

move for leave to introduce a Bill to provide for the repeal of the Tea Districts Emigrant Labour Act, 1932 and for matters connected therewith.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the repeal of the Tea Districts Emigrant Labour Act, 1932 and for matters connected therewith."

The motion was adopted.

Shri Nathi: I introduce* the Bill.

12.49½ hrs.

COMPANIES TRIBUNAL (ABOLITION) BILL—contd.

Mr. Deputy-Speaker: We now take up further consideration of the Companies Tribunal (Abolition) Bill. The hon. Minister.

The Minister of Industrial Development and Company Affairs (Shri F. A. Ahmed): Mr. Deputy-Speaker, Sir, I have listened with great attention to the debate on this Bill. While I am grateful to the hon. Members for almost agreeing with the objects of this Bill, they have made certain observations which seem to have raised some doubts in their minds. I would like to deal with them.

I am grateful particularly to my hon. friend, Mr. N. C. Chatterjee, for giving a lead in this matter because he is conversant not only with the Company Law but also with the law as it is administered....

श्री नचु लिमये (मुनेर) : कृपया सुनाई नहीं दे रहा है। अध्यक्ष महोदय, हमारी धिक्कती है कि हमारे सभी प्रश्नों का वह जवाब दें नहीं तो फिर क्लरा बाई क्लरा पर और बरं रीक्वि पर बीजना पड़ेगा।

Shri S. M. Banerjee (Kanpur): We should not hurry up. The President has already left for Canada.

Mr. Deputy-Speaker: There is a time limit. He has to finish in 15 minutes.

Shri F. A. Ahmed: I do not know why my hon. friend, Mr. Limaye, is so impatient....

श्री नचु लिमये : मैंने लिखित दिया है। मैं इम्पेजेंट नहीं हूँ। समय बचाने के लिए मैंने किया जवाब था जायगा तो मुझे बीजना नहीं पड़ेगा।

Shri F. A. Ahmed: Perhaps it would have been pertinent for him to raise this question after I had resumed my seat without giving replies to the various questions that he had raised.

I was particularly referring to the observations made by my hon. friend, Mr. N. C. Chatterjee, who has experience not only of Company Law but also of Company Law as it is administered in various High Courts and particularly in the High Court of Calcutta. I am glad that he has given his wholehearted support to the objective of this Bill. I was, however sorry to hear from him regarding transfer of jurisdiction from tribunal to Government. I do not know how somehow he got an impression that what we intended to do was to take over certain powers to the Government after abolishing Tribunal. I would like to make it clear that this is farthest from our thought or from our objective. As the hon. Member will be pleased to see, only the jurisdiction, which is now exercised by the Tribunal under section 111, is sought to be transferred to the Central Government. That was the position before this jurisdiction was transferred to the Tribunal. If the hon. Member will be further pleased to see, he will find that section 111 of the Companies Act, provides for registration or refusal of registration of transfer of shares. Appeals in respect of these matters are proposed to be transferred from the Tribunal to the Central Government. In this connection I would

*Introduced with the recommendation of the President.

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also like to point out that, apart from the fact that under Article 226 any one aggrieved by the order of the Central Government can go to the High Court, there is further remedy provided under section 156 of the Companies Act by which any one aggrieved can approach the High Court for rectification of the Register of Members. Therefore, it is not correct to say that what the Government intends to do by this Bill is to transfer the power or jurisdiction enjoyed by the Tribunal to the Central Government. This is farthest from our thought. Except the jurisdiction under section 111, about which I have explained the position, there is no other jurisdiction which is proposed to be transferred from the Tribunal to the Central Government. Either the jurisdiction has been transferred to the courts or the jurisdiction has been transferred to High Courts.

Another point that was made by some Members was that our objective to cut delay would not be achieved because the High Courts of Calcutta, Bombay, Madras, Allahabad etc. had such a large number of arrears that it might not be possible for them to deal with these cases when transferred to them. First of all, I may inform the hon. Members that so far as the cases coming under the provisions of the company law are concerned, they will be pleased to find that most of these cases are of the nature of miscellaneous applications. They have been of the order of about 300 or so during the last three years, and these applications are disposed of within a very short period. Secondly when these applications will be filed, they will be filed not only before one High Court but before all these High Courts at Calcutta, Madras, Allahabad whichever has jurisdiction over the area from which this will arise. Therefore, the number in a particular High Court will be very small. The number of cases that require a good deal of time are very few. Perhaps, in some of the High Courts, these cases will not come up at all. In

some of the High Courts like those at Bombay, Calcutta there may be just two or three cases of this nature in the whole of the year.

I hope Shri N. C. Chatterjee will bear me out when I say that the Calcutta, Madras and Bombay High Courts have got a separate Judge for dealing with matters relating to company affairs.

