further sums from and out of the Consolidated Fund of India for the services of the financial year 1963-64, be taken into consideration."

The motion was adopted.

Mr. Speaker: Now we shall take up clause by clause consideration of the Bill.

The question is:

"That clauses 1, 2, 3, the Schedule, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

Clauses 1, 2, 3, the Schedule, the Enacting Formula and the Title were added to the Bill.

Shri T. T. Krishnamachari: Sir, I beg to move that the Bill be passed.

The Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

Mr. Speaker: Shri T. T. Krishnamachari.

Shri S. M. Banerjee (Kanpur): I find that the Companies (Amendment) Bill is coming up first. The other Bill—Drugs and Magic Remedies (Objectionable Advertisements) Bill—is still continuing. The normal practice is....

Mr. Speaker: But we had notified that this would be taken up today. My consent was also taken. We had to do it because it was necessary to take it up today.

Shri S. M. Banerjee: I understand the urgency that may be there that the Bill has to go to the Select Committee and they have to submit the report by the 9th December, 1963. Four hours have been allotted to this Bill. Supposing the Members take interest in this and they want an extension of time, it will not be done. This will be hustled through.

Mr. Speaker: Why does he suppose that? It will not be hustled through.

Shri Bade (Khargone): Then the Drugs and Magic Remedies (Objectionable Advertisements) Bill will be taken up tomorrow?

Mr. Speaker: I cannot say that.

Shri Bade: Two hours have been allotted for that Bill.

Mr. Speaker: How can I say that? Shri T. T. Krishnamachari.

12.24 hrs.

COMPANIES (AMENDMENT) BILL

The Minister of Finance (Shri T. T. Krishnamachari): Sir, I beg to move*:

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

Sir, this Bill is not a simple one though one provision, at any rate, cannot cause any controversy. It contains four important provisions. The first provision is for setting up of the tribunal for the removal of persons in management of companies on the basis of findings of the tribunals. The second provision is for the creation of a Board for the administration of the Company Law. The third set of provisions relate to conversion of loans and debentures into equities. The fourth provision is for the purpose of ensuring that investment by trusts in equities is not misused by the people who operate the trusts.

On the first and perhaps somewhat controversial subject of the setting up of a tribunal, I would like to say this that the primary object is to provide for the removal from office or of managerial authority in companies of per-

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*Moved with the recommendation of the President.

[Shri T. T. Krishnamachari]

sons who have been found to have given a sense of insecurity and lack of stability to the institution by the adoption of certain methods in the management of the company under their charge. And this has to be done even before the expiry of the term of office under which they have been appointed to that office by the shareholders.

It was while considering the report of the Vivian Bose Commission that the inadequacies of the present law, due to which persons who may be said to have acted in an undesirable way in corporate management could not be easily or fairly soon removed from positions of authority, came to light. To remedy the situation, powers are being taken by Government to remove such persons from their directorship etc. in all companies, after giving them a due hearing. In the manner these powers are used, it is of utmost importance to give to the public and to the parties affected a feeling that action taken under these powers is taken after careful consideration, the conclusions being arrived at impartially without any prejudice or bias in favour of any person or any set of persons. While it is always the endeavour of the administration to follow this precept clearly, even so, the affected party is naturally bound to question these decisions on personal grounds. The remedy for such a situation is to place the decision in the hands of a tribunal which has a judicial bias. It is, therefore, proposed that before Government take any action in this regard, the tribunal will go into the facts of the case and record its findings.

The existing provisions in sections 397 and 398 of the Companies Act and the others that follow provide for the removal from office in a company of persons found to have been guilty of mismanagement in regard to the affairs of that company only. Section 274 disqualifies a person from being appointed as the director of a company if he is convicted by a court for any offence involving moral turpitude and sentenced to imprisonment for a period of not less than six months, and section 336 provides for the vacation of the office of the managing agent of a company by a person who is convicted by a court in India. But under these sections, a conviction by a court is a prerequisite. It is well known how difficult and long-drawn-out a process it is to secure a conviction even when a *prima facie* case is made out.

The procedure prescribed for effecting removal of such persons from positions of authority is that the Central Government, when they come into possession of certain facts which indicate that any person concerned with the management of the affairs of a company has been guilty of misdemeanour or negligence or default in the carrying out of his obligations and functions and in other circumstances stated in section 388B, would state the case against such a person and refer the same to the tribunal with the request that the tribunal may inquire into it and record their finding as to whether such a person is a fit and proper person to hold the managerial office in a company. The tribunal will thereupon hear the case after giving due opportunities to the persons involved and record their findings. After receipt of the tribunal's findings to the effect that a person is not fit and proper, the Central Government will issue to that person a show-cause-notice asking him to show cause why he should not be removed from his position of authority. Naturally, on receipt of such a notice, a person may make a representation. But he shall not raise any matter before Government if such a matter has been decided by the Tribunal or by the High Court on appeal. Then follows action by Government after hearing the representation. The Central Government may pass orders removing such

a person from office for a period of five years.

Shri Tyagi (Dehra Dun): Removal will essentially be after the Tribunal's verdict.

Shri T. T. Krishnamachari: Yes. There is nothing arbitrary about it. The Tribunal will have to go into it and if it finds that there is no case at all, the Government will have to follow other proceedings and go to a court, if need be, or not follow anything at all, and drop the case.

The tribunal will consist of persons who are well-versed in the field of law, accountancy and company management. Ordinarily it is expected, and it is also my wish, that a High Court Judge be the Chairman of the Tribunal. All the functions of the Tribunal might be discharged by Benches constituted by the Chairman from amongst members. The Tribunal has been given powers to regulate its own procedure and the procedure of its Benches in all matters concerning the discharge of these functions. To enable the Tribunal to dispose of any application made by the Central Government, in this regard, the Tribunal is being vested with the powers of a court under the Civil Procedure Code in respect of various matters such as inspection, enforcing attendance of witnesses, compelling production of documents, examining witnesses on oath etc. It is also being given the power to authorise by its warrant a police officer above the rank of a constable to enter a place and search and seize any document found therein. Every proceeding before the Tribunal will be deemed to be a criminal proceeding within the meaning of sections 193 and 228 of the IPC and for the purpose of section 196 of that Code.

Where a person feels aggrieved with the order of the Tribunal, he can appeal against this order to the High Court within whose jurisdiction it has held its proceeding on points of law and arising out of the findings of the Tribunal. This disposes of what I consider to be, or probably what I expect hon. Members consider to be, the most provocative part of this Bill. I do not propose to go further into this matter, though I could perhaps elaborate. I will really sum up and say that the main points in regard to this consideration are that provision is being introduced in law to deal swiftly and effectively with management of companies where the behaviour of the officers has been found to be not proper. Such persons, even if they have committed such anti-social acts in respect of one company only under their management, will be debarred from being employed by other companies. The affected persons will be given an opportunity of a fair hearing before the Tribunal. An aggrieved person will also have the right of appeal to the High Court, and before removing a person from office, the Central Government will give him due notice to explain his position and make a representation. Minority shareholders, who have now to go to the High Court under sections 397|398 when they feel that their ted by the conduct of the management, will have a less expensive and less cumbersome method of dealing with this matter and getting quicker relief by filling and application before the Tribunal.

The second proposal is somewhat, I should think, an innocuous one. The Company Law Administration has been managed as a department with a Secretary. At the time the original amendment of the company law was undertaken about eight years ago, there was a question of a statutory commission or a statutory board, but on further consideration Government had suggested, and the House had approved it, that this was not necessary. Recently it has been felt that the administration of the company law should be carried on in the same manner as other administrative organisations in Government, particularly in the Finance Ministry, by means of a Board. The Finance Ministry has

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experience of boards functioning with regard to revenue matters where quasi-judicial powers are exerised by them, and it is felt that it will be better for two or more persons to deal with these matters than one person only. Naturally, policy considerations will come before the Secretary to Government, and it is the practice in the Finance Ministry that these considerations are disposed of not by one, but by more than one Secretary who deals with general economic policy.

The board will also facilitate some additional work that the Company Law Administration might undertake, without prejudice to its own duties, namely the question of control of stoc exchanges. It is now being done by one Controller outside the Company Law Administration. The Administration itself is quite competent to deal with this matter, with one person to direct it from the top. So, all these matters of convenience have made Government bring forward a proposal that the company law should be administered by a board of not more than five persons, with a Chairman and that it should carry out the work delegated to it by Government. As I said, policy matters will be considered at a higher level where necessary; otherwise, the board will be fairly free to carry on the duties that have been delegated to it. That is one of the proposals here.

Shri Tyagi: Totally delegated, that means to say Government cannot interfere?

Shri T. T. Krishnamachari: The authority that delegates power has always got the reserve power. In fact, when the Bill is taken up for consideration, I propose to submit to the House that the word "entrusted", which might raise some doubts, might be changed to "delegated".

There are two other provisions which, I am told, have attracted some attention. One is: under section 81 of the Companies Act, a company is under an obligation, when it proposes to issue further capital, to offer such capital to its own shareholders. If any variation is to be made, it is to be made by means of a meeting of the shareholders. In regard to debenture stock or loans which are convertible into shares at the option of the debenture holders or lenders, this restriction will not apply, if the terms of issue of such debenture or loan include a term for conversion of the loan into shares—that is, what is called convertible stock—and this has to be approved by the shareholders. While this position may be sound in regard to joint stock companies that come into the market for issue of convertible debentures or convertible loans, slightly different is the case of financial organisations which would like to take convertible stock for advancing loans instead of making a straight loan or taking debentures. In fact, the International Finance Corporation, which is an adjunct of the World Bank, invariably puts in a condition that their loans enable them, under certain circumstances, to convert part of the loan into shares. But a group of shareholders, for reasons of their own, can withhold the passing of a special resolution and thwart the efforts of the management to obtain the loan as convertible stock from recognised financial institutions like the ICICI. IFC and international financing bodies like the Commonwealth Development and Finance Corporation and the International Finance Corporation. Therefore, the attitude of the minority stockholders might impede the flow of funds for industrial development.

In fact, I would like to remind the House that as early as 1952-53, when I had the privilege of being in charge of Commerce and Industry in this Government, we had to amalgamate by law two steel companies now called the Indian Iron and Steel Co. Because, the shareholders did not like to amalgamate. If we had not done so, that

industry which is now producing a million ingot tons of steel in a very efficient way could never have functioned. It was done after the recommendation of the Tariff Commission that they should be amalgamated. So, Government's action in this regard is not always to the detriment of the company or of the shareholders. This fact has got to be borne in mind while considering the particular provision. In the opinion of Government also when it lends money to joint stock enterprises such loan is, in the context of the present thinking, capable of being converted into equity capital.

Shri Tyagi: Non-violent method of converting private sector; very good.

