up management of companies.

Some of them were interested in the sales of the products of their companies and they applied for and became selling agents. What is wrong with that so long as they do not have to deal with management, and provided they are selected by the companies as suitably qualified selling agents?

I can understand that there should not be dual functions; that there should not be people who are both managing agents and also selling agents. But if there is no dual function, I do not know why people who have nothing to do with management should be disqualified from being selling agents because at one time they were managing agents. That is what I do not appreciate. I may have to sell motor-cars if the provision of the law against managing agents is further strengthened. So, do not prohibit me from becoming a motor-car agent or a salesman. I think I may be qualified to do that."

Mr. Deputy-Speaker: Shri Tangamani is arguing as if he was before the Supreme Court—reading too much.

Shri Tangamani: I am not going too much into the particular clauses which are now trying to restrict the powers of the managing agents.

Mr. Deputy-Speaker: I am conscious that I require speakers but it does not look nice if all these quotations *in extenso* are brought on record.

Shri Tangamani: I will give only one or two quotations and I shall refer to the section to which I take particular objection. Clause 119 reads:

"325A. After the commencement of the Companies (Amendment) Act, 1960, no company shall appoint as its managing agent any body corporate which is a subsidiary either of itself or of any other body corporate...."

There was a reference made to this particular clause, originally clause 124. It has now been modified by the new amendment. According to the witnesses appearing on behalf of the employees there was a tendency for the managing agents to become sole selling agents. The present restriction also does not go far enough and it will not control the mischief which it seeks to control.

The hon. Minister, while introducing the Bill, has himself said that 11 clauses have been omitted and I have referred to one clause—No. 58. Some of those are very important clauses and they ought not be have been deleted. Fourteen new clauses have been inserted. Clause 70 is a welcome feature. But certain other clauses, for instance, clauses 13, 28, 31, etc. take up away from the good direction in which we were moving. There are certain amendments which deserve special attention—clauses 70, 120, 157, 168 and 185. Surely, they are all very important amendments and I am grateful to the hon. Minister for the explanation he gave as to why these amendments had been introduced. Much has been said about clause 70. I may repeat my submission about managing agencies and say that it has not gone far enough. The amendment to section 418, to guarantee the provident fund money that has been deposited is quite welcome. Clauses 168 and 185 introduced for the purpose of facilitating the work of the official liquidator and giving certain powers to the Supreme Court are also welcome. I hope that as a result of these, liquidation proceedings will be expedited. As at present, it is a lengthy process. I shall say a few words at the time of the second reading about the remuneration of the managing

[Shri Tangamani]

agents. The amendment to section 360 also needs further elucidation. I am speaking subject to correction but I think that clause 57 provides for for payment of dividends even without providing for depreciation. I think it is not proper. Some witnesses spoke of a new kind of balance sheet and said that if the balance sheets of the type published from West Germany were submitted yearly, the people will be in a position to know how the companies function. I do not share the view that the company owes its existence or allegiance only to the shareholders. It should serve the interests of the community as a whole and it is but natural that certain salient points about productivity or sale will have to be made known to the public also. That is why I welcome clause 61 which gives powers for drawing up a balance sheet in a new form, whether it is in the form mentioned in the schedule or in a different form. Experience alone will show how many companies are going to adopt the new kind of publication of these balance-sheets. I shall reserve my other comments about some clauses for the second reading stage, if I get an opportunity.

Having said that, I would like to say in conclusion that some amendments are welcome, certain other amendments have really confused the original purpose mooted by the Shastri Committee's report. Take for instance, the deletion of the provision regarding the publication of the chairman's report at the expense of the company. Such provisions are not salutary. Again there are unlimited powers given to the sole selling agent and the powers of the managing agents are not sufficiently restricted.

Lastly, I may say that in the State where I come from the agents for the political parties, even before an election starts, go about canvassing from the various corporate bodies. I have heard from reliable sources that a certain rate was fixed for the various owners of trucks or vehicles for the 1957 elections. Fortunately or unfortunately, most of these bus operators seem to favour a particular party. They openly say that they have contributed on the basis of the number of trucks or vehicles they own. I understand from reliable sources that this year the contribution is going to be increased. This is a very unwholesome practice which ought to be discouraged. I hope that this pernicious provision will be removed before the Bill goes out of this House.

पंडित ठाकुर दास भार्गव (हिसार) : जनाब डिप्टी स्पीकर साहब, इस बिल पर बहस के दौरान में न सिर्फ़ उन सवालात को उठाया गया है, जोकि इस बिल से डायरेक्टली ताल्लुक रखते हैं, बल्कि कई मेम्बर साहबान ने तो इस डिस्कशन को इतना वाइड कर दिया है कि उन्होंने इस किस्म के सवाल उठाये हैं कि गवर्नमेंट किस दायरे में काम कर सकती है, या कम्पनी को किस दायरे में काम करना चाहिये, या जो आदमियों के फ़ंडामेंटल राइट्स हैं, क्या वे कम्पनीज के भी राइट्स हैं या नहीं, वगैरह वगैरह। मसानी साहब की चन्द एक आर्ग्युमेंट्स को सुन कर मुझे बहुत ज्यादा ताज्जुब हुआ। अगर उन आर्ग्यूमेंट्स को मैं लाजिकली देखूं, तो मुझे नज़र आता है कि गवर्नमेंट को कोई हक नहीं है कि वह किसी इन्सान के खिलाफ कोई रेस्ट्रिक्शन लगा सके, इन्सान आज़ाद पैदा हुआ है, उस को परमात्मा ने बहुत सी पावर्ज़ दीं, जो उस में नैचुरल हैं और उन के साथ खेलना, उन पर रेस्ट्रिक्शन लगाना शायद नैचरुल लाज़ के खिलाफ है और कुछ फ़ंडामेंटल उसूलों के खिलाफ है। मैं यह अर्ज़ करना चाहता हूं कि गवर्नमेंट ने इंडियन पीनल कोड में दफ़ा ३०९ बना दी है, जिस के तहत उस आदमी के खिलाफ कार्रवाई की जा सकती है, उस को कैद किया जा सकता है, जोकि मरना चाहता है, जो जिन्दा नहीं रहना चाहता है। ऐसा इन्तज़ाम किया गया है कि वह मर न सके।

उपाध्यक्ष महोदय : अब तो वे पाबन्दियां भी हटाई जा रही हैं आम मुल्कों में ।

पंडित ठाकुर दास भार्गव : इस हाउस में एक बिल लाया था, जिस को निप इन दि बड कर दिया गया । उस को इंट्रोड्यूस करने की भी इजाजत नहीं दी गई । इसी तरह से और सोशल लाज भी बनाये गये हैं । हम देखते हैं कि इस गवर्नमेंट ने यह कानून बनाया है कि कोई आदमी पब्लिक में शराब न पी सके और खुले-आम शराब न बेची जा सके । क्या हर्ज है अगर कोई शख्स पब्लिक में अपनी ख्वाहिश को पूरा करना चाहता है ? इस गवर्नमेंट ने औरतों के अपने जिस्म को इस्तेमाल करने के बरखिलाफ भी सख्त कदम उठाये हैं, जिस से कोई औरत अपने जिस्म को इस्तेमाल न कर सके । क्या श्री मसानी साहब इन बातों में भी वही आबजेक्शन करना चाहते हैं, जोकि उन्हों ने अभी इस बिल के सिलसिले में पेश की है ?

आज अगर गवर्नमेंट यह रेस्ट्रिक्शन लगाये कि फ़लां शख्स सैलिंग एजेन्ट न बन सके, या उस की टर्म्ज़ एंड कन्डीशन्ज़ को चेंज कर दे, या कई सैलिंग एजेन्ट्स के बजाय एक सैलिंग एजेन्ट मुकर्रर कर दे, तो श्री मसानी की राय में यह कम्पनीज़ के प्राइवेट राइट्स के साथ खेलना है । उन के मुताबिक कोई वजह नहीं है कि कम्पनीज़ को जो चाहे न कर सकें और गवर्नमेंट उन के मामलात में दख़ल दे ।