Shri N. C. Chatterjee (Burdwan): The Calcutta High Court has a company law judge specially deputed for this, and he sits and deals with these cases practically throughout the year, at least for a term.

Shri F. A. Ahmed: Therefore, if these cases are transferred to the High Courts, the arrears of cases referred by hon'ble member before High Courts will not come in the way. On the other hand, I think that these company law judges will be in a position to dispose of these cases more expeditiously.

Shri S. Kundu (Balasore): It is true that one of the judges may be earmarked as a company law judge. But since the election tribunals have been wound up, one of the judges has been put in charge of these election cases. So, unless we increase the number of judges, by merely earmarking some judge as a company law judge, the problem would not be solved and we would not get a speedier decision. That is the point.

Shri F. A. Ahmed: If the number of cases is examined properly, the hon. Member will be satisfied that many of the High Courts will have no increased burden at all, and wherever there will be increased burden, I am sure it will be possible for the Chief Justice to make proper allocation and thus without disturbing the work before them, deal with and dispose of these cases perhaps more expeditiously than it has been possible for the tribunal to do so.

Then, some hon. Members suggested that a time-limit ought to have been provided for the disposal of these cases. This is a matter in which I feel I am not entitled to express any opinion. It will be neither wise nor desirable on our part to interfere with the jurisdiction of the High Court or the Supreme Court which alone can lay down in these matters the necessary procedure.

13 hrs.

It was also suggested that this Bill should be referred to a Select Committee. I would submit that whatever observations have been made by hon. Members are not of such a nature as would require a thorough investigation or probe by a Select Committee.

In fact, most of the objections raised are of such a nature as do not really concern the subject-matter of the Bill and can easily be disposed of by discussion in the House. I am sure that after hearing my reply, hon. Members will be satisfied that the objections raised by them are not of such a serious nature as to warrant reference of this matter to a Select Committee.

Mr. Deputy-Speaker: The hon. Minister might continue after the lunch recess.

13.01 hrs.

The Lok Sabha then adjourned for Lunch till Fourteen of the Clock.

The Lok Sabha reassembled after Lunch at Fourteen of the Clock.

[MR. DEPUTY-SPEAKER in the Chair]
COMPANIES TRIBUNAL
(ABOLITION) BILL—Contd.

Shri F. A. Ahmed: Before the House broke up for lunch recess I was referring to the various observations made by the hon. members regarding the provisions of this Bill, and I hope, after I have replied to the various questions raised by them, hon. members will be satisfied that this is a measure which need their support and

it is not a measure which need be sent to the Select Committee as was urged by some of the hon. members.

In the course of the discussion, certain observations relating to the working of the company law and also the delay in the disposal of these matters by the Department were referred to by some of the members, particularly by my hon. friend Shri Madhu Limaye. I would like to assure him that so far as we are concerned, whenever any matter is brought to our notice either *suo motu* or at the instance of any of the hon. members, we take the earliest action in these matters. I can also assure him that the department will not lag behind to deal with this aspect of the question. But at the same time the hon. Member must appreciate and realise the difficulty that sometimes in taking a decision in these matters we are handicapped because of the difficulty created by some of the companies by not giving or delaying the necessary replies to the questions raised by us. I also entirely agree with him that, apart from functioning of the administrative department, it is necessary that in the context of the developments and of our directive principles, it is desirable to give a fresh look at the provisions of the company law. That is a matter which is engaging my attention and I shall appreciate if any hon. Member would be pleased to send me suggestions in this behalf. I know that Shri Madhu Limaye has already given notice of a Private Members' Bill in which he has suggested a few amendments. They will receive our consideration and the decision of the Government will be made known when that Bill comes before this House. But in addition to that I may inform the House that we are also proposing to bring, as recommended by the Monopolies Commission, a law in order to control monopolies in our country. That Bill will be introduced in this House in this session. If apart from this there are other suggestions which the hon. Members who are interested

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in the good administration of companies, have to offer I shall welcome them and give them due consideration.