Shri T. T. Krishnamachari: Progressive thinking is generally not for outright loans by Government to private enterprise. It is felt that Government should have a right, where it is necessary and desirable, to convert its loans into participating capital and the provision here will enable the Government to do so. It is, therefore, being provided that the issue of convertible stock to Government and other financial, organisations can be made by companies when the terms of the conversion are included in the loan agreement or loan debentures and have been approved by the Central Government. Where loans have been made or are going to be made by Government to joint stock companies even if such loan agreements do not provide expressly or explicitly for such conversion, Government should have the right to direct such conversion of such loans on terms which are fair and equitable. Where such terms are not acceptable to the company, the right of appeal is being provided to High Court in regard to the terms of conversion.

I do not propose to labour this point further. I will come to the last point, namely, voting rights of trusts. While Government have no intention to interfere with the position of trusts' equities, it has often happened that certain types of trusts hold large amounts of equities and the people who are in management of these trusts use those equities for the purpose of having control. Various provisions that we have in regard to limiting the amount of control by excessive accretion of equity capital in the hands of any single group of persons are all defeated by the fact that these shares are held by trusts undoubtedly intended for good purposes but incidentally being used for the purpose of keeping their control over the company. I have no intention to labour this point because it is clear. In fact, my hon. friend Shri Tyagi, as Chairman of the Direct Taxes Administration Enquiry Committee has drawn attention to this fact of trust funds being invested and utilised for furthering donor's business interests. The provision now is that in the case of such trusts where the clear intention is known—it is not overall charitable or educational trusts—Government if it so desires may appoint a person to exercise the voting rights in order to safeguard trust's rights attached to such shares and the trustees shall not exercise their voting rights. The amendment exempts genuine trusts created for safeguarding family interests or charitable or educational trusts and where the amounts invested in the shares of any single company by trust exceeds one lakh of rupees, the operation of the law comes in.

Shri Prabhat Kar (Hooghly): How will you differentiate?

Shri T. T. Krishnamachari: The differentiation is mentioned in the Bill itself. An officer appointed by the Central Government would be entitled to receive all books, all notices of the meetings, copies of the resolutions and accounts and other documents as if he was a member of the company and he will use his proxy for the benefit of the company's general interest rather than for the benefit of any particular individual concerns.

Apart from these four main provisions, the Bill also seeks to introduce

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a concept of public interest. Under those provisions of Companies Act where minority shareholders or the Central Government have been given powers to apply to the court for prevention of oppression or mismanagement by the provision of the amending Bill, it will now be possible for the Central Government to move the Court under sections 397 and 398 of the Companies Act or to take action to appoint two directors under section 408, *sou motu* on grounds of public interest, ond not merely where company's affairs are being conducted in a manner prejudical to the interest of shareholders.

Members may want to know why this Bill does not seek to implement the recommendations of the Vivian Bose Committee or the Daphtari-Shastri Committee for amendment of the Companies Act. The reason is that the Bill is a short one providing for matters which are of an urgent nature and Government do not want the progress to be held up or delayed by including too many provisions in it. Those recommendations will be duly incorporated in a comprehensive document and an amendment will be placed before this House, I presume, in the next session. In that Bill we will endeavour not only to block the existing loopholes but to satisfy the desire to simplify the law relating to joint stock companies and make it more comprehensive.

I will say, Sir, a few words if I am permitted by way of some general remarks. As I said, we see in the Press some comments; some comments are favourable; some are unfavourable. It is likely that issues may be raised on matters which are not wholly germane to this Bill. I would like to say that while I have no intention at the moment of making any statement on behalf of Government on economic policy, the point to be underlined is that we have, the Government have, certain responsibilities which have to be undertaken not only because of the policy to which we are wedded, namely, for bringing into being an economy which is self-generating but one which will make life for everyone in this country something worth living. That is the major objective. We call it a socialist economic pattern that is to be produced.

Shri Daji (Indore): A new definition of socialism.

Shri T. T. Krishnamachari: I am not going to controvert the hon. Member's statement; he belongs to a different school and his bible is different from mine though I know what his bible is and he does not know what is mine.

While we have to undertake these measures, we have to undertake similar measures not so much for putting a check on growth but more for safeguarding the basic factors necessary; there is nothing done to prevent growth. The private sector might say that this is one other chain forged around them. But one thing is quite clear. The private sector has to operate within the framework of the economic structure that we are contemplating. Hon. Members will have opportunities before long to consider the mid-term appraisal of the Planning Commission which will be placed before the House; it significantly says that the growth has been slow. In fact in this document which has been sent to us by the World Bank in which they make an appraisal of the economic position in this country, certain factors are pinpointed. Nobody can say that the World Bank is unfavourable to the private sector. While the World Bank is not unfavourable to the private sector, it has also certain obligations, namely, there should be economic development all round and the life of the individual has to be made something which is worth living. Speaking about one industry, namely, the textile industry, the World Bank report says that the industry itself is primarily to blame for the delays in

carrying out modernisation schemes, and for having paid insufficient attention to ploughing back the profits to reinvestment. Of course, they say that modernisation of the Indian textile industry is a formidable undertaking; the dimension of it is Rs. 800 crores. Whether it is textile industry or the woollen industry or even jute for that matter, they do mention substantial sums which have not been utilised. Today, the position of the textile industry is such that modernisation is becoming a very big problem. It means a lot of capital necessary for that purpose. Even more necessary is for us to find out the capital for making the machinery for the purpose of modernisation. I have been told by the World Wool Federation people that at least a sum of Rs. 12 crores will have to be invested in the woollen industry in order to make it efficient. That means again the modernisation of the plant. It is so in regard to the jute industry. Therefore, I would like to state in short that the particular proposals. I have made should be read in the context of the Government's desire to enlarge the scope of assistance to the private sector in so far as they are in the management of certain sets of industries, and the development of those industries to which priority is assigned by our Plan.

In the absence of the powers that we are now seeking to assume, it would not be possible for Government or the public sector undertakings to play a constructive role in the development of the private sector, and at the same time, to achieve the ends that we have in view. Therefore, industrial development is no longer the privilege of any particular section in this country. It is no longer a question of adding a few crores of investment to this industry or that industry. It is a question primarily of investment of crores of rupees, hundreds of them, in basic industries on which alone we can rely for fulfilling our aspirations for an economically independent and self-reliant India. Therefore, the objective of this measure is to make us lend enough money for the private sector where we are to grow, to develop, to modernise with their industries and become efficient, because we do not subscribe to the theory that they should not be helped, for, after all, there is only one sector in the country, and that is the national sector. Every individual in this country owns every bit of property that belongs to the State and to individuals also, and that should be used for the betterment of the individual in this country. Having this in view, we have framed these provisions so that Government can come forward perhaps in a bigger way to help the industries to grow. And we cannot do that unless the monies of the people of this country are safeguarded, unless we know that the money is going to be used for proper purposes and any expenditure contributes to growth. That, Sir, is my justification for introducing this Bill before the House.

Sir, I move.

Mr. Speaker: Motion moved:

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

I find there is an amendment by Shri Morarka. He may move his amendment.

Shri Daji: Before he moves his amendment, I want to raise a point of order, and await your ruling which you, in your wisdom, may be pleased to give. I would like to know whether the Rules of Procedure permit that a Bill which has been introduced and which has been partly discussed can be suspended and a fresh Bill be taken up for consideration. Yesterday, one Bill was discussed on the floor of the House, and can we cut across and introduce a new Bill? I do not know of any rule which permits that. That Bill was being discussed, and we now cut across and discuss another Bill.

Mr. Speaker: The House is supreme and if the Minister gives notice we can take it up. I do not know what difficulty there is.

Shri Hari Vishnu Kamath (Hoshangabad): As far as I am aware—I am open to correction—when a Resolution or a Bill has been part-discussed, a formal motion has to be moved by the Member or the Minister concerned to the effect that the debate on that subject might be adjourned, and only then another Bill can be taken up, and not otherwise. There is no such motion as far as I am aware.

Mr. Speaker: I do not think that has been the rule, that first we must postpone the discussion by a formal motion to that effect and then only take another Bill. There have been instances where, when a Bill has been part-discussed and the debate had not been completed and something important had come up, we took it up. We can do that, and there is no harm in it. Anyway, I shall loo into it and find out.

Shri Tyagi: In such cases perhaps the House could be taken into confidence, and the consent of the House might be obtained by the Speaker.

Shri Daji: May I submit that when we were discussing the Bill about Land Acquisition or Compulsory Deposit Scheme, it was sought to be postponed, and we went through all the rulings, and found that the only procedure permitted was a formal motion for postponement to a future date should be made, and only then we could take the other subject.

Mr. Speaker: That might have been the desire of the Minister at that time.

Shri Daji: Not the Minister. Shri A. P. Jain and myself tried to get a postonement of that discussion for getting the Attorney-General's opinion, and you were pleased to rule that it could be obtained. Here, a fresh Bill is being taken up, without a motion for postponement of the discussion on the other Bill.

Mr. Speaker: Every decision that is taken or a ruling that is given applies to the circumstances that exist at that particular moment. That was under discussion that day; we were proceeding with that, and some objections were taken that we must have the opinion of the Attorney-General. When that was the point, certainly I said that it might be done by a formal motion that further discussion might be postponed.

Shri A. P. Jain (Tumkur): May I say a word about it? At the time when you gave the ruling, the main argument was that there cannot be two motions before the House at a time, and therefore you said that before the second motion was taken up there must be a formal decision about the postponement of the first one; namely, that the discussion of the first motion be adjourned. I think that analogy applies to this case also. If there is already a motion under discussion before the House, the second motion can come up only when the first motion has been formally adjourned.

Mr. Speaker: I shall get the record and decide as to what should be done.

Shri Hari Vishnu Kamath: I submit the same rule—I hope you will agree—should apply to the Treasury Benches as well as the private Members. I recollect a resolution in the provisional Parliament which I had moved with regard to the destitute political sufferers and it was part-discussed. Some friends in the Congress Party wanted that the next Resolution should be taken up. Then, the then Speaker or the Deputy-Speaker ruled that it could not be done unless there was a motion that the discussion on the Resolution be adjourned, and that only then the next one could be taken up.

Mr. Speaker: I have asked for the papers. Let me consult and then I will see what should be done. I am

reminded of some such words as have been quoted by Shri A. P. Jain. Shri Morarka will now move his amendment.

Shri Morarka (Jhunjhunu): Sir, I beg to move:

That the Bill be referred to a Select Committee consisting of 18 members, namely:

Shri S. V. Krishnamoorthy Rao, Shri Ramchandra Vithal Bade, Shri S. M. Borooah, Shri Sachindra nath Barua, Shri P. C. Borooah, Shri Sachindra Chaudhuri, Shri Indrajit Gupta, Shri R. K. Khadilkar, Shri T. T. Krishnamachari, Shrimati T. Lakshmi Kanthamma, Shri M. R. Masani, Shri P. Muthiah, Shri C. R. Raja, Shri Sidheshwar Prasad, Shri G. G. Swell, Shri Mahavir Tyagi, Shri Amar Nath Vidyalankar and Shri R. R. Morarka,

with instructions to report by the 9th December, 1963.

This Bill, the consideration of which was moved by the hon. Finance Minister just now is not so simple, and more so, it is not so non-controversial, as the hon. Finance Minister has said. I agree that most of the provisions—three out of the four—are non-controversial, but the one concerning the constitution of the tribunal is a very important and a very novel provision, and it requires a careful scrutiny at the hands of this House.