कम्पनी एक ऐसी बाडी है, जो इंडिविजुल्ज़ की काम्बीनेशन है । अगर इंडिविजुअ स को कुछ फंडामेंटल राइट्स हासिल हैं, तो फिर वही राइट्स कम्पनीज़ को क्यों न हासिल हों ? हर एक इन्सान को प्राइवेट प्रापर्टी का राइट हासिल है कि वह अपनी जायदाद को बेच सकता है, कुएं में डाल सकता है, बर्बाद कर सकता है, फिर भी गवर्नमेंट उस में दख़ल नहीं दे सकती है । अगर यह फ़ंडामेंटल राइट है, तो श्री मसानी क्यों कहते हैं कि किसी कम्पनी को किसी पार्टी को चन्दा देने का हक नहीं है ? अगर यह इन्सान का हक है, तो फिर क्या सवाल है कि कोई कम्पनी किसी पोलिटिकल पार्टी को दिल खोल कर न दे सके ? दरअस्ल ये आर्ग्युमेंट्स एक दूसरे के कंट्रेरी हैं, एक दूसरे के बरखिलाफ हैं । अगर यह उसूल सही है कि कम्पनीज़ के मामलों में गवर्नमेंट को दख़ल नहीं देना चाहिये, तो मैं अर्ज़ करना चाहता हूं कि जितने भी बाकी एतराज़ात हैं, वे ख़त्म हो जाते हैं । आदमियों के मामले में हम ने यह ख्याल किया । हम ने एक्स-पेंडिचर टैक्स लगा कर यह फैसला कर दिया कि अगर कोई आदमी इस से ज्यादा रकनम खर्च करेगा, तो सरकार को रुपया देगा । मैं नहीं समझता कि सरकार को रुपया देने से उसका आरिजिनल एक्ट कैसे जायज़ हो जायगा, लेकिन इस की वजह यह है कि जिसके पास दौलत है, वह उसको ऐसे तरीके से इस्तेमाल नहीं कर सकता कि आम पब्लिक को या सोसायटी को नुकसान पहुंचे, या पहुंचने का एहतमाल हो । बिल्कुल इसी रीजनिंग पर गवर्नमेंट मुख्तलिफ इन्ट्रेस्ट्स के दरमियान यह फैसला करती है कि किस किस इन्ट्रेस्ट को क्या हक है । एक इन्टरप्रेनर जिन मजदूरों से काम लेता है, उनकी मिनिमम वेज़ेज़ मुकर्रर की गई हैं, उनके लिये वेज बोर्ड मुकर्रर किया गया है । इस से ज़ाहिर है कि गवर्नमेंट को प्राईवेट मामलों में भी दख़ल देने का अख्तियार है । इसी तरह अपने कांस्टीच्यूशन में हमने यह रखा है कि कनसेन्ट्रेशन आफ वैल्थ न हो, जो कि पब्लिक गुड के खिलाफ हो । इसी उसूल पर सैलिंग एजेन्ट्स का सवाल उठता है । इसी सवाल पर यह सवाल उठता है कि मजदूरों के लिये बोनस का रुपया नहीं रहेगा, अगर गवर्नमेंट दख़ल दे कर उन के हुकूक कायम न क । मैनेजिंग एजेन्सी सिस्टम कुछ आदमियों की आजादी में दख़ल देता है । क्यों ऐसा कानून बनता है कि मैनेजिंग एजेन्ट्स को इतना मुनाफ़ा

[पण्डित ठाकुर दास भार्गव]

मिलेगा ? सिर्फ इस वजह से कि पब्लिक इन्ट्रेस्ट में, जेनरल इन्ट्रेस्ट में उनको इतना अख्तियार नहीं देना चाहिये, जो कि हमारे कांस्टीच्यूशन के प्रिंसिपल्ज के बरखिलाफ हो। मैं इसके हक में नहीं हूं कि हर एक आदमी को पूरा अख्तियार हो कि जिस तरह से चाहे वह अपनी दौलत को इस्तेमाल कर सके और हमारे कांस्टीच्यूशन के उसूलों और हमारे लाज के इनहिबिशन्ज को नजर अन्दाज कर दिया जाये।

श्री मसानी ने पहला क्वेस्चियन दफा ७० के बारे में उठाया है। मैं मानता हूं कि उसके अलफाज बहुत वसीय हैं। इतने वसीय हैं कि जिनको मसानी साहब बिल्कुल बजा तौर क्रिटिसाइज कर सकते हैं। लेकिन साथ ही वे अल्फाज छोटे भी हैं। यह तो उनको इन्टरप्रेट करने का सवाल है। अगर कोई कम्पनी इस तरह बिहेव करती है, जिसकी वजह से बाकी कम्पनियों पर जिनको इस दुनिया में रहने का हक है, खराब असर पड़ता है, तो, अगर आडिटर के जरिये कोई बात मालूम न हो सके और गवर्नमेंट को इत्तिला हो कि वह इस तरह बिहेव करती है और इस तरह से एकाउंट्स में कुछ छिपाती है, जिस से जेनरल पब्लिक को, सोसायटी को, या उस पर्टिकुलर इन्ट्रेस्ट को, जिन में वह खुद भी शामिल है, नुकसान पहुंचता है, तो गवर्नमेंट को करंवाई करने का अख्तियार है। अगर वह कम्पनी खुद तबाह होने को तैयार है, या उसकी सालवेंसी या एग्जिस्टेंस को खतरा है, तो गवर्नमेंट के दखल देने में क्या खराबी है ? मसानी साहब कहते हैं कि इसके मायने ये हैं कि गवर्नमेंट बेस्ट जज है, न कि प्राइवेट आदमी। दरअसल बात यह है कि जिसने में ऐसे कानून बनते हैं, जिन से इन्डिविजुअल की लिबर्टी करटेल की जाती है, उनमें गवर्नमेंट कहती है कि दूसरे लोगों की निस्बत वह बैटर जज है कि किस काम से दूसरे को नुक्सान पहुंच सकता है। मसानी साहब की आर्ग्युमेंट ह कि गवर्नमेंट उनकी लिबर्टी के साथ खेलती है। गवर्नमेंट कहती है कि साउंड मारेल प्रिंसिपल्ज हम जानते हैं, तुम से बेहतर जानते हैं, तुम इतना नहीं जानते कि तुम्हारे किस फेल से तुम को फायदा होगा, लेकिन दूसरों को नुकसान पहुंचेगा। इसी फंडामेंटल उसूल पर सब गवर्नमेंट्स काम करती हैं। अगर हर एक आदमी ला अ टु हिमसेल्फ होता और किसी दूसरे को इजाजत न होती कि वह उसके फेल को किसी तरह से कंट्रोल कर सके, तब तो उसकी यह आर्ग्युमेंट दुरुस्त होती। लेकिन आदमी एक गवर्नमेंट के मातहत होता है, एक सिटीजेन है। जो कुछ उसके पास है, अगर वह सिक्योर है, तो उस गवर्नमेंट की वजह से, जिसका वह सिटीजन है। अगर गवर्नमेंट न हो, तो कोई दस आदमी किसी एक आदमी से जो चाहें ले लें। मसानी साहब बड़े मालदार आदमी हैं। उनको देखकर गरीब आदमियों को इस तरह का लालच हो सकता है। अगर गवर्नमेंट बीच में न हो, तो वह स्वतंत्रता ही खत्म हो जायेगी, जिसका जिक्र मसानी साहब करते हैं। लोगों के कन्डक्ट को कंट्रोल करने के गवर्नमेंट के आलमगीर उसूलों के बिना कोई स्वतंत्रता नहीं रह सकती है।

इसमें कोई शक नहीं है कि दफा ७० के अलफाज बहुत वसी हैं। यह भी सही है कि गवर्नमेंट का तो नाम है, सब कुछ एक डिप्टी सेक्रेटरी ही कण्ट्रोल करेगा। इसलिये बेहतर होता, अगर इन वसी अलफाज को किसी तरह से करटेल किया जाता। मैं इसके हक में हूं कि सैंट्रल गवर्नमेंट को यह अख्तियार है कि ऐसी सूरत में, जबकि शक्ल ऐसी हो, जिससे वे नतायज पैदा हों, जो इसमें लिखे हुए हैं, वह कण्ट्रोल कर सके। लेकिन मैं देखता हूं कि इस गवर्नमेंट की पावर्ज भी कानून ने करटेल की हुई हैं। यह पार्लियामेंट इसलिये बैठी है कि गवर्नमेंट के डिप्टी सेक्रेटरी को एब्सोल्यूट पावर्ज न हों कि वह चाहे जिसका गला घोंट दे, चाहे जब करार दे दे कि तुम्हारा

यह फेल साउण्ड बिजनेस प्रिंसिपल्ज के खिलाफ है। और साउण्ड बिजनेस प्रिंसिपल्ज का पता नहीं है, उन प्रैक्टिसिज का भी पता नहीं है। दे आर नाट डिफाइन्ड। इसलिये इतने जेनरल टर्म्ज में देखना मुनासिब नहीं। मैं जानता हूं कि श्री मसानी की इन्टलैक्चुअल पावर्ज बड़ी हैं। बेहतर होता अगर वह इस अलफ़ाज़ में तरमीम लाते। अगर वह ऐसा करते, तो मैं उनको सपोर्ट करता।

श्री मो० रु० मसानी : दिया है।

16 hrs.

