

**SHRI B. K. DASCHOWDHURY :** Mr. Deputy Speaker, Sir, yesterday we had an occasion to hear the hon. Minister of State, Shri Azad. But I must say that the Minister would not show his dynamism and he could not make his dynamic leadership felt in the Department for which he is in charge.

I must say one word about the Labour Ministry. The entire Labour Ministry has got three ministers.

**MR. DEPUTY-SPEAKER :** The hon. Member may continue on Monday.

16.00 hrs.

### CONSTITUTION (AMENDMENT) BILL\*

(Amendment of articles 16, 19, etc.)

**श्री मधु लिमये (मुंगेर) :** मैं प्रस्ताव करता हूँ कि भारत के संविधान में आगे संशोधन करने वाले विधेयक को पेश करने की अनुमति दी जाये।

**MR. DEPUTY-SPEAKER :** The question is :

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

*The motion was adopted.*

**श्री मधु लिमये :** मैं विधेयक को पेश करता हूँ।

### COMPANIES (AMENDMENT) BILL\*

(Insertion of new Sections 224A, 224B, and 224C)

**SHRI CHINTAMANI PANIGRAHI (Bhubaneswar) :** I beg to move for leave to introduce a Bill further to amend the Companies Act, 1956.

**MR. DEPUTY-SPEAKER :** Motion moved :

"That leave be granted to introduce a Bill further to amend the Companies Act, 1956"

**SHRI S. S. KOTHARI (Mandsaur) :** I rise to oppose introduction of the Bill. This is a very important matter. I am surprised a senior member like the Mover has sought to introduce a Bill entitled the Companies (Amendment) Bill, 1970, which suggests that no person shall be an auditor of more than five companies. This is an unwarranted attack on an honourable profession. They are entitled to attack any profession they like—that is a different matter. What I am concerned with is the constitutional aspect. Art. 19(1) (g) says that all citizens shall have the right to practise any profession or to carry on any occupation, trade or business. It also provides in clause 6 :

"Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes or prevents the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause..."

Reasonable restrictions can be imposed on the right to exercise any profession. The question is whether this restriction that a person shall not audit more than five limited companies is reasonable or not. It is like prescribing that a labourer shall not work for more than half an hour and if he does, he would be violating a provision like this. In this case, if an auditor has only five companies to audit during a whole year, he would starve all the while. He can finish his work in 5 to 15 days and then probably he would have to come to Parliament and sit here like me.

Basu in his Commentary says on the constitutional aspect in p. 503 :

"It also follows that the court is not concerned with the necessity for the impugned legislation or the wisdom of the policy underlying it put only whether the restriction is in excess of the requirement"—

this is very important—

"and whether it is imposed in an arbitrary manner".

Further :

"The expression 'reasonable restriction' connotes that the limitation

\*Published in the Gazette of India Extraordinary Part II, section 2, dated 24.4.70.

imposed on a person in enjoyment of the right should not be arbitrary or of an excessive nature".

**SHRI AMRIT NAHATA (Barmer) :** On a point of order. At the introduction stage, a member can oppose a Bill only on the ground whether it is within the legislative competence of the House. He is trying to show that this Bill is *ultra vires* the Constitution. But that is the concern of the judiciary, not this House. Whether this House is competent to enact such a law alone can be agitated here.

**SHRI S. S. KOTHARI :** If the Bill is unconstitutional, how can we proceed with it ?

**SHRI AMRIT NAHATA :** Who is to decide it ? Not we.

**SHRI S. S. KOTHARI :** "What is required in the interest of the public is that in order to be reasonable, the restriction must have a reasonable relation—this is important—to the object which the legislation seeks to achieve and must not go in excess of that object."

I do not know in which world my hon. friend is living, probably in the Young Turks' world where they see monopolies everywhere. I do not know what monopolies he refers to, but if only reasonable restrictions can be imposed, is it reasonable to lay down that an Auditor shall only conduct five audits during the whole year ? In my opinion it is absolutely unreasonable. It is a clear violation of the Constitution, and this House cannot consider, in my opinion, a Bill which is absolutely unconstitutional.

**SHRI CHINTAMANI PANIGRAHI :** As this is one more attack on the monopolies in this country, I knew that Mr. Kothari would immediately oppose it, but my admiration for him remains.

My I say that it does not impinge any of the provisions of the Constitution ? The Companies Act, 1956 has already got section 224, and this is only trying to add new sub-section 224A 224B and 224C. I am not at present going into the merits of the Bill. I welcome all the arguments that Mr. Kothari has put forward, because I know that he

has studied the subject deeply. Therefore, it is better that when the Bill is discussed, he goes into the merits. Then, I shall meet his points. This is not *ultra vires*, it is within my rights and within the purview of the Indian Companies Act. Only some clauses are being amended and new clauses are being added.