It is said that this Bill is introduced because of the experience of the Vivian Bose Commission. The Vivian Bose Commission itself was a special tribunal and it was not the bench of an usual High Court or any other court. Even though it was a special tribunal, still it took that much time. Time is, no doubt an important factor and in certain cases expeditiousness is very essential. But I submit that expeditiousness and quickness of justice cannot be second at the cost of fundamental principles of natural justice. The hon. Minister said that he is going to constitute a tribunal consisting of members, the Chairman of whom would be a man with a judicial bias—either a High Court Judge or a retired High Court Judge or a person fit to be a High Court Judge. The other members of the tribunal would be persons experienced in matters of accountancy and business management. That is the proposed tribunal.

13 hrs.

What are the actual powers given to this tribunal under this Bill? A tribunal so constituted can dispose of the work by constituting itself into different benches. Each bench can consist of one or more members out of the tribunal constituted by the hon. Finance Minister It is quite possible that the tribunal may consist of a member who is an expert in matters of accountancy or another who is expert in business management. Can a person who is an expert in matters of accountancy dispense justice to the person aggrieved, who comes before the tribunal? The functions of this tribunal are that powers now conferred on a High Court or District Court would be exercised by this tribunal. When those functions are entrusted to this tribunal, the High Court or other courts will not interfere. Sir, this is a vital matter which concerns the fundamental right of the citizens and I want your attention. By submitting the Bill to a Select Committee, I want to know whether the Select Committe would have a right to examine certain other matters also not caused by the provisions in the Bill

I was saying that the functions of the tribunal are those which are performed today by the High Courts and District Courts. If you kindly look at section 10 of the existing Companies Act, you will find that those

[Shri Morarka]

powers are given to the High Court and only certain powers are given to the District Court. The distinction was clearly made that certain powers would be exercisable by the High Court only and not even by the District Court. The District Judge is undoubtedly a peson with a bigger judicial bias and a bigger judicial mind than a person who is an expert in matters of accountancy or business management. Section 10 of the existing Act reads thus:

"(1) The Court having jurisdiction under this Act shall be—

(a) The High Court having jurisdiction in relation to the place at which the registerred office of the company concerned is situate, except to the extent to which jurisdiction has been conferred on any District Court or District Courts subordinate to that High Court in pursuance of sub-section (2); and

(b) where jurisdiction has been so conferred, the District Court in regard to matters falling within the scope of the jurisdiction conferred, in respect of companies having their registered offices in the district.

(2) The Central Government may, by notification in the Official Gazette and subject to such restrictions, limitations and conditions as it thinks fit, empower any District Court to exercise all or any of the jurisdiction conferred by this Act upon the Court, not being the jurisdiction conferred—

(a) in respect of companies generally, by sections 237, 391, 394 and 397 to 407, both inclusive.".

The point to remeber is that even while conferring jurisdiction on the District Court, the Parliament was careful not to confer that jurisdiction in respect of certain sections. Here I am particularly concerned with the provisions of sections 397 to 407. Parliament felt that these powers or jurisdiction in respect of these sections must ebe exercised exclusively by the High Court and not even by the District Court. Now that jurisdiction is being sought to be conferred on this tribunal which can consist of a single member who may be a person having expert knowledge in accountancy or business management. That is not all.

There is no appeal over the findings of the tribunal, except on a question of law. On a question of fact, the tribunal's verdict would be final. That was not so in the case of High Courts. There, the whole matter was appealable to the Supreme Court. I do not know why such drastic powers are taken. What is the safety of a person whose case is submitted to the tribunal? If by error—it may not be deliberate—the tribunal finds that the person is unfit to conduct the affairs of a company, for 5 years he is disqualified. It is a serious matter. It is not a question of rupees, annas, pies, but a question of permanent disqualification incurring a stigma in one's career. In such a case, one cannot be at the mercy of a person who is an expert in matters of accountancy.

Let me invite your attention to some provisions of this Bill. First of all, I would refer to clause 8 which seeks to introduce a new section 388B, which says "Where in the opinion of the Central Government, there are curcumstances suggesting...." etc. Before I go further, let me make one point clear. This phrase began by saying "Where the Central Government is convinced.." Then it came down to "Where the Central Government have reasons to believe....". Then it came down further to "Where the Central Government is of opinion...." Now it

says "Where there are circumstances suggesting.." I want to point out how the responsibility of the Government is watered down, while on the other hand my right to go to the court—to go to the High Court, which is certainly not a creation of myself or of any interested party—is being taken away. It is not a question of conferring any favour on me. My fundamental right of going to the court, when you are charging me with something, is being deprived and I am asked to be judged by persons expert in matters of accountancy I submit that this is depriving me of my fundamental right to seek justice.

Clause 8 says:

> "(a) that any person concerned in the conduct and management of the affairs of a company is or has been in connection therewith guilty of fraud, misfeasance, negligence or default....."

Fraud and misfeasance, I understand. But what about negligence and default? If I do not file my annual balance-sheet with the registrar in time I commit a default. If I do not pay the call money in time I commit a default. If I do not file the returns of directorship I commit a default. Therefore, on all these grounds am I to be taken to the tribunal, and is the tribunal free to say I am not a fit person to hold office in the management? I think a distinction should be made between a serious offence, between a default which amounts to an offence and the trivial day to day routine matters.

An Hon. Member: Technical offences.

Shri Morarka: Yes, technical offences, as my hon. friend puts it. There are 639 sections in the Company Law. It is more than possible that many of the government companies and the officials there have committed such defaults. Are they going to be produced before this tribunal, and are they going to be judged by them?

Then, take (b). It says:

> "(b) that the business of a company is not or has not been conducted and managed by such person in accordance with sound business principles or prudent commercial practices; or".

Who is to judge that ? What is "sound business principle"? What is "prudent commercial practice"? Is that to be judged by this tribunal, the expert in accountancy? This accountant, wherever you may put him, is bound to have mentality of finding fault. I am not saying this just to win a debating point. You have the analogy of the Income-tax Tribunal. In every Income-tax Tribunal, along with the accountant member they necessarily put a law member, and that law member invariably is the chairman of the Tribunal. There the consequences are not so serious. There a person is not debarred or disqualified for five years from doing any business.

Shri Tyagi: Benefit of doubt is given.

Shri Morarka: To whom?

Shri Tyagi: To the accused.

Shri Morarka: Now, take (c). It says:

> "that a company is or has been conducted and managed by such person in a manner which is likely to cause, or has caused, serious injury or damage to the interest of the trade, industry or business to which such company pertains; or"

I agree that this is a proper and valid ground on which a matter could be referred to a tribunal. If anything, if any activity of a company injures the general trade of the country or public interest, surely it is a fit case to be sent to the tribunal.

Then I come to (d). It says:

> "that the business of a company is or has been conducted and managed by such person with

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intent to defraud its creditors, members or any other persons or otherwise for a fraudulent or unlawful purpose or in a manner prejudicial to public interest,...."

Now, Sir, what is a "public interest"? Take, for example, the case of a company which is carrying on the mining operation in a mine. It has a lease for five years. The interest of the company or the shareholders requires that the mine should be worked properly and intensely and as much ore as possible must be taken out, whereas the public interest may require that there should be conservation of resources, that there should be no slaughtering of the mine that there should be certain rules and regulations obsreved. There are many cases where there could be legitimate conflict between the interest of the company or the interest of the shareholders on the one hand and the public interest on the other. I agree that the affairs of the company should be conducted in the larger public interest. But, then, what is the guarantee that I would not be hauled up for not carrying on the business according to sound business principles and prudent commercial practice?

Therefore, my point is this, that all these various grounds on which I am going to be sent to the tribunal to be judged and get a vedict are some of them at any rate rather trivial and some of them are inconsistent with the interest of the company. In any case, the constitution of the tribunal leaves much to be desired. The tribunal should not consist of less than three members at least one of whom must be a person of the status of a High Court judge. Then, the decision of the tribunal should be appealable not only on a question of law but also on a question of fact.

An Hon. Member: Appealable to whom?

Shri Morarka: Appealable to the Supreme Court, if you like, or appealable to the High Court, but certainly not appealable to another branch of the same tribunal.

On this point, may I say, no case has been made out either in the Statement of Objects and Reasons or in the speech which the hon. Finance Minister was pleased to deliver here, that for want of this provision and due to delay many cases have suffered. All the matters which the Vivian Bose Commission examined in detail related to the period before 1956. In 1956, we had a major amendment of the Company Law. The entire Company Law was re-written then. Then the hon. Finance Minister who was then in charge of this Department appointed another committee known as the Shastri Committee. On the basis of the report of that Shastri Committee the Act was again amended in 1960. Now the hon. Finance Minister says that another major amendment is coming in the next session. If that is so, why not have the whole amendment at one time? What is the necessary of constituting this tribunal with such wide powers, in such an unsatisfactory manner and in such a great hurry? It betrays one thing. This Bill, you would be surprised to know, does not impose any additional duty or obligation on the company management. Let us be clear about it. It does not require any more duty or obligation to be performed by the directors, managers, managing agents or managing directors or anybody of that type. It mainly does only one thing. That is, it deprives the High Courts of certain rights and it vests those rights in a tribunal.

Why is there this distrust in the High Courts? If you say that the High Courts take too much of time, surely a way could be found out by constituting special Company Law Benches in the High Courts. I believe in some of the High Courts there are Company Law Judges dealing

with only company matters. Any other remedy for the expeditious disposal of company matters could have been devised. Why should we give up the regular machinery that exists in this country for dispensing justice? Why should we have this *ad hoc* tribunal? Would it not be possible for any ministry which decides that something should be outside the purview of the Supreme Court or the High Court to constitute a tribunal for the administration of a particular Act and say that no appeal shall lie with the courts, even on a matter of law leave alone a matter of fact, and that the verdict of that tribunal shall be final? Is this a healthy thing, I ask. Is this a healthy practice to curb the powers of the Supreme Court and the High Courts and giving those powers to the executive to constitute a tribunal and have the matters adjudicated by the tribunal and make those things non-appealable?

Sir, there are a few other points in connection with this tribunal. The tribunal has powers or is being given powers is to remove a disqualification imposed on a person under section 203. But the tribunal is not being given the power to remove a disqualification which would be imposed by the Government in pursuance of the findings of the tribunal. If a tribunal finds that a person is not a fit person and the Government, on that finding, imposes a disqualification of five years,—I do not think the Government, under the existing provision, can impose a lesser disqualification—it will remain. This tribunal has no power to remove that disqualification. The findings of the High Court could be changed by this tribunal, but the findings of the executive, the Government, could not be changed. I think it is a pitiable lacuna which should be removed.

Shri T. T. Krishnamachari: There is an appeal to the High Court.

Shri Morarka: It is only on a question of law. Assuming for a moment there is no question of law involved, what happens?