पंडित ठाकुर दास भार्गव : उन्होंने तीन सेफ़गार्ड बताए हैं। वे सेफ़गार्ड इतने अच्छे और मुफ़ीद हैं कि वे किसी हद तक उसको करटेल करते हैं। उन अलफ़ाज़ को तो वह रहने देते हैं, उनको तो मानते हैं लेकिन उनके साथ ही सेफगार्डस देते हैं और मैं उन सेफगार्डस को खुशामदीद कहता हूं। पहला सेफगार्ड यह है कि किसी शख्स के खिलाफ इसको तब तक यूज़ नहीं किया जाएगा जब तक कि कम से कम उसको मौका न दिया जाए कि वह आकर बताये कि यह रिपोर्ट उसके खिलाफ मिली है और इसकी तहकीकात करने के लिये स्पेशल आडिटर्ज क्यों न एप्वाइंट किये जायें। यह नैचुरल सी चीज़ है जो कि होनी चाहिये। किसी के खिलाफ कोई भी ऐक्शन लेने से पहले उसको सफाई का मौका दिया जाना चाहिये। हां अगर कोई स्पेशल रीजंज हों और डर हो कि एविडेंस को खत्म कर दिया जाएगा, एविडेंस को डिसएपीयर करवाया जाएगा तो प्रापर केसिस में ऐसा भी किया जा सकता है कि पहले एक्शन ले लिया जाए और बाद उसको सफाई का मौका दिया जाए। किसी भी हालत में एक्स पार्टी फैसला नहीं किया जाना चाहिये। अगर इस तरह का ड्रास्टिक स्टैप लिया जाता है और बिना ऐसी चीज़ को किये किया जाता है तो जो साख है वही खत्म हो जाती है। स्पेशल आडिटर्ज मुकर्रर होते हैं तो उसका मतलब यह है कि उसने ये बातें आडिटर्ज को नहीं बताई हैं, वह बेईमान हैं और यह आडिटर्ज पर भी एक स्लर होगा और सारे काम को ही खत्म कर सकता है। दूसरी बात यह भी है कि जो रिपोर्ट स्पेशल आडिटर्ज दें वह उन लोगों को जरूर मिलनी चाहिये जिनके खिलाफ वह दी गई हो और जिनके खिलाफ वह रिपोर्ट हो। उनको हीयरिंग का मौका न देना उन उसूलों के खिलाफ है जो आज तक हमारे सामने रखे जाते रहे हैं।

यह कह देना कि दुश्मनी की वजह से किसी ने इस तरह की खबर दी है, गलत खबर दी है और उसके बाद यह कह देना कि गवर्नमेंट किसी का गला घोंट देना चाहती है, ठीक नहीं होगा और इस तरह से अगर हम चलेंगे तो कुछ भी नहीं हो सकेगा। गवर्नमेंट इतने अच्छे कानून बनाती है कि जो खुद मरना चाहता है उसको मरने से रोकने के लिये भी कानून है, तबाह होना चाहता है तो तबाह होने के खिलाफ भी कानून है, तो यह कहना कि आर्बिट्रेरिली वह काम करेगी, सही नहीं है। इंसाफ का यह तकाज़ा है कि सेफगार्ड प्रोवाइड किये जायें और मसानी साहब ने जो दो तीन सजैस्ट किये हैं, वे नैचुरल सेफगार्डस हैं।

आज यह भी देखने में आता है कि जो केसिस कोर्टस में जाते हैं उनमें से पचास फीसदी या इससे भी ज्यादा ऐसे होते हैं जो वहां जाकर फेल हो जाते हैं साबित नहीं होते हैं और ऐसे केसिस में झूठे कम्पलेनेंट के खिलाफ एक्शन भी लिया जाता है, उससे मुआवज़ा भी वसूल किया जाता है। यहां पर यह कहना कि जिसके खिलाफ झूठी कम्पलेंट की जाएगी उसको कोई रिलीफ नहीं दिया जाएगा, कोई मुआवज़ा नहीं दिया जाएगा, यह किसी भी रूप से जायज नहीं है। यह कहना कि जिसके खिलाफ कम्पलेंट की जाती है वह अगर साबित हो

[पंडित ठाकूर दत्त भर्गव]

जाती है तो उसके कंसिक्वेंसिस तो वह भुगते और अगर साबित नहीं होती है तो जो कम्पलेंट करने वाला है उसके खिलाफ कुछ भी नहीं हो सकता है जायज नहीं है । कहीं भी सी० आर० पी० सी० में इस तरह की व्यवस्था नहीं है । जिनके खिलाफ झूठी कम्पलेंट की जाती है उनको ऐसे लोगों से रिलीफ दिलाया जाता है जो उस कम्पलेंट को करते हैं ।

जहां मैं समझता हूं कि दफा ७० के जो अल्फाज हैं वे निहायत साफ हैं, वे पब्लिक इंटिरेस्ट में हैं, देश के हित में हैं कामर्स एण्ड इंडस्ट्री के हित में है, वहां मैं यह भी चाहता हूं कि किसी को भी अख्तियारात इतने लम्बे चौड़े अल्फाज में नहीं दिये जाने चाहियें । फिर उसके अन्दर सेफगार्डस नहीं हैं जो कि होने चाहियें । मैं यह नहीं चाहता हूं कि प्रापर केसिस में स्पेशल आडिटर्ज एप्वाइंट करने का हक गवर्नमेंट का छीन लिया जाए लेकिन मैं सेफगार्डस के जरूर हक में हूं ।

हमारे माननीय सदस्य श्री हो० ना० मुकर्जी ने कहा कि आडिटर्ज के फरायज में यह भी किया जाए कि जैसे वकीलों में एक यह अनरिटन कनवेंशन है कि वे भी आफिसर्स आफ कोर्ट हैं और वे ऐसा कोई काम नहीं करेंगे जिससे कानून की खिलाफ-वर्जी होती हो, वहां जहां चार्टर्ड एकाउण्टेंट्स इंडिपेंडेंट हैं, उनके कर्ब प्रेसक्राइब्ड हैं, उनमें भी यह कनवेंशन बने कि वे भी कोई ऐसा काम नहीं करेंगे जिससे कानून की खिलाफ-वर्जी होती हो या जिससे पब्लिक इंटिरेस्ट को नुकसान पहुंचता हो । चार्टर्ड एकाउन्टेंटस को यह अख्तियार देना कि जो कुछ उन्होंने कर दिया वह सफेद ही सफेद है, काला नहीं हो सकता, जायज नहीं है, वाजिब नहीं है । बेसिक उसूलों को मैं सपोर्ट करता हूं, उनके अगेंस्ट जाने के मैं खिलाफ हूं लेकिन इतना मैं जरूर महसूस करता हूं कि सेफगार्डस प्रोवाइड किय जायें और अलफाज इतने लम्बे चौड़े न हों क्योंकि इन अलफाज में से ऐसी बू आती है कि कोई इन पावर्ज को आबिट्रेरिली यूज कर सकता है ।

अब मैं डोनेशंस के बारे में कुछ कहना चाहता हूं । इस पर बहुत चर्चा हुई है । मसानी साहब ने दरअसल इस सवाल को बहुत फंडामेंटल बना दिया है और साथ ही साथ कम्पलीकेटिड भी बना दिया है । लेकिन किसी भी शख्स ने अभी तक यह नहीं कहा है कि पोलिटिकल पार्टीज को दान देना किसी भी कम्पनी के लिये जायज नहीं है । ऐसा कोई भी पार्टी नहीं करती है । क्या कम्युनिस्ट पार्टी ऐसा कहेगी कि उनके लिये दान देना जायज नहीं है जो न सिर्फ यहां से बल्कि दूसरे मुल्कों से भी दान लेती है और उन मुल्कों को यहां तक पता नहीं है कि उसकी गर्ज क्या है क्या नहीं है ? लेकिन मैं इसमें जाना नहीं चाहता हूं । वे मुल्क दान देते हैं और जानते भी नहीं हैं कि किस तरह से उसको खर्च किया जाएगा । क्या स्वतन्त्र पार्टी के मैम्बर साहिबान कह सकते ह कि दान लेना खराब है और किसी पार्टी को भी कांट्रीब्यूशन इस तरह का नहीं मिलना चाहिये ? कौनसी पार्टी है जो दान नहीं लेती है ? सभी लेती हैं । मैं पूछना चाहता हूं कि अगर कोई प्राइवेट आदमी यह समझता है कि ऐसा काम किया जाए जो निहायत नेक है, नेक काम के लिए रुपया खर्च होना चाहिये तो इसमें क्या नुकसान वाली बात है ? इसी तरह से अगर डायरेक्टर्स या ज्वायंट स्टाक कम्पनीज यह समझती हैं कि किसी नेक काम में रुपया खर्च होना चाहिये, तो इसमें क्या बुराई है ? अगर कोई बिलीव करता है कि नैशनलाइजेशन देश को तबाह कर देगा, या यह समझता है कि कांग्रेस पार्टी देश के लिये अच्छे कानून बना रही है, देश में ला एण्ड आर्डर को कायम रखने में सफल रही है, इस वास्ते उसकी पूरी पूरी मदद की जानी चाहिये तो मैं पूछना चाहता हूं कि कौन सा मारल कानून इसके खिलाफ है और यह वह कानून कहता है कि फलां शख्स को अपनी जायदाद या अपना

रुपया या अपनी चीज इस पार्टी को नहीं देनी चाहिये । हम यह भी जानते है कि रूलिंग पार्टी को लोग जरूर बदनाम करेंगे चाहे उसको कोई शख्स नेकनीयती से ही क्यों पैसा न दे . . .