In the course of his observations, Shri Limaye also referred to three or four matters which have practically no bearing on this Bill. Least the hon. Member should feel that there is something which we want to hide or which we do not want to reply to, I would place the facts of these cases before the House. I will first deal with the matter which Shri Madhu Limaye referred to about some tea company in Pakistan. I suppose he was referring to Patrokola Tea Company about which he wrote a letter to me in the second week of June this year. I have examined this case and my reply to his letter is on its way. He may get it either today or tomorrow. In this connection, I would like to point out that Shri Surana on whose complaint Shri Madhu Limaye had written this letter to me had approached the Calcutta High Court in a petition under section 395 of the Companies Act for an order directing the Central Government to appoint an Inspector to investigate into the affairs of the Company under section 237(a)(ii) of the Companies Act. The court declined to issue an order prayed for by Shri Surana in the absence of convincing proof of the allegations made by the petitioner. Shri Surana subsequently made a representation to the company law board in September 1966 making a number of allegations against Duncan Brothers Ltd. which acted as the managing agents of the company upto 31st March 1966, and also against Messrs. Munnalal Bhalotia and Company, a firm of share brokers, which purchased a large block of shares in Patrokola Tea Company from Messrs. Duncan Brothers Ltd. The representation was made in the context of the refusal of Messrs. Munnalal Bhalotia & Co. to purchase shares from Shri Surana at the same rate at which they had purchased a large block of shares from Messrs. Duncan Brothers,

Ltd. The Company Law Board after carefully considering Shri Surana's request for appointment of an Inspector under section 387(b) of the Companies Act advised him to make a representation to the Registrar of Companies, Calcutta, under section 234(7) of the Companies Act together with the materials in support of his allegations. This suggestion was also repeated in a letter addressed to him on 8th March, 1967. He has not yet submitted his representation to the Registrar, as advised. Shri Surana saw the Chairman of the Company Law Board on the 1st June, 1967 and promised to make a representation to the Company Law Board after he had attended the annual general meeting of the company then due to be held on 8th June, 1967, indicating specifically the points which he would like the Company Board to check up with reference to the books of account of the company. The Company Law Board have not yet received any reference from him. If Shri Surana happens to meet the hon. Member, he may advise him to give the materials to the Company Law Board as promised by him. I have to this effect also addressed a letter to the hon. Member.

Then some reference was made to a Worli Co. I think this reference was to Gammon India Ltd. On 20th March, 1966, Shri Madhu Limaye addressed a letter to the then Minister of Law, drawing his attention to the report of the auditors on the balance-sheet of the company as on 31st March, 1965. It appears that the auditors were unable to state whether the investment sale proceeds of bonus shares and right shares issued in previous years and dividends thereon had been correctly accounted for. The Registrar of Companies, Bombay, under the direction of the company Law Board, made enquiries as to how in view of the facts pointed out by the auditor, the balance-sheet of the company for the relevant period could

be deemed to show a true and fair view of its affairs. It was also enquired whether the company had obtained from its London office further particulars and information required by the auditors. When the matter was still under examination, Shri Madhu Limaye put a question on 26th July, 1966 and, again, on 15th November, 1966. In reply to the first question he was informed that the department was examining the matter in consultation with the Enforcement Directorate and the Reserve Bank of India. In reply to the second question, he was informed that the Reserve Bank had received a declaration dated 11th November, 1961 through the bankers of the company in respect of their holdings of foreign shares and securities that had been held in London from 1942 onwards. The company had also informed the Reserve Bank of India that bonus and right shares on certain foreign-security holdings had accrued to it from time to time and their agents in London had collected and sold the shares realising £1,04,552. In view of this, no prosecution was launched under the Foreign Exchange Regulations Act. It was also pointed out in reply to the question that the company had appointed a firm of chartered accountants in London to check its accounts in London and that the report of the said firm was awaited.

In answer to a further question by Shri Madhu Limaye and two other hon. Members, it was stated on 26th May, 1967 that the London chartered accountants submitted their report to the company and that the statutory auditors of the Indian company had drawn the attention of the shareholders to the findings of the London firm in their report on the affairs of the company for the year ending 31st March 1966. The enquiry initiated by Government was calculated to find out whether there was a basis for holding that the company and its officers had contravened the provisions of sections 56, 209 and 211 of the Companies Act. It would be neces-

sary not only to find out the violations of the provisions, but also to find out whether these violations were committed wilfully and knowingly. To this end in view, the department is now collecting the necessary information from the company. The company has also recently been asked to obtain clarification of its Chairman, Mr. Gammon, as to the reason for which he was not in the know of the transaction in London since he was also associated with the London company. The final decision in this matter would depend on the nature of the company's reply. We are also taking steps to ensure that the original Broker's Note, which was not available to the London Firm of Chartered Accountants, is traced by the company and produced before its statutory auditors.

The third case he referred was Duncan Straton and Company.