Then I come to another point. The new provision which the hon. Minister is incorporating in the Act by section 153A, sub-clause (3), reads as follows:

> "Is a trustee contravenes any provision of this section or makes any statement in the declaration which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years and also with fine."

So, imprisonment is compulsory and it may extend up to a period of three years. A person failing to supply information, or make disclosures, becomes guilty according to this scheme. This power to judge him could be conferred on the tribunal. In other words, the tribunal would be in a position to sentence a person to a term of imprisonment extending up to three years, and that tribunal may consist of a person who is an expert in the methods of accountancy. I think this is a very very radical departure and I think you are placing the entire matter in the hands of people who, to say the least, are not competent to decide matters involving personal liberty, freedom, security of the people etc.

Then, may I invite your attention to some other sections in the existing Act? Sections 397 to 407 are included in Chapter VI and the scheme is that whenever a shareholder, or a group of them, allege that the affairs of the company are conducted in a manner oppressive to the minority, certain remedies are provided. Similarly, when mismanagement is alleged, other remedies are provided. But the remedy is to go to the High Court, and for that not less than 10 per cent of the shareholding is required. This qualification is only to prevent frivolous applications by a few disgruntled shareholders. The

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scheme also provides for a notice to be given to Government etc. Section 401 gives Government the power to refer such cases to the High Court *suo motu*. Sections 397 and 398 refer to the powers of the shareholders and section 401 refers to the power of the Government to refer to the High Court. But the deciding authority in both the cases is the High Court. Under the new scheme, the deciding authority would be the tribunal. Government creates a tribunal, appoints different persons to it, and the Government itself, without anybody's complaint, *suo motu* refers the matter to the teribunal under section 401. Under such circumstances, it would be very embarrassing for the tribunal, particularly when it consists of only one person, an expert in accountancy or business management, to take a judicial view of the whole case. The Government's own powers in such cases are contained in sections 408 and 409, which are different and are contained in a different chapter altogether.

On the one hand, there is a demand for separation of judiciary from the executive and, on the other hand, we find that the judicial functions are more and more taken over and concentrated in the hands of the executive. I hope the hon. Finance Minister would give very careful consideration to these points and would get the whole matter re-examined in the light of some of the difficulties which I have ventured to submit here.

Then, section 388E curbs the right of appeal. What I cannot understand is why there is duplication of this provision. Of course, it is only a drafting point. This is a mere duplication of section 10D, which says:

> "(1) Save as otherwise provided in this Act, an appeal shall lie only on questions of law arising out of any decision, finding or order of the Tribunal to the High Court having jurisdiction in relation to the place at which the registered office of the company concerned is situate.
>
> (2) Every such appeal shall be heard by a Bench of not less than two Judges of the High Court.
>
> (3) Every such appeal shall be filed within the period of sixty days from the date of the decision, finding or order of the Tribunal:
>
> Provided that the appeal may be admitted after the expiry of the aforesaid period if the appellant satisfies the High Court that he had sufficient cause for not preferring the appeal within that period.".

Now, section 388E appears on page 9 of the Bill.

Mr. Speaker: The hon. Member is moving an amendment for reference of the Bill to the Select Committee. So, he need not take all the minutest details of the clauses at this stage.

Shri Prabhat Kar: It is rather a request to the Finance Minister to withdraw this Bill, instead of referring it to the Select Committee.

Mr. Speaker: The motion is for reference to the Select Committee. So, the stress should be on the point that there are so many aspects to be considered in detail which canot be done in the House and so they should be considered by a Committee to be appointed by the House.

Shri Morarka: Sir, I am trying to say why this Bill should be referred to a Select Committee and what are the points which the Select Committee should look into.

Shri Indrajit Gupta (Calcutta South West): Terms of reference.

Mr. Speaker: That is all right. In a broad way, he can give his suggestions, but he need not go into the minutest details. That was my point. In a summary way he can suggest that

such and such clauses should be gone into further because the effects of such provisions are such and such.

Shri Morarka: The point is that the provisions which are contained in the Bill require careful consideration and scrutiny, particularly the provisions relating to the constitution of the tribunal

Mr. Speaker: There is one thing which I want to mention. In the beginning of his speech, he drew my attention and said that I should give a direction to the Select Committee that it should go into some other clauses also.

Shri Morarka: I am coming to that.

Mr. Speaker: But he has not sent a motion to that effect. It should be done by moving an amendment that the Select Committee should be authorised to go into some other provisions. It cannot be done by my direction. It should be by a regular motion, by an amendment.

Shri Morarka: With great respect, I want to submit that the Speaker generally gives directions, if he is satisfied, that the Select Committee should go beyond the scope of the Bill and examine certain other provisions and for that no particular amendment is needed. At the time of referring the Code of Criminal Procedure (Amendment) Bill to the Select Committee, though no notice of amendment was given by any member, Sir, your illustrious predecessor gave directions to the Committee to go into some other provisions.

Mr. Speaker: I am speaking from my personal experience. I was once required to move a motion that the Select Committee should go into some other provisions also.

Shri Morarka: May I submit that both the procedures are right? An hon. Member may move an amendment, if he likes; if he does not move an amendment, the Speaker can give a direction.

Mr. Speaker: I am afraid, it is not so. I do not think he is correct. Which precedent is he referring to?

Shri Morarka: In connection with the amendment of the Code of Criminal Procedure:

Mr. Speaker: So far as I can recollect, it is only the House that can give a direction.

Shri Morarka: Yes; but what I am venturing to submit is that there was no amendment moved by any hon. Member. The feeling was aired here and the hon. Speaker, while committing the Bill to the Select Committee, got the sense of the House and gave those directions. May be, when you hear those few points which I have to submit, you may be inclined to give those directions.

My point is that no additional obligation is cast on the management; no restriction is put on the management in any way. If the hon. Finance Minister really wants to improve the company management and if there is one thing which the Vivian Bose Commission disclosed very clearly, it was that some people got away with corporate money, huge funds. Because of certain factors, such as, the law of limitation etc., it is not possible to get back that money. My submission at that time was—and I repeat that—that you must make a provision in the Companies Act or anywhere else, wherever you like, that in such cases which border on the lines of fraud, misappropriation, breach of trust etc., and yet do not amount to fraud, misappropriation or breach of trust, and where the liability is purely civil, the Government must have the power to recover the money from anybody who has got it irrespective of the law of limitation.

[Shri Morarka]

The second point which the hon. Finance Minister could have accepted with great advantage in order to improve the management or the life of the corporate sector is to make the provisions of section 264 mandatory. Section 264 permits proportional representation on the Board of a company. One independent director on the Board of a company is much more helpful and useful than the 640 sections of the company law. This point was made earlier in 1954-55 and it was repeated often; thereafter but provision as embodied in section 264 is only permissive. It is only optional. I think, even if the Government is not willing to give a trial or to take any risk of making the provision mandatory and compulsory for all the companies, for some section of the companies, that is, the private companies, financing companies or any such type of companies, this provision should be made compulsory and a trial should be given. I think, an independent director on the Board acts more as a restraining power. It tones up the administration and management of a company better than anybody else.

Another important point which, I think, the hon. Finance Minister could consider with advantage is this. While we are all wedded to the principle of freedom of the press, that is, press should have full freedom, yet I think the time has come when people owning newspapers and press should not be allowed to own other industries in the country. It exercises an influence and I do not mind saying it that it exercises a unhealthy influence not only over the Government and the Ministers but everywhere else also. People dare not take action against some of the companies because the owners, directors and the chairman of those companies are newspaper proprietors. If you want a healthy development of both the press and the corporate sector, then just as you have imposed certain restriction on bank directors becoming directors of other banks etc., you must also provide some sort of a check or embargo on persons owning, controlling and managing newspapers and press

Shri Tyagi: Or becoming Members of Parliament.

Shri Morarka: My hon. friend is quite right. If a person is a Member of Parliament and if he is also a director, manager etc., of companies, certainly he exercises a very unhealthy influence. My hon. friend knows the provisions of the Representation of the People Act which, in so many words, debars a Member of Parliament and disqualifies him if he enters into any type of a contract or arrangement even if he is remotely connected, even if he is a shareholder.

Some Hon. Members: Not shareholder.

Mr. Speaker: Not shareholders, only director.

Shri Morarka: A shareholder of a private company.

Shri Tyagi: If your wife is there, that does not matter.

Mr. Speaker: Do not bring in the wives.

Shri Raghunath Singh (Varanasi): Yes, that is very bad.

Mr. Speaker: Parlicularly Shri Tyagi should not bring in wives of others.

Shri Daji: Shri Tyagi can conveniently bring in wives.

Mr. Speaker: Because he has none of his own. However, the hon. Member has taken enough time. Now he should try to conclude.

Shri Morarka: Prescribe whatever rules which satisfy Shri Tyagi; I have no objection, but I hope, Shri Tyagi has no objection to my suggestion. If

he has no objection, my suggestion is that so far as the press lords are concerned, they should be disqualified from becoming directors, managers etc. of or from owning and controlling any other industry. This is not in any way curbing the freedom of the press but this would be a real constructive step towards improving the management of the corporate sector so that the persons concerned would be free from that unhealthy influence.

I think that when the Bill is being examined by the Select Committee—as I have said, it is going to come back by the 9th December and the Committee may not have time to take any evidence—the few anomalies which I have pointed out would receive the serious consideration of the hon. Finance Minister and as he has been very kind enough to accept my amendment to refer this Bill to the Select Committee, I am sure.....

Shri Tyagi: He will accept other amendments also.

Shri Morarka: ..... he would have the same open mind and would have these provisions amended suitably so that all these hardships, fears and dangers may be avoided.

Mr. Speaker: There is another substitute motion notice of which has been given by Shri V. B. Gandhi. It is almost the same as Shri Morarka's motion; only two names more have been added to it. Even the date for report is also the same. So, would he like to move this separate motion or would he just want time to speak which I will give?

Shri V. B. Gandhi (Bombay Central South): The amendment is virtually identical.

Mr. Speaker: He wants time. I will give him.

Shri V. B. Gandhi: I will be quite satisfied with that.

1540 (Ai) LSD—6.

Mr. Speaker: Shri Morarka might accept it or he might just add those two additional names.

Shri Morarka: I have no objection if the hon. Finance Minister is prepared to accept those two additional names.

Shri T. T. Krishnamachari: Personally I have no inclination one way or the other; but I thought that in Shri Morarka's motion the Opposition was represented in some proportion, that is, 6 from the Opposition and 12 from this side.

Shri Daji: Shri Gandhi said that he would not press it.

Mr. Speaker: I will allow Shri Gandhi an opportunity. Both the original motion and the substitute motion are now before the House.

Now, I must refer to the point that was made by Shri Morarka that even without a motion in the House the Speaker can give direction to the Select Committee that it might examine and review other clauses which were not the subject of the Amendment Bill. But I find that on the 3rd May, 1954, on certain provisions of Criminal Procedure (Amendment) Bill a motion was really made. Earlier also, there are precedents when a motion was made. If he so desires, some Member might make a motion. Otherwise, I have no authority to do that.