संसद्-कार्य मंत्री (श्री सत्य नारायण सिंह) : अपोजीशन को भी कम पैसा नहीं मिलता है । पैसा रुलिंग पार्टी को ही नहीं मिलता है, सभी को मिलता है । वे तो हिसाब किताब भी नहीं दिखलाती हैं ।

पंडित ठाकुर दास भार्गव : रूलिंग पार्टी को कोई शख्स कितनी नेक-नीयती से ही और कितना थोड़ा पैसा भी क्यों न दे, लोग जरूर कहेंगे, कहने से बाज नहीं आयेंगे कि इस वास्ते पैसा दिया है कि गवर्नमेंट से कोई चीज लेनी है । जिन पार्टियों के पास कुछ है ही नहीं देने को उनको अगर कोई पैसा देता है, और चाहे वे कोएर्स करके भी लेती हैं तो भी लोग उनको बुरा नहीं कहेंगे । रूलिंग पार्टी को कोई कुछ दे या न दे, अगर कोई झुक कर सलाम करता है तो भी लोग यह कहेंगे कि खुशामद करता है । जो दूसरी पार्टीज हैं उनके बारे में देखा गया है कि कंट्रोवर्शल क्वेश्चंस में, ऐसे क्वेश्चंस में जिन का ताल्लुक खाने पीने की चीजों से नहीं होता है बल्कि जो नेशनल क्वेश्चंस होते हैं, सिर्फ किसी एक खास पार्टी को खुश करने के लिये या किसी दूसरी पार्टी को खुश करने के लिये अपनी पालिसीज तबदील कर देती हैं या ऐसे स्टेटमेंट जारी कर देती हैं जो कि उनको नहीं करने चाहियें । पोलिटिकल पार्टीज क्या कुछ करती हैं और क्या कुछ नहीं करती हैं, यह बताने की जरूरत नहीं है ।

इसमें एक खराबी भी है । फर्ज कीजिये एक शख्स जाकर दो लाख रुपया इस गर्ज से दे देता है कि उसको लाइसेंस मिल जाएगा, परमिट मिल जाएगा या कोई रियायत मिल जाए तो यह वही जुर्म है जो दफा १६१ के अन्दर बनता है जिसके तहत लेने वाला और देने वाला दोनों मुजरिम हैं । उसके खिलाफ आप चाहे जितना प्रापेगंडा करें उसके खिलाफ चाहे जो लीगल एक्शन लें, लेकिन यह कहना कि रूलिंग पार्टी ही लेती है और उसके सबसे बड़े लीडर जो जवाहरलाल नेहरू हैं वह सबसे बड़े मुजरम हैं, जायज नहीं है, मनासिब नहीं है । कितने ही ऐसे लोग हैं, कितने ही ऐसे बड़े बड़े कमर्शियल हाउसिस हैं जो लोगों को एनगेज करके रखते हैं ताकि वे उनके लिये प्रापेगंडा करें और जाकर अफसरों से मिल कर कुछ उनके लिये चीजें लायें । क्या वह कम जुर्म है ?

इस वास्ते अगर आप बेसिक उसूलों में जाएंगे तो आपको मालूम होगा कि फिलवाका इन्सान का हर एक काम फायदे के लिये होता है और जो पब्लिक के फायदे के लिये भी होता है उसके अन्दर भी कुछ न कुछ इस तरह का एलीमेंट जरूर होता है । मैं जानता हूं कि जहां तक रूलिंग पार्टी का सवाल है जब सन् १९५६ में यह एक्ट बना था, उस वक्त भी यह जिक्र हुआ था और उस वक्त दफा २९३ रक्खी गई थी कि बोर्ड आफ डाइरेक्टर्स को यह अख्त्यार है कि वह २५,००० रु० तक या फाइनेन्शल इअर के नेट प्राफिट का ५ परसेन्ट रकम तक दान दे सकते हैं । उस के लिये मेरे एक लायक दोस्त ने कहा कि वह फिलवाक्या चैरिटेबल परपजेज के लिये था पोलिटिकल परपजेज के लिये नहीं था । दफा २९३ के अन्दर लिखा है :

"contribute after the commencement of the Act to the charitable and other funds not directly connected with the welfare of the employees".

इस में बोर्ड आफ डाइरेक्टर्स की पावर्स रेस्ट्रिक्ट की गई थीं, न कि कम्पनियों की । इस के अलावा न इस में पोलिटिकल परपेजज का जिक्र है और न गवर्नमेंट का जिक्र है । उन कामों का जिक्र है जो डाइरेक्टली लोगों के वेलफेअर से कनेक्टेड न हों यह सब चीजों

[पंडित ठाकुर दास भ र्गव]

के लिये था और जहा तक इस का सवाल है, बोर्ड आफ डाइरेक्टर्स की पावर्स उतनी ही हैं। यह इतना पैसा नहीं है जिस के लिये कहा जाय कि यह बहुत भारी रकम हो गई। यह गवर्नमेंट जो लोगों के हुकक से डील करती है, जो सब तरह के कायदे कानून ही नहीं बनाती बल्कि देश के ट्रेड और कामर्स सब के चार्ज में है, जिस की पावर्स इतनी वसीय हैं कि जिस ट्रेड को चाहे चलने दे और जिस को चाहे कमजोर कर दे। किसी तरह का टैक्स लगा दे, वह किसी से २५,००० रु० पाने के लिये इस तरह का काम नहीं करेगी जिस के ऊपर कोई नुक्ताचीनी कर सके। नेट प्राफिट या ५ परसेन्ट इतनी बड़ी रकम नहीं है जिस के लिये गवर्नमेंट अपनी पालिसी तब्दील कर दे। वैसे अगर इन्सान गिरना ही चाहे तो २५,००० रु० तो बहुत है, ५ रु० और ५ पैसे पर हिन्दुस्तान में कत्ल हो जाते हैं। इसलिये कोई वजह नहीं है कि कोई शख्स इस से ज्यादा किसी पार्टी को न दे सके।

मेरे लायक दोस्त श्री मसानी ने फरमाया कि इन कम्पनियों का रुपया प्रोडक्शन के वास्ते इस्तेमाल होना चाहिये। किसी को भी उन की गरज से ऐतराज नहीं क्योंकि एक एक रुपया जो इस तरह से खर्च होता है वह हमारे देश के प्रोडक्शन में खर्च होता है। बिना प्रोडक्शन के हमारे देश में प्रास्पेरिटी नहीं बढ़ती, बिना प्रास्पेरिटी के बढ़ने के देश गरीब होता है। लेकिन यह ऐसा आर्गमेंट है जिसे आप किसी पर्सन के वास्ते इस्तेमाल कर सकते हैं। अगर कोई शख्स ५०० रु० पाता है और उस में से १० रु० चैरिटी में देता है या किसी पोलिटिकल पार्टी को दे देता है तो इस हद तक जरूर वह अनप्रोडक्टिव काम में इस्तेमाल होता है कि उस के बच्चों को खाने को कम मिलता है। उस शख्स को चाहिये कि वह सारा रुपया ज्यादा से ज्यादा अपने बच्चों पर लगा दे, वर्ना उस को अपने ही ऊपर खर्च करना चाहिये। लेकिन मैं इस लाजिक को नहीं समझा। कोई प्रोडक्शन या कोई काम ऐसा नहीं है जिस की वजह से वह इन चीजों पर न खर्च करे क्योंकि वह सोसायटी के ऐसे कामों के वास्ते खर्च करता है जो उस के ख्याल में नेक हैं। लेकिन जो सरकार हर एक आदमी के खर्च के ऊपर कंट्रोल करती है, जो सरकार हर एक आदमी के बहुत से कामों को जकड़े हुए है, हमारी सरकार ही नहीं, दुनियां की हर एक सरकार उन को जकड़े हुए हैं। उस को इस ओर ध्यान देना चाहिये। एक उसूल हम ने रक्खा है कि हर एक आदमी जिस तरह से चाहे अपनी प्राइवेट प्रापर्टी को डिस्पोज आफ कर सकता है। बहुत सी चीजों के अन्दर रक्खा है कि डिस्पोज आफ नहीं कर सकता, वह निकम्मे काम नहीं कर सकता, शो के काम नहीं कर सकता। इस के अन्दर कोई हर्ज भी नहीं है। यहां पर भी सरकार वही सुनहरा उसूल इस्तेमाल करे जो उस ने हर एक काम के अन्दर सामने रक्खा है। जहां तक पब्लिक गुड का सवाल है वह उसूल सामने रखना चाहिये कि अगर कोई नेक काम में चन्दा देता है, किसी सोसायटी को देता है जो कि अच्छा काम करती है तो उस के ऊपर ऐसी कोई रोक नहीं होनी चाहिये जिस से वह अपने नेक ख्यालात को ठीक से एफेक्चुएट न कर सके।

लेकिन जैसा मैं ने अर्ज किया अगर किसी बोर्ड आफ डाइरेक्टर्स के लिये लिखा हुआ है कि वह जो चाहे कर सके, अगर गवर्नमेंट उस को कंट्रोल नहीं करती तो पता नहीं उस का क्या असर होगा। शायद कानूनी असर तो हो लेकिन कितने बोर्ड आफ डाइरेक्टर्स हैं जो शेअरहोल्डर्स की परवाह करते हैं, कितने शेअरहोल्डर्स ऐसे हैं जो उन के इंटरेस्ट से इन्फ्लुएंस होते हैं। हमारा देश जैसा है उस में मैं जानता हूं कि बोर्ड आफ डाईरेक्टर्स जैसा चाहते हैं वैसा पास करवा सकते हैं। बेचारे शेअरहोल्डर्स तो यही नहीं जानते कि क्या हो रहा है क्या नहीं। इस देश के अन्दर यह जरूरी है कि बोर्ड आफ डाइरेक्टर्स के ऊपर थोड़ा सा अंकुश लगाय