**श्री मधु लिमये :** मैं आप की माफ़त कोठारी जी से प्रार्थना करना चाहता हूँ कि चूँकि यह निजी सदस्य का बिल है और यहाँ पर एक परिपाटी है कि निजी सदस्यों के बिलों को जब पेश किया जाता है तो उसका विरोध नहीं होना चाहिये, इस वास्ते उनको भी अपना विरोध वापिस ले लेना चाहिये। निजी सदस्यों को बिल पेश करने का मौका वैसे ही कम मिलता है। एक बार जाज फरनेडीस साहब का बिल प्रस्तुत हुआ था और उसका विरोध हुआ था, तब भी मैंने इस ओर सदन का ध्यान सँचा था और उसके बाद उसको इंट्रोड्यूस करने की इजाजत मिल गई थी। आपका जो कहना है वह आपने कह दिया है। अगर आप विरोध करने का आग्रह न करें तो ज्यादा अच्छा होगा। जब विधेयक विचार के लिए आये और आप विरोध करना चाहें तो आपको कोई नहीं रोकेगा।

**श्री स्वतंत्र सिंह कोठारी :** मुझे इसमें कोई एतराज नहीं है। मैं विरोध वापिस ले लूँगा। लेकिन एक प्रश्न है। जो चीज प्राइमा फेसाई अनकांस्टीट्यूशनल है उसे इंट्रोड्यूस होने देना चाहिये क्या ?

**श्री मधु लिमये :** निजी सदस्य का बिल न होता तब मैं आपको नहीं कहता।

**श्री योगेन्द्र शर्मा (बेगुसराय) :** माननीय सदस्य ने रीजनेबल रेस्ट्रिक्शन है या नहीं, इसी आधार पर आपत्ति उठाई है और इसी आधार पर कहा है कि सदन में इस बिल को पेश नहीं किया जा सकता है। रीजनेबल रेस्ट्रिक्शन है

[श्री योगेन्द्र शर्मा]

या नहीं यह तो तभी पता चलेगा जब सदन इस पर विचार करेगा...

श्री मधु लिमये : वह प्रैस नहीं करते हैं।

श्री योगेन्द्र शर्मा : तब मामला खत्म है।

SHRI S. S. KOTHARI : In view of the fact that Mr. Madhu Limaye has pointed out that it is the convention of the House that we do not oppose the introduction of Private Members' Bills, I withdraw my objection.

MR. DEPUTY-SPEAKER : The question is :

"That leave be granted to introduce a Bill further to amend the Companies Act, 1956."

*The motion was adopted.*

SHRI CHINAMANI PANIGRAHI : I introduce the Bill.

-----

16.11 hrs.

#### PREVENTION OF FOOD ADULTERATION (AMENDMENT) BILL\*

*(Amendment of Sections 2, 3, etc.)*

SHRI TENNETI VISWANATHAM (Visakhapatnam) : I beg to move for leave to introduce a Bill further to amend the Prevention of Food Adulteration Act, 1954.

MR. DEPUTY-SPEAKER : The question is :

"That leave be granted to introduce a Bill further to amend the Prevention of Food Adulteration Act, 1954."

*The motion was adopted.*

SHRI TENNETI VISWANATHAM : I introduce the Bill.

16.12 hrs.

#### CONSTITUTION (AMENDMENT)

BILL—contd.

*(Omission of Article 314)*

by Shri Madhu Limaye

MR. DEPUTY-SPEAKER : We take up further consideration of the Bill of Shri Madhu Limaye further to amend the Constitution of India. Originally the time allotted was one hour. We have taken four hours and 52 minutes and more Members would like to speak. Shri Raghuvir Singh Shastri may continue his speech.

श्री रघुवीर सिंह शास्त्री (बागपत) : उपाध्यक्ष महोदय, प्रशासनिक सुधार आयोग ने सिफारिश की है कि भारत सरकार की सर्विसिस में यदि किन्हीं लोगों को विशेषाधिकार प्राप्त है तो वे समाप्त होने चाहियें। उसने कहा है कि सभी आदमियों को, सभी श्रेणियों को समान सुविधायें मिलनी चाहिए, सब के लिए द्वार समान होने चाहियें और किसी भी प्रकार के विशेषाधिकार किसी को नहीं मिलने चाहियें और जिन को मिले हुए हैं, उनके समाप्त होने चाहियें। प्रशासनिक सुधार आयोग की सिफारिशों को देखते हुए भी मैं यह समझता हूँ कि यह बड़ा आवश्यक है कि भारत सरकार की जो सर्विसिस हैं, उनमें किसी एक खास सर्विस को अगर विशेषाधिकार मिले हुए हैं, तो उनको समाप्त किया जाना चाहिये। भारत सरकार की सर्विस में लगभग 27 लाख आदमी हैं और प्रांतीय सरकारों और सार्वजनिक क्षेत्र में लगे हुये आदमियों को गिना जाए तो उन की संख्या करीब नब्बे लाख हो जाती है। देश की सरकारी सर्विसिस में लगभग नब्बे लाख लोग हैं। अब 80,90 या 100 आदमियों को जो विशेषाधिकार मिले हुये हैं, वे बड़े अखरते हैं और इसलिये वे समाप्त होने चाहियें।

अब प्रश्न पैदा होता है कि इसके लिये