Then, there was the objection taken so far as the postponement of debate on the earlier Bill was concerned. Mr. Ajit Prasad Jain reminded me that on an earlier occasion when the Compulsory Deposits Scheme Bill was under consideration, I had made certain observations that there could not be two motions simultaneously before the House. That is right. I have examined it. But that is a different case altogether. We were discussing the Compulsory Deposits Scheme Bill and we were on a clause

[Mr. Speaker]

of that Bill. When I said, such and such a clause do stand part of the Bill, a motion was made that the Government might be asked or directed to call the Attorney General. There I said that on the same Bill two motions could not simultaneously be taken up. When we were discussing that clause, then about the same Bill and at the same time a different motion that the Attorney General be called could not be taken up. Therefore, I had said that if another motion was to be moved, there ought to be a regular motion first that the discussion on this Bill be postponed. But the present case is a different one. The arrangement of the business is done with the consent of the Speaker. I received a letter from the Minister that he may be allowed to move this Bill today. I gave my consent and that has been the procedure throughout our history so far as I can see. But I have no objection, if the Members now desire that in such a case they should be informed and a motion might be put to the House, that in future we can adopt that procedure because I do not want that that power must remain with me if the House wants that they must have sufficient information. We can change that. But the procedure for the present is the one that I have followed and that is the correct one.

Shri Tyagi: Let the present procedure stand.

Shri T. T. Krishnamachari: May I submit that I often had the experience of your illustrious predecessors pointing out certain difficulties in a Bill and saying that that could be held over and taken up later and the next Bill taken? At the time of Mr. Mavalankar, it happened often times without any motion being made. He would say, "Yes, this will be held over." And then the next Bill would be taken.

Mr. Speaker: That is what I have said. So far we have followed that procedure.

Now, both the motions are before the House.

Shri Tyagi *rose*—

Mr. Speaker: Should'nt I give time to the Opposition first? Shri Umanath.

Shri V. B. Gandhi: Mr. Speaer, Sir, I beg to withdraw my amendment.

Mr. Speaker: In spite of that, I will give him an opportunity to speak.

Shri Umanath (Pudukkottai): Mr. Speaker, Sir, this Bill deals with certain provisions mainly on four aspects. It enables the Government to constitute a Board and to constitute a Tribunal. It also enables the Government to have the power for conversion of loans and debentures advanced by the Government to companies into the shares of the companies. There is also a provision with regard to the appointment of a person by the Government to exercise the rights of the Trust on such Boards in the public interest.

So far as the direction of those four provisions goes, as is enunciated in the Objects and Reasons of the Bill, it is to be welcomed. To the very very limited extent that it benefits to the proper functioning of the public limited companies—to that very very limited extent also—it is to be welcomed. It will not be surprising if Mr. M. R. Masani of the Swatantra Party is the first person to launch an attack even on the limited aspects of this Bill. That is a matter which we can understand. We need not be surprised about that. But the most interesting thing is that the first attack and most withering attack came from a Member of the very Party which is moving this Bill—I mean Shri Morarka. The essential point that he raised is the question of fundamental right being prejudiced. I would like to know what this fundamental right is. Is it the fundamental right of cheating the public?

Is it the fundamental right to defraud the treasury of the public money? That fundamental right will not be allowed by the Constitution and this is not allowed by the Constitution. The one thing that I would like to make clear to the Finance Minister, through you, is that this indicates that there is a move between some in the Congress benches and the Swatantra Party on this side to join together to water down what little benefits will come out of this. I would like to know from the Finance Minister whether he is going to permit or submit to this attempt to water down. If that is going to be the position, he can withdraw the Bill now itself and save us from all the troubles. As far as we are concerned, we will not agree to it.

13·45 hrs.

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

The real assessment, as far as this Bill is concerned, can be seen from the background in which this Bill comes. The first aspect of the background is that the Vivian Bose Commission's report was published and discussed in this Parliament and discussed in public also. Secondly, a lot of experience has been put forth by the Company Law Administration reports as to how various laws and amendments passed by the Government for the proper observance of the Company Law are being circumvented. Thirdly, now the Finance Ministry is under the charge of a person who from the ministerial benches for the first time warned by the country against the danger of man-eaters. That is the third thing. Fourthly, to crown it all, there was the Jaipur Session of the All-India Congress Committee. Of all the various declarations made at the Jaipur Session, the one which was noticed by the public was the declaration by the Prime Minister on concentration of wealth. So far, the Government was not admitting that there has been increase in the concentration of wealth which is the source of all corruption and all sorts of malpractices. This Government was hesitating to admit this. In the Jaipur Session of the All-India Congress Committee meeting, our Prime Minister declared that he is pained very much to see that there has been increasing concentration of wealth.

Now, these four aspects which constitute the background in which this Bill has come had raised high hopes among the public to the effect that at least now the Government is going to come forward urgently with some drastic measures to curb this monopoly or to curb this growing concentration of wealth. That is what the people thought. They thought that at least now the Government will come forward with some drastic measures to remove the poisonous fangs from the man-eater.

Dr. M. S. Aney (Nagpur): On a point of order. Is the word 'man-eater' a parliamentary term?

Shri Umanath (Pudukkottai): That was used in this very Parliament. I took it from the Finance Minister himself. It is not my own.

Dr. M. S. Aney: I want the Chair to decided that. Is the world 'man-eater' a parliamentary expression?

Shri Tyagi: It has been used in the past.

Shri K. C. Sharma (Sardhana): It has been used so many times. It is quite parliamentary.

Shri Umanath: In this background, this Bill is most disappointing and, if I may say so, this Bill just brushes the tooth of the man-eater. That is the essence of it. If you take the objects enunciated here, it is mainly an administrative measure:

> "In order to facilitate quick action against persons involved in cases of fraud, misfeasance and other such malpractices and irregularities . . ."

[Shri Umanath]

That is the object. It is mainly an administrative one. The implication is that by certain administrative actions, these mal-practices, fraudulant transactions, etc. could be put down. Here, I would like to draw his attention to the fact that unless we got to the source of this fraud and all sorts of mal-practices, mere administrative action alone is not going to be effective. We have to find out the source, and there comes the role of the Vivian Bose Commission's report. It has been very helpful as an eye-opener for the entire country as to what was happening in the world of big business. It had highlighted also certain ugly spots in the affairs of big business. It also gave a clear idea to the country about the *modus operandi* by which big business was swindling public money as well as the exchequer. Some people say that it was just an exception. I do not agree with that. What had happened with regard to Dalmia-Jains is typical of big business and not an exception.

So, it leads us to the very source of these frauds that are going on in this country. The source is the very strong grip which these big businessmen have on the economic life of our country. Unless Government come forward with laws and policies which will strike at this source, unless they come forward with laws and policies which will weaken concentration and which will weaken monopoly and promote medium and small industries, it will be of no use. If they do not do that but come forward merely with some small measures like this, then, however limited the benefit that may come out of them, they are not going to achieve the main objectives stated in the Statement of Objects and Reasons attached to this Bill.

If we judge this Bill from that background, then does this Bill fulfil that test? My opinion is that is just tinkers with the problem.

And the most surprising thing is this. The All India Congress Committee declared the definition of socialism and other things. Only yesterday, I read in *The Times of India* that the executive committee of the Utkal Pradesh Congress Committee had passed a resolution to the effect that drastic measures must be taken as far as banking was concerned. Here is an executive committee of a Pradesh Congress Committee saying that banking must be nationalised and passing resolutions demanding such drastic measures. But yesterday, I also read in the same *Times of India* a news item about the Chief Minister of Bihar appointing Mr. Shanti Prasad Jain, against whom there is already an investigation ordered by Government, as the president or chairman of a committee for expansion of industrial development in Bihar. This is the direction in which the Government is moving.

What is happening is that this Bill, as I have said already, is just tinkering with the problem. Why is it tinkering? Why is there an attitude of hesitancy? Why does it go only to a very limited extent? That involves a question of policy. Perhaps, Government think that the 1956 Act and the amending Act of 1960 are sufficient. In fact, my hon. friend Shri Morarka had just said that what had happened in the case of the Dalmia-Jain concerns was prior to the 1956 Act, and it had happened under the old Act. This was what the Minister of Industry, Shri Kanungo also said during the last session during the discussion on the Vivian Bose Commission's report, namely that this happened under the old Act, but now we had the 1956 Act and the amendment Act of 1960 under which these things could be checked, and they were sufficient, and only in some small matters we might have to amend the Act here and there.

But, let us see what has happened even after the 1956 Act and the amending Act of 1960, and see whether

they have been able to check the growth of monopolies and check the growth of concentration which is the breeding-ground of all this kind of fraud. Experience shows that they have not been able to check.

For example, take the question of the managing agency system. It has been agreed to by Government as well that that is one of the important links and instruments which leads to concentration of wealth and the strengthening of monopolies. Amidst big fanfare, in 1956, an Act was passed here which was aimed or which was supposed to aim at weakening the managing agency system, and it sought to enforce certain restrictions on the number of directorships to be held in the future. It was also provided therein that in case the managing agency had to be terminated as per the original contract, then the company could not revive the managing agency unless it was permitted to do so by the Central Government. With these two provisions, amidst big fanfare, Government said that hereafter, this important link was going to be weakened. But what has happened actually?

If we take the reports of the Company Law Administration, we find that subsequently, the Company Law Administration had undertaken a study of seven managing agency systems, namely Messrs. Duncan Brothers, Jardine Hendersons, Gillanders Arbuthnots, Killick Industries, Mc. Leods, Show Wallaces, and W. H. Brady & Co. What does this study reveal? As far as the net profit of these managing agencies is concerned, that is, the gross earning of the managing agency minus the expenditure, the figures were as follows: In 1956, it was Rs. 89·79 lakhs, in 1957 it was Rs. 84·25 lakhs, in 1958, it increased to Rs. 91·10 lakhs, in 1959 it further increased to Rs. 110·11 lakhs, and in 1960, it increased still further to Rs. 125·04 lakhs. That has been the net earning of the managing agencies of these concerns. I am taking these figures from the research department publications of the Company Law Administration.

Similarly, the reserves of these seven managing agency systems during the same period increased from Rs. 3·94 crores to Rs. 5·66 crores. This is what has actually happened. Perhaps, the hon. Minister was trying to cover up; I do not know. But these figures were available to the Minister of Industry at that time, as they were available to us also.

This being the situation, it is no use saying that the 1956 Act and the amending Act of 1960 had been weakening the managing agency system and also weakening the concentration of wealth. In the face of these figures, it is no use searching as to where we should go and attack to weaken concentration.

Similarly, if we take the proportion of directors appointed to posts carrying salaries of Rs. 1000 and more, in 1959-60, it was 17·5 per cent, in 1960-61 it increased to 31·6 per cent, and in 1961-62 it increased to 35 per cent. This is the direction in which the managing agency system which was supposed to have been weakened after the passing of the 1956 and 1960 Acts has been growing. Of course, if Government mean that the strengthening of the managing agency is weakening of concentration, then I can have no grievance with them.