जाये । कम्पनी पर फिर भी हमने अंकुश नहीं लगाया । सेक्शन २९२ में लिखा है कि उनकी कंसेंट से जो चाहे हो सकता है । मैं अर्ज करना चाहता हूं कि सरकार को सब चीजों को देखते हुये एक ऐसा रास्ता ऐडाप्ट करना चाहिये जो कि नोबल सेंटिमेंट्स को एफेक्चुएट करने में रोक न लगाये पर साथ ही ऐसे अरूत्यार भी न हों जिस से जो शेअरहोल्डर्स हैं जिन को उन के बखिलाफ़ ही बचाया जाना चाहिये उन को हम न बचा सकें । बोर्ड आफ डाइरेक्टर्स किसी भी मीटिंग में जो चाहें पास करा सकते हैं और खुद भी ऐसे काम कर सकते हैं किसी जोश में आकर कि अपने आप को विध्वंस करके पब्लिक इंटरेस्ट में सब कुछ दे सकते हैं । पब्लिक इंटरेस्ट भी वहीं तक ठीक है जहां तक इल्लिटरेट आदमी अपना पूरा इंट्रेस्ट न समझते हों और जोश में आकर कुछ कर जाते हों और बाद में दुखी होते हों । इसलिये दोनों चीजों का ख्याल कर के जिन लाइन्स पर सेक्शन २९३ के अन्दर रक्खा गया है उन्ही लाइन्स पर कोई वाया मीडिया लेकर उस पर अमल करना चाहिये । फर्ज कीजिये एक आदमी कहता है कि गवर्नमेंट के एजुकेशन डिपार्टमेंट के लिये या जो दूसरे गवर्नमेंट के फिलैंथापिक काम हों, उनके लिये मैं अपनी सारी जायदाद देता हूँ, तो नतीजा क्या होगा ? गवर्नमेंट को सब की सब चीज मिल जायेगी । अगर ज्वायेंट फेमिली में कोई आदमी एलीनेशन करता है तो बेटों को हक़ होता है कि वह कह दें कि वह किसी निकम्मे काम के लिये एलीनेशन की इजाजत नहीं देते । इसलिये हम वाया मीडिया निकाल कर माडरेशन से चलें हैं । मैं चाहता हूँ कि गवर्नमेंट इस तरह से तब्दील कर दे कि, जहां तक बोर्ड आफ डाइरेक्टर्स का सवाल है उन के लिये तो इन्हिबिशन मौजद है, बाकी सारी कम्पनियों पर भी अंकुश लगा दे कि इस हद तक वह डोनेशन दे सकेंगी, इस से आगे नहीं । लेकिन यह पाबन्दी हर एक कम्पनी और हर एक सोसायटी पर लगाये । यह पोलिटिकल डोनेशन का सवाल नहीं है, दरअस्ल सवाल यह है कि जैसा सरकार ने रखा है कि हर एक आदमी के लिये अपने और कुनबे को, जिसकी जिम्मेदारी उसके ऊपर है, बचाने का सवाल है, उसी तरह से यहां पर भी कोई सीलिंग मुकर्रर कर दे । जैसे गवर्नमेंट सीलिंग मुकर्रर करती है इनकम के ऊपर जैसे सीलिंग मुकर्रर करती है लैंड ओनरशिप के ऊपर, उसी तरह से वह कम्पनियों पर भी डोनेशन की सीलिंग मुकर्रर कर दे जैसा कि सेक्शन २९३ का प्रिंसिपल है कि इतने से ज्यादा किसी पोलिटीकल पार्टी को नहीं दिया जा सकेगा ।

जो पोलिटिकल पार्टीज के लोग इस पर झगड़ा करते हैं वे अगर खुद अपने गरेबां में मुंह डालकर देखें तो खुद उनके लिये मुसीबत आ जायेगी । इस देश के अन्दर पोलिटिकल पार्टीज के वास्ते चन्दा देना आम बात नहीं है । यहां और तरह की चैरिटी होती है । अब चूंकि मुखतलिफ़ पार्टीज बनी हैं इसलिये हम लोग इस तरफ भी चन्दा देने लगे हैं । मैं समझता हूँ कि इस स्पिरिट को क्रश नहीं होने देना चाहिये । लेकिन इस लिये कि इसमें कोई नाजायज फायदा न उठाये हमें पूरा ध्यान देना चाहिये । आज एक ईविल चल रही है, लोग शिकायत करते हैं, इस चीज का फायदा उठा कर, कि लोग नाजायज फायदा उठा रहे हैं । यह एक ब्राड क्वेश्चन है । अगर आप को खराबी को रोकना है तो कम्पनियों और इन्सानों दोनों पर पाबन्दी लगाइये कि पोलिटिकल पार्टीज को इस से ज्यादा रुपया नहीं दिया जा सकेगा ।

जहां तक इसका सवाल है कि कोई शख्स फायदा न उठाये और गवर्नमेंट इस टेम्प्टेशन को रिसीव करके क्विड प्रो को न दे, इसके वास्ते इलाज हैं जो कि पेनल कोड में दिये हुये हैं । जहां तक पब्लिक ओपिनियन को एजुकेट करने का सवाल है अगर उसमें यह दिख-

[पं० ठाकुर दास भार्गव]

लाई पड़ता है कि उसकी कारंवाई को लोग नफरत की निगाह से देखते हैं तो उसकी इजाजत हम न दें । लेकिन यह सब चीजें जो हम कानून के जरिये करना चाहते हैं वे ऐसी हैं जिन को पब्लिक ओपिनियन को क्रियेट करके या प्रोपैगन्डा करके करना चाहिये । जब उस तरह से होगा तभी पब्लिक एजुकेट होगी ऐसी चीज हो सकती है कि कोई ऐनानिमस दे दे और पता नहीं क्या हुआ क्या नहीं । इस के लिये मेरे लायक दोस्त ने कहा कि कानून होना चाहिये लेकिन किसी ने यह बयान नहीं किया कि इसे कैसे रक्खा जाय । इस का रखना बड़ा मुश्किल है । प्राइवेट आदमी कि ी बात से बहुत इंफ्लुएंस हो गया और किसी लीडर से कहा कि मैं यह करना चाहता हू, तो उसकी ख्वाहिश रोकना कहां तक जायज है ? अगर रोकना है तो सब से पहले यह रोकिये कि दूसरे मुल्कों से कोई आदमी चन्दा न ले सके, दूसरे मुल्कों से कोई कंट्रिब्यूशन न ले सके ताकि उसकी लायल्टी हमारे मुल्क तक ही महदूद रहे । किसी दूसरे एगराज के वास्ते भी दूसरे मुल्कों से चन्दा न ले सके। हिन्दुस्तानी पालिटिकल पार्टीज होते हुये और मुल्कों से चन्दा लेना हमारे लिये जिल्लत की बात है, इसलिये ऐसा करना मुनासिब नहीं है, लेकिन वही पार्टीज जो इसके लिये सब से ज्यादा क्लेमरस हैं वही सब से ज्यादा चन्दा बाहर से लेती हैं । पता नहीं वह किस गर्ज के लिये वह लेती हैं और क्या काम करती हैं । बहरहाल अब वक्त आ गया है जब इस चीज को रोका जाये । जो दूसरी पार्टियां चन्दा बाहर से लेती हैं वह यहां आकर कहती हैं कि कांग्रेस ऐसा करती है, लेकिन यह उनके मुंह में लाई नहीं करता, और उन को इसका हक है, लेकिन वह हर चीज को अच्छा और बुरा कह सकते हैं, जैसे कि अशोक मेहता साहब ने कहा मसानी साहब के बारे में कि वे दोनों काम कर सकते हैं । इसका वह फायदा भी उठाते हैं और कंडेम भी कर रहे हैं । अगर कोई कमेटी बैठे और पता लगाये कि किस किस पार्टी को कितना कितना रुपया दिया गया तो मैं समझता हूं कि बड़े बड़े राज अफशां होंगे । अगर आप सही मानों में इसको रोकना चाहते हैं तो एक बिल लायें । हर एक मेम्बर को इस तरह का बिल लाने का अख्तियार है । मुझे मालूम है कि कांग्रेस के बहुत से मेम्बर यह चाहते हैं कि जो लोग आज यह बात कह कर कांग्रेस को बदनाम करते हैं उसका मौका ही न रहे । लेकिन साथ ही हम यह भी नहीं चाहते कि जो राइट माइंडेड आदमी कांग्रेस को मदद करना चाहते हैं वह भी पैसा न दे सकें । और जो लोग इसको भी रोकना चाहते हैं वह इसके लिये बिल ला सकते हैं । अगर ऐसा बिल पास भी हो जाये तो भी कांग्रेस को उसकी परवाह नहीं क्योंकि वह तो उसूल पर कायम है ।

श्री इन्द्रजीत गुप्त (कलकत्ता-दक्षिण पश्चिम) : वह जमाना अब नहीं है ।

पंडित ठाकुर दास भर्गव : वह जमाना अभी है लेकिन आपको यह कहने का मौका मिल गया है । आप अपने गरेबां में तो जरा मुंह डाल कर देखें कि क्या हालत है । तो मैं अर्ज करना चाहता हूं कि क्रिटिसाइज करना आसान है । मैं नहीं चाहता कि कांग्रेस पर कोई अंगुली उठाये और यह कह सके कि चन्दा लेकर काम करते हैं । हमने तो रिश्वत के बारे में एक नया कानून पास किया है कि जो रिश्वत देगा और जो लेगा उसको, दोनों को, सजा दी जायेगी । हम यह नहीं कहते कि करप्शन नहीं है । लेकिन कांग्रेस उसको हटाने के लिये कोशां है । और अगर मेम्बर साहिबान समझते हैं कि यह काफी नहीं है तो वे एक बिल ला सकते हैं ।