It is a fact that Shri Madhu Limaye put a question which was answered on 16-9-65 about some references in articles of the Maratha Daily of Bombay, alleging Shri Hari Das Mundhra exercising control over the management of Duncan Straton & Co. In reply to another question by Shri Limaye which was replied on 4-11-65, it was stated that the Company Law Board were looking into the affairs of the Company to ascertain whether the interest of the company or its shareholders were being or were likely to be prejudiced by any action taken by Shri Mundhra or otherwise. In reply to another question by the same Member it was stated on 22-3-66 that the books of accounts of the company were being inspected under Section 209, Sub-section 4 of the Companies Act. The inspection could not, however, be completed expeditiously as it was found necessary to inspect the books of accounts of two other companies with a view to connecting various transactions appearing in the books of Duncan Straton. Shri Limaye was informed accordingly on 16-8-66 and, again, on 29-11-66, that

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while inspection of books of accounts of Duncan Straton was completed, inspection of other companies and one foreign company having a place of business in India could not be carried out on account of non-production of necessary books and documents etc. Prosecution has since been launched against the officers of these two companies and also against Shri Hari Das Mundhra as a deemed director. The Registrar of the Companies, Calcutta has also issued show-cause notices regarding the contravention of the Act under Section 295 which contravention has been admitted by Shri Bagri and Shri Agrawal but they also intimated that the loan was repaid with interest on 10th October 1966. The parties concerned have pleaded oversight and inadvertence and have prayed for condonation of the lapses on their part. Notwithstanding this, the Registrar of Companies Calcutta has been advised to launch prosecution for contravention of Section 295. It may also be stated that the Enforcement Directorate issued show-cause notices to the Duncan Straton, Brahmaputra Tea Company & Shri Hari Das Mundhra and Mrs. Mundhra for infringement of Foreign Exchange Regulations. The Enforcement Directorate would certainly initiate such further action as may be necessary in the light of the replies received.

There is another matter which was not referred to in the discussion the other day, but which he has mentioned in the course of the letter today. The Department of Company Affairs have not received any complaint in the matter in respect of Indian Oxygen Limited. It may, however, be mentioned in this connection that this allegation has been made in connection with Bombay Oxygen Limited. Shri Limaye and two other hon. members have given notice of a question relating to Bombay Oxygen, which is due for answer in the course of next month.

The Department of Company Affairs have advised the Regional Director

at Bombay to look into the matter and submit a report immediately to the extent possible, having regard to the information available on the record of the Registrar of Companies, Maharashtra. It may be mentioned in this connection that the audited balance sheet of the company may not disclose whether any manipulation has been made as alleged by Shri Limaye. For this purpose, a specific inquiry has to be made by the Registrar and it is being undertaken.

My friend, Mr. Banerjee is not here. He referred to a case—I am not in the habit of using adjectives, but he used some adjectives about Mr. Gupta. I can only say that so far as that matter is concerned, about the delay by the tribunal, he said that a petition was made by him and because of the fear of this gentleman, an adjournment was allowed and the case is still pending. It is in order to get over these difficulties that this Bill has been brought, and I am sure that everyone concerned will have better scope and better justice before the High Courts which are being invested with these powers.

With these words, Sir, may I request the hon. Members to support this Bill.

Mr. Deputy-Speaker: The question is:

"That the Bill to provide for the abolition of the Companies Tribunal and for matters connected therewith, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: The House will now take up the Bill clause by clause. There are no amendments to clause 2. The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill...

Clause 2—(Transitional provisions).

Mr. Deputy-Speaker: There are some amendments to clause 2.

Shri C. Mithamuni (Karur): Sir, I beg to move:

(i) Page 2, lines 4 and 5,—

for "Central Government and that Government".

substitute "High Court having jurisdiction in the State of court of action and that High Court" (1).

(ii) Page 2, line 8,—

for "Government" substitute—"High Court". (2).

(iii) Page 2, line 12,—

for "Magistrate of the First Class"

substitute "District Judge." (3).

(iv) Page 2, line 13,—

for "Presidency Magistrate" substitute—"District Judge". (4).

(v) Page 2, line 20,—

for "Magistrate of the First Class"

substitute "District Judge." (5).

(vi) Page 2, lines 20 and 21,—

for "Presidency Magistrate" substitute—"District Judge". (6).

Mr. Deputy-Speaker: I shall put them all together.

Amendments Nos. 1 to 6 were put and negatived.

Mr. Deputy-Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4 was added to the Bill.

The Schedule was added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

Shri F. A. Ahmed: Sir, I move:

"That the Bill be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

*DEMANDS FOR GRANTS, 1937-38

MINISTRY OF DEFENCE

Mr. Deputy-Speaker: The House will now take up discussion and voting on Demand Nos. 4 to 8 and 111 relating to the Ministry of Defence for which 7 hours have been allotted.

Hon. Members present in the House who are desirous of moving their cut motions may send slips to the Table within 15 minutes indicating the serial numbers of the cut motions they would like to move.

DEMAND NO. 4—MINISTRY OF DEFENCE

Mr. Deputy-Speaker: Motion moved:

"That a sum not exceeding Rs. 54,14,000 be granted to the President to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1938, in respect of 'Ministry of Defence'."

*Moved with the recommendation of the President.