Why has such a thing happened even after the 1956 and 1960 Acts? Why has there been such a trend towards increase? Why is the strength of the managing agencies increasing? It is there that the attitude of the Government comes into the picture. When the old managing agency contract was to terminate, the Government had the power either to approve of the revival or to reject the application for revival. But what was the conduct of Government? In 1961-62, the number of fresh and pending applications before Government for

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renewal of the managing agencies was 107, and Government approved of 63 out of the 107 applications and rejected only 18, and the remaining 26 applications were still pending. So, what has been the conduct of Government? After passing all these Acts, after admitting that the managing agency system is an instrument for increase in concentration of wealth and also an instrument which strengthens that sector which breeds all sorts of fraud in the country, and after bringing forward these Acts whereby Government have got the power to restrict it and check it and weaken it, Government have actually exercised that power in favour of again reviving the old managing agencies. That is why I say that it is not a question of merely bringing forward some Bills. It is a question of major policy. Unless Government change this policy of bias in favour of allowing the growth of big business, it is no use. The hon. Finance Minister has said that Government are not preventing growth. Of course, that is our grievance that they are not preventing growth of monopolies and they are not preventing growth of concentration of wealth. This kind of growth of monopolies and concentration of wealth should be prevented.

I might point out that the managing agency system is continuing in another form also. Government know it very well. I am referring to the office of secretaryship and treasurership. It is practically the same as the managing agency system; the difference is actually very small. Otherwise, it is practically the same in all essential points. Now, the old managing agencies are taking the form of treasurers and secretaries, and they are still continuing all their loot. Government are aware that this form allows the managing agency system to revive itself and continue, and yet they have not taken any steps to put it down. That is why I say that it is a question of policy.

Then, let us take the question of the medium and small-scale industries. We are saying time and again that they must be encouraged. But what is actually happening? Take, for example, how the Government's own financial institutions have been functioning. Take the case of the Industrial Finance Corporation, for instance. My information is that during the last year, for about seven big companies involving about Rs. 10 crores as the project cost, 38 per cent of the project cost was borne by the Industrial Finance Corporation. That is my information, and I am subject to correction in this regard by the Finance Minister. 38 per cent of the project cost was borne by the Industrial Finance Corporation by way of loans, and in the case of one of the companies, the percentage of the project cost borne by the Industrial Finance Corporation as loan was 66·7 per cent. Is this the way of promoting small scale and medium industries with a view to checking the growth of monopolies? Is this the way of attacking the breeding ground of fraud and all sorts of malfeasance? You cannot on the one hand allow the growth of monopolies and on the other talk of curbing measures. You cannot run with the hare and hunt with the hound. If you say openly, 'I am going to encourage monopolies', one can understand it. But to do it while talking of curbing measures is not the proper thing to do.

14 hours.

What are the other sources of fraud and corruption? These points are not being dealt with by the Bill. That is why it is going to be a disappointment to the people. Take, first, the question of political contributions. It is a very important question. Apart from the question of morality involved—it is immoral to do it—it has got a direct bearing on the question of some industrialists committing fraud. This gives them encouragement to do so. In the existing Act, it is stated 'unless

authorised by the memorandum of association, a company cannot make political contributions'. But what is happening? The Digvijay Woollen Mills has contributed Rs. 25,000 without having any authority from its memorandum of association. It is an *ultra vires* act. Similarly the Visa'akshi Mills in Madurai has taken power to contribute to ploitical funds without being authorised by the memorandum of association. How do these owners become so bold as even to commit an *ultra vires* act; *ultra vires* of their very constitution?

The contribution of the Digvijay Mills of Rs. 25.000 was given to the Gujarat Pradesh Congress Committee. That is the simple fact. Similarly the managing director of the Visalakshi Mills—I forget his name—was in charge of housing the Congress Committee members during the AICC session in Madurai.

I say this: as long as the ruling party continues to be party to owners violating their own memorandum of association, you cannot check this thing. It is high time for the Finance Minister, especially after the AICC session where it was declared that hereafter the Congress organisation would go among the masses and collect funds and not rely on bigwigs—it was a very good decision; it should have been followed up—to have reflected that decision in this Bill. The Finance Minister should have come forward with a proposal to do away with the provision for political contribution by any company. Let the directors individually give. It is an individual matter. But let him not allow any company to pay sharehodlers' money to political parties. There are so many parties among shareholders. They do not hold the same views. This should have been done. But it is not done, which is most surprising. That is why I say that whatever be the objects stated in the Bill, people will never believe them as long as the practice continues like this.

Another source of weakening the fight to weaken monopolies and concentration of wealth is the practice of IAS and ICS officers going and joining private companies after retirement. These officers have got all the secrets with them of their erstwhile departments. They wield influence over the juniors who have subsequently taken charge of those departments. This is how the fight against growth of monopolies and concentration of wealth, is weakened. Who is allowing this? There is a provision that unless the Central Government permits the retired officer, he cannot seek private employment. Can it be more shameful than this, that the Secretary of a State Government's Labour Department, on retirement becomes the Secretary of the South Indian Millowners' Association?

Shri Sham Lal Saraf (Jammu and Kashmir): For proper advice.

Shri Umanath: The Government itself has permitted him.

Shri Daji: There is a case of one officer, not retired, being deputed to a big monopolist. He is holding his lien with the Government of Bihar. But he is director of the Tatas.

Shri Umanath: So this is the practice. It cannot be said that the officers themselves, on their own, are doing it, when the Government has got the power to prevent it. Even this Bill reflects this bias in favour of big business. It is said on page 13, 'to enable quick action'. People will never believe this when they take into account actual performance. In 1961-62, in the entire year, Government have appointed inspectors to go into the affairs of companies in just two cases. There are hundreds of companies and so many things are going on. If just two inspectors are appointed, quickness is there! In 1962-63, my information is that Government was still quicker when they appointed only one inspector—subject to correction by the

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Finance Minister. This is quickness in reverse.

Dr. M. S. Aney: It is retrenchment.

Shri Umanath: And what about the fines? On an average—again subject to correction by the Finance Minister—throughout the country, per prosecution it is Rs 125. How are these big monopolists who are experts in so many kinds of fraud and other things going to be penalised this way? They do not care a tuppence for this Rs. 125; they will shell out lakhs to cover up some fraud. This is what is happening.

Take the Bose Report. After so many years after its publication, after its discussion, after the recommendations of two eminent persons also, not even prosecutions have started yet. With this performance, how are people going to believe what I stated in the Bill in terms of enabling 'quick action'? They are not going to believe it.

Coming to the term 'opportunity,' much was made by Shri Morarka of fundamental rights. This Bill says on page 10:

> "No order under this section shall be made against any person usless he has been given a reasonable opportunity to show cause against the same".

Let us work out the scheme. First, Government suspects a person. Then it gets information through investigation. Then it files an application before the Tribunal. Then the other man is given an opportunity, all sorts of opportunities, documentary proof, oral proof etc. to show that he has not committed fraud. After all this, the Tribunal finds that he is unfit, he has committed fraud. Now this section says that even after the finding of the Tribunal, this person must be given another opportunity to show cause why he should not be removed? Why this opportunity, I do not understand. What is the purpose? He has been found unfit by Government, he has been declared unfit by the Tribunal; yet why this opportunity? It could only mean that perhaps Government relies on the second portion,

> 'Provided that no matter shall be raised by such person before the Central Government if such matter has been decided by the Tribunal or the High Court'.

It means that the person declared unfit or as having committed fraud may approach Government on some other ground and canvas his case. It is just like Government telling him: 'Please show cause why you should not be retained in the directorship on other grounds'.

Shri Tyagi: That is not the meaning.

Shri Umanath: I am not giving the legal meaning. I am giving what it will work out in practice. A person has been declared unfit, declared to be a fraudulent character on various facts. How can he become fit to be in the company on any other ground?

Shri Daji: Political donation.

Shri Umanath: Yes.

Shri Morarka also raised this question. He says he must be given another opportunity. Even the first opportunity should not have been there. When it is a question of dealing with representative trade unions, workers, peasants or middle class employees, when it is a question of detaining them, Government need not give them any charge-sheet; no opportunity need be given to them! There need not be an advisory committee, no opportunity need be given to the representatives of workers and peasants who are detained, indefinitely but here not only one opportunity, but a double opportunity is given to a fraudulent

person. Why this contrast? Because the person though declared unfit and fraudulent belongs to the big business family, whereas these people belong to the working class, peasantry and ordinary democratic organisations. So, there is this bias in this Bill.

The tribunal is welcome, but everybody will agree that in this tribunal there should not be any men of big business or their friends or relatives or managers who can be influenced by them. But what does this Bill do? Shri Morarka very conveniently missed that portion. In page 2, sub-caluse (2) reads:

> "The members of the Tribunal shall be persons who appear to the Central Government to have adequate knowledge of, and experience in,....
>
> (c) administration or management of companies and law relating thereto".

Not just knowledge, but experience of management. That means it is a small opening to allow big business to come in there. Shri Morarka need not have any grievance against the Finance Minister. The report of the Vivian Bose Commission and other things have shown that this is going to defeat the very purpose. It is very difficult to get honest men from big business, that is our experience. They may not be directors, but even their relatives or managers are influenced by them.

It is good there is a provision to convert loans into equity capital, but that power must be exercised. For example, TISCO and IISCO concerns belonging to Tatas were given interest-free loans in 1954 of about Rs. 10 crores each. After passing this Bill, if Government comes forward immediately passing orders to convert those loans into Government shares in those companies, we can believe in their bona fides. But generally we find there are so many enabling powers which are not exercised, or, if at all, exercised in favour of big business.

The provision is still halting. The proviso reads:

> "Provided that if the terms and conditions of such conversion are not acceptable to the company, the company may, within thirty days of the communication to it of such order or within such further time as may be granted by the High Court, prefer an appeal to the High Court in regard to such terms and conditions....."

And the proposed sub-section (5) to section 81 reads:

> "In issuing any order under sub-section (4), the Central Government shall have due regard to the financial position of the company, and in particular to the terms of issue of the debenture or the terms of the loans, as the case may be, and the rate of interest payable on the debentures or loans, the subscribed capital of the company and its loan liabilities, its reserves, its profits during the preceding five years and the current market price of the shares of the company."

This is not going to work. Where is the necessity for this? The loan of the Government to Tatas, for example, has contributed to increasing the profits of that concern from 1954 and to strengthening the prospects of that company. It has also contributed to the increasing share value of that company. In view of this, there must be a provision that the conversion of loan capital into equity capital will be at the market price of the Tata shares at the time the loan was made. What is wrong in that, how is it unjust?

Shri Morarka raised the question of the conception of public interest. I would like to know if public interest will include for example the application of labour laws in the particular concern. If the management has been repeatedly violating them and endangering peace in the industry, according to me it is to the detriment of the

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public interest. Will the Finance Minister accept that, I do not know. Similarly, if a company uses the price mechanism to increase the price and exploit the ordinary consumers, that is to the detriment of the public interest. I would like to know whether all this will come within public interest.