श्री ब्रजराज सिंह (फीरोजाबाद) : इसी में यह प्रावीजन कर दें ।

पंडित ठाकुर दास भार्गव : इसमें पहले किसी ने कोई तजवीज पेश नहीं की । इस वक्त आपको एक मौका हासिल हो गया है कि आप कांग्रेस को गालियां दे सकते हैं । इन

गालियों में मैं भी शामिल हो सकता हूं। लेकिन मैं इसको मुनासिब नहीं समझता।

आज जो मसानी साहब ने और दूसरे मेम्बरान ने मिनिस्टर साहब की तारीफ की है, तो मैं उनसे अर्ज करना चाहता हूं कि आप उनके हाथ मजबूत कीजिये। कोई ऐसी चीज लाइये कि जो इसको रोक सके।

और भी बहुत से मामले हैं, लेकिन चूंकि और बहुत से मेम्बर बोलना चाहते हैं, इसलिये मैं इन दो बातों के सिवा और कुछ अर्ज नहीं करना चाहता।

16.22 hrs.

[SHRI MOOL CHAND DUBE *in the Chair*]

श्री राधे लाल व्यास (उज्जैन) : सभापति जी, यहां पर जिस प्रश्न पर खास तौर से चर्चा हो रही है वह पोलीटिकल पार्टीज को चन्दा देने के संबंध में है। मेरी समझ में नहीं आया कि इस ऐतराज का आधार क्या है। मूल कानून पास होने के पहले स्थिति यह थी कि कम्पनियां बिना लिहाज तादाद के जितना रुपया चाहती थीं, वह किसी भी काम के लिये धरमादा के नाम पर, चाहे किसी धार्मिक संस्था को दें या शैक्षणिक संस्था को दें, या राजनीतिक संस्था को दें, दे सकती थीं। शासन ने उस पर प्रतिबन्ध लगाया और पहले जब यह कानून पास हुआ तो उसमें यह प्रावीजन रखा गया कि कोई बोर्ड आफ डाइरेक्टर्स २५ हजार से ज्यादा रुपया किसी चैरिटेबिल या कोई दूसरे फंड की तरफ नहीं दे सकता। लेकिन इसकी प्रशंसा करने के बजाये...

श्री अजय सिंह : कम्पनियां जो कितना भी दे सकती हैं।

श्री राधे लाल व्यास : मैं आपको करेक्ट कर लिया था और मैंने ऊपर कहा है, बोर्ड आफ डाइरेक्टर्स। पहले जो ये रकमाना खर्च किया करते थे उस पर प्रतिबन्ध लगाया गया। पहले तो पोलीटीकल पार्टीज को चन्दा देने के बारे में चर्चा नहीं हुई थी। लेकिन अब जो शासन ने संशोधन किया है उसमें एक एक्सप्लेनेशन जोड़ा है कि अगर कोई पोलीटिकल पार्टी को चन्दा दे तो उसको प्राफिट एंड लास एकाउन्ट में दिखाना चाहिये, और यह जरूरी था। कांग्रेस के बारे में अक्सर ऐसी बहुत सी बातें कही जाती हैं जो निराधार होती हैं कि फी ट्रक इतना लिया जाता है आदि। मैं नहीं समझता कि कांग्रेस का पुराना इतिहास और अभी का भी इतिहास ऐसा रहा है कि वह इतने नीच स्तर पर जाकर इस प्रकार की कार्रवाई करे। कांग्रेस ने राष्ट्रीय आंदोलन चलाया तब भी करोड़ों रुपया प्राप्त किया होगा।

श्री अजय सिंह : उस समय आपका इजारा नहीं था।

श्री राधे लाल व्यास : पूंजीपतियों ने उस समय भी चन्दा दिया था लेकिन कांग्रेस उनके हाथ में तब भी नहीं थी। आज जब कांग्रेस के हाथ में शासन की बागडोर आ गयी है तब भी कांग्रेस उनके हाथ में नहीं है और पूंजीपति शिकायत करते हैं कि कांग्रेस उनके अधिकारों को और उनकी आमदनी को कम करती जा रही है, उन पर ज्यादा टैक्स लगाती है। मेरे मित्र मसानी जी की सहानुभूति आजकल स्वतंत्र पार्टी की ओर होती जा रही है और उस को पूंजीपति ही सहारा दे रहे हैं। पूंजीपतियों

[श्री राघे लाल व्यास]

की ताकत पर ही उनकी संस्था पनप रही है। उनकी संख्या को पूंजीपति राजा महाराजा और जागीरदार सहायता कर रहे हैं।

श्री मी० रु० मसानी : हमने तो नहीं देखा।

श्री राघ लाल व्यास : आपने न देखा होगा लेकिन जो देख सकते हैं कि प्रकाश किधर है उनको मालूम होता है, वह चीज छिप नहीं सकती।

तो मैं निवेदन करना चाहता हूं कि शासन ने जो संशोधन रखा है वह उपयुक्त है। पुंजीपति चोरी छपे देते थे, वे कांग्रेस विरोधी और राष्ट्र विरोधी संस्थाओं को भी देते थे। उसका पता नहीं चल सकता था। अब यह चीज सामने आ जाएगी। अब अगर कोई किसी राजनीतिक संस्था को कुछ देगा तो वह ईमानदारी से लोगों के सामने आ जाएगा कि किसने किसको कितना दिया। यह अमेंडमेंट पहली दफा आया है। इस पर अमल होने दीजिए तो मालूम हो जाएगा कि कांग्रेस को कितना मिला है और दूसरों को कितना मिलता है। ये चीजें अब सामने आएंगी। मूल चीज तो यह है कि २५ हजार से ज्यादा नहीं दे सकेंगे। कम्पनी चाहे तो सब कुछ दे सकती है लेकिन जो बोर्ड आफ डाइरेक्टर्स है, जो कम्पनी का काम करते हैं, वे सीमा के बाहर नहीं जा सकेंगे। इस प्रकार देने को बिल्कुल बन्द नहीं किया जाना चाहिए क्योंकि देश में बहुत सी शैक्षणिक संस्थाएं चलती हैं, बहुत सी धार्मिक संस्थाएं चलती हैं, उनको देने के लिए व्यवस्था होनी चाहिये।

श्री अजराज सिंह : कानून नहीं रोकता।

श्री राघे लाल व्यास : लेकिन कानून में अब तक गोलमोल बात थी। अब जो एक्सप्लेनेशन रखा गया है उसके कारण यह जरूरी हो गया है कि जो चन्दा पोलीटिकल पार्टीज को दिया जाए वह एकाऊंट में दिखाया जाए।

मैं यह दावे के साथ कह सकता हूं कि जो लोग यह बात करते हैं कि इस तरह नहीं लेना चाहिए, वे संस्थाएं जो इस तरह की बात करती हैं, वही विदेशों तक से पैसा लेती हैं। कांग्रेस ने कभी विदेशों से पैसा लेकर देश को बेचने की कोशिश नहीं की। ऐसी संस्थाएं जो कि इस प्रकार की डींग मारती हैं वे विदेशों तक से पैसा लेती हैं। जो बातें कांग्रेस के लिए कही गयी हैं मैं समझता हूं कि वे शोभास्पद नहीं हैं। कांग्रेस को अगर कोई देता है तो इस लिए नहीं देता कि उसके हाथ में शासन है, कांग्रेस को कोई डर के नहीं देता क्योंकि यह कोई डिक्टेटरशिप नहीं है, यह न्याय और कानून का शासन है और लोग समझते ने कि वे न भी दें तो उनका कुछ बिगड़ने वाला नहीं है। अगर लोग कांग्रेस को पैसा देते हैं तो वे इसलिए देते हैं कि वे देखते हैं कि उनका अपना हित और देश का हित इसी में है कि देश का शासन कांग्रेस के हाथों में रहे। वे अपने स्वार्थ के लिए देते हैं, वे देश के लिए देते हैं। वह समझते हैं कि आज देश में कांग्रेस के सिवा कोई और दूसरी संस्था ऐसी नहीं है जिसके हाथ में देश का और समाज का हित सुरक्षित रह सके। लोग यह समझ कर कांग्रेस को पैसा देते हैं। यह कोई डिक्टेटरशिप नहीं है, और न कोई भय है जिस के कारण लोग कांग्रेस को पैसा देते हैं। कई अपने मतलब के लिए भी देते होंगे। लेकिन आज जिन लोगों के हाथ में शासन है उन पर कोई इस प्रकार का लांछन नहीं लगा सकता कि पंडित जवाहर लाल नेहरू के नेतृत्व में जो शासन यहां चल रहा है वह करप्ट है और चन्दे के करण कुछ लोगों के या संस्थाओं के हाथ बिक कर उनको लाभ पहुंचाता है।

यह तो बिल्कुल निराधार बात है और इस तरह की कल्पना करना और इस तरह के विचारों का रखना गलत बात है. .