We do not say that the private sector has no role. The private sector has a role in the development of this country, but it must fit in with the scheme of planned development of this country. It must also reconcile itself to the preponderance of the public sector. My request to the Finance Minister is that on the question of growth of monopolies and concentration of wealth, certain drastic changes must be made in policy. I hope that amendments on the basis of the criticisms that I have made will be accommodated by the Select Committee and the Finance Minister.

Shri Tyagi: Since my name happens to be in the Select Committee I should normally not speak now, but there are certain points which have provoked me to do so.

My hon. friend in that safe corner—I am sorry for the corner he has occupied—has made a nice speech, I must say, but it seems to me that he has not appreciated the actual meaning of the Bill.

It has been our policy for a long time past to finish with these monopolies, we do not want them. The pattern of society which we wish to establish is quite the antithesis of the monopoly system. So, we are opposed to monopoly, but if by drastic changes my friend means that swords must be used or something like that....

Shri Umanath: That is a distortion of my point.

Shri Tyagi....that becomes difficult for us, because our conception of socialism is on democratic lines. We have to carry Parliament with us.

Shri Daji: Avadi or Jaipur?

Shri Ayagi: Jaipur. So, we have to proceed in a democratic manner.

I was expecting my hon. friends on the other side, though sometimes their support does us a little damage, to support this Bill heartily, because, after all, any wise man can see what it means.

I must congratulate the Finance Minister, I am glad he has come back. Factually speaking, this is the first time we find some practical steps being taken with regard to the financial structure of this country, because it is not only taxation and banks alone that count; the whole thing depends upon industries, these companies and corporations. By one stroke of the pen, the Finance Minister has made a beautiful suggestion. I admire it, and I wish the country appreciates what the result of this change will be. Conversion of loans into equity capital is something of a novel idea. He says that thereby loans will be given liberally. I never thought that a Finance Minister could be so clever—I do not know whether the word "cunning" is unparliamentary, but I shall only say clever. If I were to speak on behalf of the capitalists, I would say his policy is Machiavillian, because this is just saying: have more loans to establish industries, I am prepared to give you money, but ultimately, some day, I might choose to turn this money into equity capital, and thereby become an owner of the industry which has been established. That is the most democratic, most suitable, the sweetest method of penetrating into the private sector. My friend is just raping the private sector without any resistance, that is what I feel. And this is done with their consent. The private sector accepts the money, and then the loan is converted into equity capital. Nothing like that! We can best guard

against malpractices if we have our representative in the company. If the L.I.C. and other such organisations go on turning their loans into equity capital, then they will become shareholders in those companies, and their representatives will be there. Evasion of taxes and other malpractices will naturally cease. That is a device which I admire, and on which I must congratulate the Finance Minister. He has really taken one practical step towards socialism. This is the best method, because where is the money to give compensation to the private sector if we take it over? Then there are other difficulties also in Parliament; sometimes there is resistance. This is the best way. It is marriage by consent; this is the most non-violent method. After all it is for the prosperity of the company or corporation or industry that money was advanced..... *(Interruptions.)*

Shri Prabhat Kar: In Parliament there are Tyagis and Morarkas.

Shri Tyagi: Mr. Morarka has not objected to that really. What he objected to was different; it was part of his democratic right, which essentially means freedom of the individual and the rights guaranteed to him. He must have his right for appeal to go to a higher court from the tribunal. It was the right.

Shri Morarka: That is repugnant to the Communist philosophy.... *(Interruptions.)*

Shri Tyagi: I do not know what my hon. friends on that side will do when they come to power; one does not know: one may not live to see. But on the face of it they also say that they want to be just. So, justice has to be done to everybody. So, his suggestions are not very much of a departure from the lines adopted by the Finance Minister. The setting up of the Board is one of the best ideas. If the Minister were to exercise his judgment one way or the other, motives would be attributed; they will say that somebody has paid for the party's funds; slogans will be raised. Parties in Opposition always try to get something.

Shri Indrajit Gupta: You have pulled down one Minister of yours because of that.

Shri Tyagi: There is no question of pulling down. Your weight is always against the Ministers. So, the setting up of the board is the most suitable idea.

The total administrative machinery in India, in the Centre and in the States, has been damaged to a great extent on account of too much interference of politicians in power. People must know that the administrative structure is the only structure on which Governments are based in democracies. It is not always the king or ministers. Their function is to lay out policies and it is the executive, the administration which carries out those policies. Too much interference takes away the self-confidence among them; they could not act judiciously if every time there is interference. There will be controversial matters and the board will exercise its discretion. Members of Parliament may put questions if any irregularity comes to their notice; things may be discussed here; Ministers also might take action if something is brought to their notice. If people all over India do not repose full confidence in the sense of justice and fairplay of the administrative machinery, Government can never succeed and so it is good that a board has been constituted.

The control of charitable trusts has been a matter of controversy for the last ten or fifteen years. Big people start such trusts for good motives—a welcome idea—with lakhs and crores of rupees. That money is invested in their own business on behalf of charitable trusts of which they themselves are trustees. The profits of trusts are exempt from income-tax and thus

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lakhs of rupees are tax-free like that. Now that income goes back into their own business and thereby they take undue advantage of those trusts. Over and above that they have their right of voting on behalf of the trusts so that the general shareholders suffer. So, this idea was sponsored in the party executive also and those proposals were forwarded to the Finance Ministry for consideration. I am glad the hon. Minister has responded well to their request and has taken this up.

This will go down as a historical enactment because for the first time it opens the window to give expression to ourselves with regard to the socialist pattern which is our goal. This is a practical step taken for the first time. It is no use starting public sector projects. Wherever there are monopolies, they must be broken and the best way to do that is to inject yourself into them and become their partner. The public sector becomes the partner of the private sector and that means a national sector is being created. I welcome this idea and I support this Bill.

Shri Tridib Kumar Chaudhuri (Berhampur): Sir, I would begin by joining issue with my friends on the right and also with the speaker who just now sat down because from their speeches it seems a lot of confusion seems to be going round that you build socialism by merely amending the Companies Act. The very fact that there is a Companies Act proves that we are living under a capitalist system and we recognise the existence of joint stock public companies; that is the hallmark of capitalism, pure and simple. In whatever manner you may amend the Companies Act, it is not going to prevent the concentration of wealth. The American experience of Sherman Anti-Trust laws is an ample proof: the British experience also is more or less on the same lines. We are here concerned with a very limited measure. When I was listening to the speech of the hon. Finance Minister I was wondering what happened to the recommendations of the Vivian Bose Commission and the Daphtari-Shastri Committee. But he has disposed them of in a few sentences by saying that a more comprehensive Bill is—not exactly on the legislative anvil but is—being prepared by the Department concerned and that by the next session he might present us with that Bill in the House. But even with regard to the limited purpose which this Bill has, I will have occasion to show, even in regard to the amendment of those sections which this amending Bill affects, that the recommendations of the Vivian Bose Commission have not been followed.

But before I go into that I have to refer to one or two general matters. Firstly, with regard to the administrative machinery of the Company Law Administration, under clause 4 of the Bill before us Government propose to set up a Board of Company Law Administration. That only changes names; it changes the present secretariat of the Company Law Administration into a Board and is nothing more than change of nomenclature.

If I may in this connection draw the attention of the House and the Government to paragraph 60 of the recommendations of the Vivian Bose Commission, the Commission say that this Department of Company Law Administration should be integrated with other departments and regulating authorities of the Central Government which deal with public companies in one way or other. I am very glad, although some objection has been taken against that in some quarters, that the Company Law Administration has been transferred to the control of the Finance Ministry. And I would suggest to the hon. the Finance Minister to see if he could not amend clause 4 of the present Bill containing provisions with regard to the constitution of the Board so as to

ensure whether such other authorities as the Controller of Capital Issues, the Chairman of the L.I.C.—because L.I.C. is the biggest single investor in the corporate sector today—, the Governor of the Reserve Bank and the Chairman of the State Bank, whether all the authorities, banking authorities and all those officials who control capital issues and stock exchanges, could not be brought together in this Board so that they might have a general power of supervision and control of the corporate sector of our economy, which means control over more than two thousand crores of rupees of our people invested in these various companies, big and small. If we start constituting a Board of that kind, perhaps we would be doing something useful.

Then, I have also to draw attention to another fact. It is no use making good laws, unless you create a sufficiently broad-based organisation with sufficient number of personnel to administer those laws. I understand that in the United States the corresponding department of the Federal Government has more than nine hundred officers to control, supervise and regulate their corporate sector. But here our experience has been that even if the public or the shareholders move the Company Law Administration, it is very difficult to get a quick order, not because the officials are unhelpful, not because they do not want to take any action, but because with the best possible of intentions they simply do not have the staff to carry on all the investigations and to carry through all the formalities necessary. So the decision in every case is delayed inordinately, by two to three years and even more. Two to three years is the least possible time that is taken; if we get a decision in two or three years we have to thank our lot for it. So much for the administration side of the Company Law Administration and clause 4.

Now I come to one of the main objects of the Bill, namely constitution of a Tribunal to exercise the powers and functions conferred on courts by section 203 and sections 397—407. Along with this we have also to consider, because they are very much related, the new Chapter IVA which is going to be added in Part VI—Powers of Central Government to remove managerial personnel from office on the recommendation of the Tribunal. Now, the proposed section 388B in this new Chapter and section 203 in the principal Act are very much related. In section 203 of the principal Act power has been taken to restrain fraudulent and undesirable persons from managing companies. Where a person is convicted of any offence or in course of winding up a company it appears that a person has been guilty of any offence for which he is punishable under section 542 or has otherwise been guilty, while an officer of the company, of any fraud or misfeasance of his duty to the company, then the court may order that such person shall not without the leave of the court be a director etc. Now, more or less the same power is taken by the Central Government under this proposed new Chapter which has been incorporated in the amending Bill under clause 8. Here we find that the Central Government, after making an application to the Tribunal and after having obtained an order from the Tribunal, may, if the Tribunal holds that a particular person is not a fit and proper person to hold the office of director, etc., remove him for five years. I do not understand why this roundabout and long-winded process has been proposed. By a simple amendment of section 203 of the principal Act this could have been very easily done, provided the tribunal were there. This proposed section 388B says that "where in the opinion of the Central Government there are circumstances suggesting" etc. It seems to me that under the existing Companies Act, so long as that principal Act is there, there Central Government can only have that kind of opinion after

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making an investigation under section 237(a) and (b), and making of enquiries often takes a long time. Then, the Government forms an opinion; after adverse opinion against a particular person is formed on the basis of the investigations carried out under article 237(a) and (b), the Government moves the tribunal with the request that the tribunal may enquire into the case and record a finding. Then there is a second enquiry by the tribunal. In the end the Government takes no more power than to bar that person for five years from holding the position of Directorship or Manager after the finding by the court.

Mr. Deputy-Speaker: The hon. Member's time is up.

Shri Tridib Kumar Chaudhuri: I have one or two more points to make. The Government only takes power to remove that person, against whom a finding is given, only for five years, which power was already available to the court under section 203. I think the Government and also the Select Committee would consider whether by a simple and straightforward amendment of article 203 their purpose would not have been better served.