एक माननीय सदस्य : श्री मसानी ने कहा है ।

श्री राधे लाल व्यास : मसानी साहब तो कहेंगे ही । जो हमारे विरोधी दल के सदस्य हैं वे लोग आखिर केवल कांग्रेस की और कांग्रेस के शासन और उसके कार्यों की बुराई करके ही तो जिन्दा रह सकते हैं और पनप सकते हैं । सिवाय कांग्रेस की आलोचना करने के उनके पास है ही क्या ? उनका तो काम ही यह है कि जैसे भी हो निरीह जनता को, भोलीभाली जनता को झूठ सच इधर उधर की कह कर बहकायें ताकि वे उनके चक्कर में आकर अगले चुनाव में उनको वोट दे दें लेकिन मैं उनको यह चेतावनी देना चाहता हूं कि अब हमारी जनता इतनी बेवकूफ नहीं रही है जो उनके फुसलाने में आ जाये और गलत रास्ते पर भटक जाये । पिछले आम चुनावों ने यह भली भांति सिद्ध कर दिया कि देश की जनता का कांग्रेस पर अटूट विश्वास है और मुझे पूरा विश्वास है कि आगामी चुनाव में भी ऐसा ही होने वाला है ।

जिन माननीय सदस्यों ने इस कम्पनी एमेंडमेंट ऐक्ट का इतना विरोध किया है है उन्होंने इसका कहीं जिक्र नहीं किया कि बिल में पूंजीपतियों के अधिकारों पर कहां कहां प्रहार किया गया है । उन्होंने इस अवसर पर कांग्रेस की आलोचना करके ही संतोष कर लिया । उन्होंने यह नहीं बताया कि अब तक यह रिश्तेदारों के नाम पर जो इतना अधिक पैसा उड़ाया करते थे तो इस बिल में रिश्तेदारों की तारीफ कर के इसका मुनासिब इंतजाम कर दिया गया है और अब वे मिल मालिक इसका बेजा फायदा नहीं उठा सकेंगे । मैं अपने उन माननीय सदस्यों से पूछना चाहता हूं कि यह पूंजीपतियों को प्रोत्साहन देना है क्योंकि उनका आरोप है कि कांग्रेस को पूंजीपति बहुत पैसे से मदद करते हैं जब कि वास्तव में हकीकत यह है कि उनको उन क्वार्टर्स से रुपया पैसा मिलता है । इसकी तरफ किसी ने इशारा नहीं किया कि किस तरह से यह अमेंडिंग बिल लाकर उन मिल मालिकों के अधिकारों पर रोक लगा दी गई है और जरूरत पड़ने पर स्पेशल आडिट करने की व्यवस्था का इसमें जिक्र किया गया है । मैं उन से जानना चाहूंगा कि क्या यह व्यवस्था पूंजीपतियों के हित में है ? लेकिन वे इन बातों की ओर कोई संकेत नहीं करते हैं ।

मुझे जिस विशेष बात की ओर सदन का ध्यान दिलाना था उसको दिलाते हुए और अधिक समय न लेते हुए अपना स्थान ग्रहण करता हूं ।

Shri Naushir Bharucha (East Khandesh): The debate that has proceeded on this Bill and the differences of opinion which we have witnessed in this House emerge largely from the approach to the Bill, one party assuming one angle and the other party a totally different angle. So far, I have noticed that there has been a tendency to look to this question from the policy of *laissez-faire* in indusstrial development, a policy which prevailed in the nineteenth century and which must be regarded as completely out-of-date today. The State has to strike a judicious balance between wise control of industrial enterprises and unnecessary interference in its day-to-day working. It is a difficult task to achieve. I think the Joint Committee may be congratulated on the fact that notwithstanding the differences of opinion in minor matters, which are indicated in the numerous minutes of dissent appended to the report, by and large, a balance which is enquitable has been struck.

[Shri Naushir Bharucha]

I am not prepared to say that if all that has been mentioned in the Joint Committee's report is enacted into law, it is going to put a stop to the various difficulties which have been experienced or the abuses in which the directors and the managerial personnel of industrial enterprises have undoubtedly indulged. But, after all, it is one effort in placing industrial enterprises on an honest and sound footing. I think by and large, the arguments which my hon. friend Shri M. R. Masani advanced will be found to be untenable. While he has advocated the *laissez-faire* policy in the interests of business autonomy, I think the amendments which the Joint Committee have suggested will ultimately make for sounder business in the interests of business itself.

In the course of this debate, one can only refer to the salient features of the amending Bill as it has emerged from the Joint Committee. An outstanding change that has been effected by the Joint Committee is the introduction of a new section 43A under which we have created a new type of companies—we may call them 'deemed public companies'—where the paid-up share capital of a company to the extent of 25 per cent is held in a particular manner. Now, this is a very radical alteration which we are compelled to introduce because unless such a type of radical alteration is introduced in the Act, it will be seen that there will be various devices indulged in by unscrupulous directors to escape the obligations which have been otherwise imposed upon the public companies. It is of necessity a section which is extremely complicated. Here in the construction of the section you find that the effort of the Joint Committee has been to strike a judicious balance. First, we have said:

> "Save as otherwise provided in this section, where not less than twenty-five per cent of the paid-up share capital of a private company having a share capital, is held by one or more bodies corporate, the private company shall....become by virtue of this section a public company."

But then if you stop short there, you will immediately run into difficulties. Therefore, of necessity you have to provided exceptions. So it has been said:

> 'Provided further that in computing the aforesaid percentage, account shall not be taken of any share in the private company held by a banking company, if but only if, the following conditions are satisfied...." etc.

What I am trying to point out is that the moment you enact a general principle which you think necessary to eliminate a sort of malpractice in business enterprises, you run into numerous difficulties and *perforce* you have got to enact further provisions to deal with them. If, therefore, the provision has become complicated, it cannot be helped.

Then again, we have made exceptions, for example,

> "a private company of which the entire paid-up share capital is held by another single private company or by one or more bodies corporate incorporated outside India"

This provision, of necessity, had to be made.

Therefore, the outstanding section which we have introduced in this connection is likely to eliminate many of the abuses, though I am not sure that it will be in a position to eliminate even most of the abuses.

Similarly, the Joint Committee was set up against a number of clauses. For instance, take the question of overall maximum managerial remuneration

and managerial remuneration in the absence of adequate profits. Now it is not enough merely to provide a ceiling of maximum managerial remuneration. It is also necessary to see that there are no loopholes. In order to do that, we should also prohibit simultaneous appointment of different categories of managerial personnel. It is no use saying that you have to restrict the overall amount and then leaving loopholes open whereby in the guise of different categories of management, labelling occupants of offices in different categories, giving them additional managerial remuneration and thereby circumventing the provisions of this section. Therefore, of necessity, we had also to look to this aspect and see that different categories of managerial personnel were not simultaneously employed. I am not sure even now that we have eliminated the chances of all abuses that we wanted to.

Take one notable example. It does not arise from the Joint Committee's Report because probably it has not been covered by the original Act itself namely, the question of promoters' remuneration. We are plugging loopholes about managerial remuneration but leaving open promoters' remuneration. Recently, there was the case of a company which had been floated where the promoters' remuneration was Rs. 15 lakhs. We are trying to plug the loopholes so that thousands of rupees of the shareholders may not be squandered away. But when lakhs are taken like that the law is helpless still. Strangely enough, in that very company when the invitation to the public was issued to subscribe, the over-subscription was 60 times more. Where the company wanted to collect, I believe, Rs. 160 lakhs or so, it collected Rs. 98 crores.

An Hon. Member: In India?

Shri Naushir Bharucha: Yes; in India; in Bombay. Sixty times more than the invited subscription was contributed to that company. What I am trying to point out is that even with this you have not plugged all the loopholes. We are trying to run after thousands diverted to managerial remuneration but we have not prescribed any ceiling for promoters' remuneration. This is a point which has got to be looked into. This Rs. 98 crores which these people obtained and retained for a period of 4 months without interest being the time taken to allot shares, would yield lakhs of rupees by way of interest; and we have provided nothing in the Act to prevent such promoters from cashing the cheques of applicants for shares until the allotments are actually made, with the result that the shareholders money is locked up for 4 months or so and the interest on that is pocketed by the company promoters. The law is helpless in this matter. I am just trying to point out those things so that those who are saying that we are legislating too much and that we are making inroads into the autonomy of the companies may appreciate the fact that still there are many loopholes left and the investors money is being abused or mis-applied if I may say so.

We are also legislating on an important matter, namely, the dividends to be paid out of profit only, that is after depreciation is deducted. I know it for a fact that there have been unscrupulous directors who have announced dividends which they could never have announced if this provision had been there in the Act. Having announced a dividend of 10 per cent, the shares were boosted up in the share market. They deliberately did it by not providing proper depreciation. This can very well be managed. After that, they sold off the shares which were lying useless on their hands. In fact, the company's position was bad. They did not pay and dividend therefore and started making some provision for depreciation. This clause is important in order to prevent that kind of swindle that is going on.

My hon. friend Shri Masani spoke of autonomy in business enterprise.

[Shri Naushir Bharucha]

We concede autonomy. But we can not say that this autonomy should extend to the swindling of the investor. The law is here to prevent that and it must be prevented.

Shri M. R. Masani: You go well beyond that.

Shri Naushir Bharucha: Shri Masani said that perhaps it is likely that we are not making laws to last for the time of the hon. Minister in whom we have perfect faith. But we are making laws for all time to come and for all good and bad people. I may tell him that we are making these laws for unscrupulous directors who seem to have still many loopholes. Dividends must be paid only out of profit and not by manipulation. That is a salutary provision; and it will ultimately be for the benefit of business enterprise and business will be on sounder footing with such a provision.

There is also a provision to which very strong exception has been taken. I have been studying carefully the memorandum submitted by the Indian Merchants Chamber to the Secretary to the Government of India, Ministry of Commerce, on this subject. That deals with clauses empowering an officer of Government to inspect the books of account; special audit; empowering the Registrar to call for and inspect the documents; empowering the Inspector to examine the books, etc. Objection has been taken for empowering an officer of the Government to inspect books and accounts and it has been said that it is an inroad into the affairs of the company. May I ask: how is the Government to determine, without inspection of books and accounts, whether any complaint is genuine or false? A clause like this is necessary in the interest of the company itself. Suppose there is a complaint. The parties will of course be heard and an explanation will be asked for. An officer goes and looks into the accounts and finds that they are regular. Then the matter ends there. Do those who oppose this power advocate that the Government should start some sort of a criminal proceedings against the directors straightaway? These preliminary powers of investigation must be there and they are in the interest of the companies themselves because they will eliminate frivolous complaints.

There are other difficulties which arise as a result of the language which may have to be amended and I am trying to send in some amendments about them. For instance, there is one clause regarding information being given to the Registrar when the books and accounts are shifted from one place to another. In the ordinary course of business, books have to be shifted from branch to branch or from head office to branch office. During the course of litigation books have to be produced before the courts or other authorities calling upon them for production of these books. In all such cases it is tedious for people to go to the Registrar and keep him informed of these movements. Some sort of a relief must be given. I have sent in an amendment and I hope the Government will look into it.

The clause on special audit has been strongly resented. I am absolutely in favour of a special audit when a special occasion for it arises. My hon. friend Shri Masani opposed it and Pandit Thakur Das Bhargava for whom I have great respect, because he studies the Bills most minutely also sided with Shri Masani. Shri Masani's arguments were threefold: first the company should be heard; if the Government have made up their mind and have come to some sort of decision, they must communicate the decision or judgment to that party and thirdly, the party must be allowed to apply to the court to prevent a special audit. Let us examine this. I feel that unless special circumstances arise which make a surprise special audit necessary, and such occasions will be few and far between normally the practice of the administration will be to hear the party.

Shri M. R. Masani: That is an assumption.

Shri Naushir Bharucha: That is what I presume.

Shri M. R. Masani: Let the Minister say that.

Shri Naushir Bharucha: There is no reason for a business enterprise to presume that the company law administration is like a monster only waiting to pounc upon them with a surprise. I agree, with regard to the second point, that the party against whom you take action must have notice of it and must know the decision and reasons. But I am not in favour of giving the right of appeal to the court for this reason that by filling an appeal and instituting proceedings in a court of law, you can prevent a special audit easily for six months or even a year. If my hon. friend thinks it cannot be done, as a lawyer I can assure him that it can be very well managed that way and the purpose of the special audit will be lost. While a great deal depends upon how the company law administration administers the provisions of this Bill, special audits are necessary if we want to have a proper investigation and let me remind my hon. friend, Shri Masani, that these are the sections precisely intended for the directors who are unscrupulous.

Sir, even the further power given for seizure of books is an important power. My going and inspecting the books and finding that there is a lot of hanky-panky in them is not enough. After all, ultimately, the party has to be prosecuted and evidence must be collected. Seizure of books or documents is a right which is normally given to the police. It is asked, "Why do you want to introduce police powers in business matters? Well, the answer to that is this, that normally the rules of evidence require production of documents and it is necessary that books must be seized if found necessary. I am sure the authority for ordering seizure will look into it whether the seizure of the books is very necessary. I therefore think that though this provision may appear drastic, it is a provision which is necessary if the ultimate end of prosecution for misconduct on the part of the directors is not to be defeated. If that end has to be achieved these powers must remain on the statute-book.

Objection was taken to one important power, namely, power to prohibit transfer of shares for three years where the Government feels that the affairs of the company are not moving properly. Supposing a person desiring to obtain control of a company makes manoeuvres for obtaining shares and the Government comes to the conclusion that if those shares could be transferred in favour of that person, that person might acquire undue powers and may be able to do away with the evidence or do something or the other to interfere with the investigation. It may also be that the full title to the shares itself is disputed. Much depends upon the title to the shares, because it may affect the composition of the directors. Therefore, the Government should have power to interfere in such cases. But I agree that the power to prohibit transfer of shares for three years at a time is far too much. Sir, just as I said that the business enterprises must be prepared to be subject to reasonable and wise control, there is an equal obligation on the part of the Government that it should also be alert in carrying on investigation. If they have got any doubt about the transfer of shares and they want to maintain the *status quo*, one year is more than enough for the purpose. If there are special cases where they require to prohibit the transfer for more than one year, let them go to the court. I have sent in an amendment to that effect and I hope the Government will look into it.

[Shri Naushir Bharucha]

There is another irritating problem which the business community is up against, and that is covered by clause 99 regarding sole selling agents. Not only Shri Masani but the Indian Chamber of Commerce is up in arms against that provision. They say, if you try to dictate to us who is going to be our sole selling agents and on what terms we have to appoint our agents then you are very clearly interfering with the day-to-day working of the company. Sir, I agree that this would amount to an interference in the day-to-day working of the company to the extent that perhaps in *bona fide* cases people may be inconvenienced. There may occur some such cases, I have no doubt about it. But how else are we going to plug the main loophole in the Act? We have done away with managing agents. They may go outside by one door, put up another cloak, call themselves as sole selling agents and enter by another door and start having bigger figures of commission than what they were having as managing agents. In fact, in the evidence before the Joint Committee it was disclosed that too many people were too willing to give up their managing agency and start as sole selling agents where they could earn more profits with comparatively less work. How are you going to plug that loophole unless you look into the contract and find out that the managing agents do not reappear in the guise of sole selling agents? It has got to be done. In fact, there was some justification and some force in the arguments advanced by some businessmen who appeared before the Committee. They objected to the words: "sole selling agents for an area". Therefore, even if you appoint a sole selling agent for a taluka, you have got to go through the procedure prescribed. I concede that there is some force in that, but, on the other hand, if you say that you are not required to go through the procedure unless you appoint a sole selling agent for an area bigger than a State, then, in that case, they will appoint a sole selling agent or the entire State minus one taluk and get over the provision. They can appoint a sole selling agent for the whole area with a taluk left out here and there, and thus defeat the provisions of the Bill. Therefore, it is beyond human ingenuity in draftsmanship to provide in such a way that every objection which my hon. friend Shri M. R. Masani raised can be met. They may be reasonable, but I repeat that it will depend upon how the company law administration functions.

I am of the opinion that the provision regarding the sole selling agent must remain there and all that can be done is that the Minister should issue an administrative direction to the company law administration that only in such extravagant cases where, on the face of it, the abuse is patent, the administration should intervene. Normally, no hitch will be faced in the appointment of *bona fide* selling agent.

Again, we have got the question of inter-company investments. There also, a big issue arises, because, after all, we are very keen on seeing that industrial progress is stepped up. How do we propose to do that? The Joint Committee has been obliged to strike a little note of caution here. It has provided that a company could invest to the extent of ten per cent of the subscribed capital of the company or 30 per cent of the investing company's Capital. I was rather surprised when the figures were produced before the Joint Committee to see it mentioned that even this figure of 30 per cent was on the generous side, because, actually, statistics revealed that investments did not exceed more than 11 to 12 per cent. Therefore, while on the face of it, it might appear that a clause like this would strike at the very root of inter-company investments, I am inclined to believe that in practice, no difficulty will be experienced. At one time I myself was inclined to think as to why the investment companies should not be totally exempted from this limitation but after examining the point, I came to the conclusion that this clause is not

likely to interfere, at least, in the near or the foreseeable future.

On the other hand, this clause is a very great safeguard against a person, who is deliberately out in the guise of inter-company investment to interlock capital so as to command with a smaller percentage of share-holding the conduct of a large number of companies. If this thing can be prevented, I think, even if there was a risk to run, I would rather run the risk and say that investment in inter-companies should be limited and the limit placed here is reasonable.

There is another point on which a great deal of attention has been directed and perhaps rightly, and that is, the jurisdiction of the Advisory Commission. Here, it was contended that the amendment made by the Joint Committee to section 411 sought to curtail the jurisdiction of the Advisory Commission by taking away from them the complaints falling under certain sections. I too felt that it was a case where perhaps not enough confidence was reflected in the Commission by the amendment. However, it was a matter of satisfaction that a via media was struck in the Joint Committee. The Government expressed their difficulty that cases may arise where prompt action may be necessary. Unless prompt action is taken, Government's intervention will be difficult.

Mr. Chairman: Does the hon. Member like to continue?

Shri Naushir Bharucha: Yes, Sir. I may take ten more minutes.

Mr. Chairman: Let us now adjourn.

17 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, the 17th November, 1960/Kartika 26, 1882 (Saka).