Then I come to section 203 of the principal Act itself. At least with regard to that, I think the hon. Finance Minister should have had no objection to follow the recommendations of the Vivian Bose Commission, but that has not been done. I do not mind if, for the other numerous recommendations of the Commission, the Government ask us to wait for some more time, but when they are making provisions affecting section 203 in various ways, why should they fight shy of the recommendations of the Commission made in paragraph 26? The Commission says:

> "Under section 203 of the Companies Act, the power is somewhat restricted, and we would like to expand it on the basis of the Jenkins Committee report contained in paragraph 80 thereof. The Jenkins Committee has recommended that the court should have power to disqualify any person who has been convicted of any offence involving fraud or dishonesty whether in connection with a company or not; who has been persistently in default in complying with the provisions of the Companies Act; and who is shown to have acted recklessly or incompetently in relation to the affairs of the companies of which he is or has been a director or otherwise concerned in the management."

Now, if the Government had accepted these limited recommendations with regard to section 203 of the Companies Act and made it more stringent, a simple amendment to section 203 would have amply served their purpose. If they had done so, this power which they are taking under clause 8 of the Bill would be entirely unnecessary.

So, I would request the Government to give some more thought to it and I hope the Select Committee would also consider these few provisions of the Bill relating to the powers of the tribunal and the powers to be taken by the Government for removing undesirable persons from the management of companies.

Shri P. R. Ramakrishnan (Coimbatore): Mr. Deputy-Speaker, Sir, this Companies (Amendment) Bill cannot be more timely. I congratulate the Finance Minister on bringing it early during this session. There has been a lot of mudslinging on the part of many people on private sector. I would now like to recall the general remarks made by the Finance Minister during the course of the debate. He said that this Bill does not envisage putting any restrictions on the expansion of the private sector but it encourages it. As a matter of fact,

all people in the private sector cannot be honest. There are certain people who are dishonest. I am willing to own that. I am also willing to admit that the private sector needs some toning up. If one man in the private sector is dishonest people naturally say that the whole private sector is dishonest. This is not correct because if one man in a village is dishonest, surely, you cannot say the whole village is dishonest. If a man in a village is a thief, you cannot dub the whole village as thieves. By appointing this tribunal, I am very sure that the man who is really corrupt can be brought to book and it can absolve the private sector of this grave accusation.

There is some apprehension, as the Finance Minister has rightly pointed out, in the minds of many people regarding the appointment of the tribunal. He said there are people who approve of the appointment of the tribunal. There are people who disapprove of the appointment of the tribunal. As far as I can see, the only people who disapprove of the appointment of the tribunal are those who fear that Shri T. T. Krishnamachari will not be there for ever; there may be somebody who may take his place and when he comes, if he takes into his head or rather wants to wreak vengeance on somebody on personal grounds he may invoke this as an instrument for persecution. I think it is a far-fetched argument. In the Statement of Objects and Reasons to this amending Bill, the Finance Minister has made it very clear that the constitution of the tribunal has been brought about only for expeditious action. Under section 203 of the Companies Act, any person can be prosecuted for fraud. But certainly the matter has to be referred to a court of law, and the court takes its own time and the man cannot be removed for many years. He can commit fraud after fraud without being punished for what he has done. All I can say is that by appointing a tribunal, any man can be removed immediately from the administration of a company after the tribunal comes to the decision that the man has committed a fraud and for five years he is debarred from being a director of a company or from promoting any new company. I am just reminded of a lecture delivered by one of our professors in the management school where I was studying—the Massachusetts Institute of Technology in the United States. A question of this nature was asked: Suppose a company is not functioning properly, what will you do? Without hesitation he said, "Suppose you have a bad tooth? What will you do? Naturally you pull it out. Similarly, if you find the management is bad and is not able to function properly, it should be removed." The higher the ladder you climb, the easier is the fall. So, it is natural that if the management is bad, it must be removed. After all, the ownership of all the industries in the country is not the prerogative of a few individuals. It is public property and the management of the public property must be properly done. I am sure the hon. Finance Minister has fully realised that the national wealth should be protected properly. Only with this intention he has brought into being a tribunal and that the tribunal should act expeditiously and remove one or a group of persons who are incompetent to run industry, so that the private sector may be toned up and an assurance may be brought to the country that the private sector can effectively contribute to the economy of this country. I welcome the appointment of the tribunal.

There is only one thing about which I was a little doubtful. Mr. Morarka has raised the question of the composition of the tribunal. I am sure the Finance Minister would fully agree with me that the appointment of a one-man tribunal will not suffice and I hope when the Select Committee meets, he will accept the suggestion

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that the tribunal should be a high-powered committee. The tribunal should go into all matters thoroughly so that there will not be any question of doubt in anybody's mind. I am sure the Finance Minister would accept the suggestion that a person of the eminence of a High Court Judge should be appointed as the Chairman of this tribunal.

Regarding the question of violation of fundamental rights which Mr. Morarka raised, I do not agree with him at all, because if a man commits a murder or any other offence punishable by law, naturally he goes to jail and is punished by law. In the same way, if a man has committed a fraud in a company which is a public trust, he must be punished and immediately removed. This is no violation of any fundamental right of any human being.

The formation of the Board is a new innovation. I am sure the Finance Minister has considered the working working of the company law administration, it is a wise step that he has taken to appoint a Board. We hope that this Board would consist of persons who are eminent and it will give a new life to company administration.

There is one point which Mr. Tyagi made regarding the conversion of Government loans into equity shares. I think he did not really understand the implications of what he was saying. He said that through the back-door Government has brought about a way by which it can nationalise any industry. Actually this is what he meant: Government could socialise the industry by converting Government loans into equity shares. I am sure this is not the intention. All loans are not convertable, only to loans that are given to the company on the specific understanding that at a later date, if they want it to be converted into equity shares, they have the right to do so. It is not as if any loan that has been sanctioned can be converted into equity shares. I do not want people to have the misapprehension that if they take loans from the Government, they are liable to be converted into equity shares and some day the Government may take over the industry. I think Mr. Tyagi did not quite understand the implications of what he was saying. I am sure Government has no idea or intention of taking over the industry. This may create a very grave doubt in the minds of many industrialists and I do not want that they should have this misapprehension.

I know that trusts which own a lot of equity shares in companies have been abusing the privileges of ownership. I know that many people, for evading income-tax have started family trusts; most of the trading is done through this family trusts and the funds are invested in industries which they manage. I do not like to quote names in Parliament; I myself am aware of many instances where the trust privileges have been abused. I am sure the Finance Minister is also aware of many instances. A trust is created for public charity purposes and they should be used only for the promotion of those purposes. If that privilege is being abused, Government should have the right to appoint their own directors and control the trust share capital, so that it would be used for the proper purposes for which the trust was started.

I do not want to go into the details of the provisions of the Bill. It is going to a Select Committee and I am sure the Committee will go through it clause by clause and plug loopholes, if any. I only want to say that the High Court has no powers to question witnesses or to go through documents again. I do not know how the Finance Minister will overcome this defect as it is envisaged here. If the tribunal finds fault with a person and if the case is referred to the High Court, the High Court can only

look at it as it pertains the law. I hope the Finance Minister will find some way whereby an innocent man can get redress expeditiously. If he is not at fault and if he can prove his innocence, he must have example opportunity to prove his innocence.

श्री लहरी सिंह (रोहतक) : जनाब डिपुटी स्पीकर साहब, हमारे मुल्क की तरक्की और डवलपमेंट के लिए यह जरूरी है कि यहां पर इंडस्ट्रीज की तरक्की हो। यहां पर इंडस्ट्रीज की तरक्की हो रही है, लेकिन यह सारी तरक्की कम्पनीज की मार्फत ही हो रही है, को-आपरेशन का तो नाम ही है। तो जब कम्पनीज की हालत ऐसी खराब हो, जहां एसेट्स को, सरमाये को, खत्म किया जा रहा हो, जहां कंपनियां खास खास खानदानों और खास खास आदमियों के अदारे हों, जिन का उन के सरमाये में हिस्सा हो, जहां ऐसे गबन और खराबियां हों, जोकि तहकीकात से मालूम हुए, तो गवर्नमेंट के लिए यह जरूरी था कि इन खराबियों को खत्म करने के लिए कोई सही कदम उठाया जाये। इसलिए मैं मिनिस्टर साहब को मुबारकबाद देना चाहता हूं कि वह इस बिल को हाउस के सामने लाए हैं। मौके के मुताबिक और हालात के मुताबिक यह जरूरी है कि यह ला जल्दी से जल्दी लाया जाये। अगर किसी कंट्री को तरक्की करनी है, अगर किसी कंट्री को डवलप करना है, तो वह तरक्की और डवलपमेंट कोई एक शख्स नहीं कर सकता है। यह सब को सब तरक्की कम्पनीज के जरिए और कम्पनीज की शक्ल में होनी है। लेकिन अगर किसी मुल्क में कम्पनियों का वर्किंग ठीक न हो, तो लोग शेयर खरीदने में बहुत झिझकते हैं, वे शेयर खरीदने से पहले हजार दफा सोचते हैं कि उन को कुछ मिलेगा या नहीं। पीछे जो तहकीकात हुई है, पीछे जो तजुर्बे हुए हैं, उन से मालूम हुआ है कि किस तरह सरमाये को खाया जाता है और किस तरह से बोगस शेयर्ज खरीदे जाते हैं। अगर मौजूदा कम्पनीज ला के मुताबिक चला जाये, तो यह बात नामुमकिन है कि इस सिलसिले में कोई रिफार्म हो सके क्योंकि जो प्रासेस है वह बहुत ही लैंग्थी है। सिविल कोर्टस में जाना और फिर वहां से हाई कोर्ट में जाना किसी मामूली आदमी के बस की बात नहीं है। किस में इतनी ताकत हो सकती है। अव्वल तो शयरहोल्डर्ज के रास्ते में बड़ी मुश्किलात आती हैं और फिर समय भी बहुत चाहिये और पैसा भी उनको क्या जरूरत पड़ी है कि वे बेचारे इस तरह से मारे मारे लड़ते फिरें। कम्पनियों के जो मैनेजर हैं या डायरेक्टर हैं या जो उनको चलाने वाले हैं, उनकी डिसपोजल पर तो कम्पनियों का काफी रुपया है और उन्होंने उसका इस्तेमाल कर लिया लेकिन इन हालात में कभी भी कोई शयरहोल्डर बाहर आ कर अपने सरमाये से हाई कोर्ट और सिसिवल कोर्ट में जाय और इतना लम्बा प्रोसेस अखतयार करे, यह उसके लिये नामुमकिन बात है। जो कुछ भी कम्पनी ला में है ऐसा है जो जरूरियात को पूरा नहीं करता है। इसलिये जो मौजूदा कानून बना है, उस में यह है कि ऐसे मामलात में जल्दी से जल्दी फैसला हो। अगर शयरहोल्डर्ज को यह मालूम हो कि तुम वहां पर अच्छे वकील कर लो, अच्छी तरह से मामले को परमू कर लो, टैक्नीकल प्वाइंट्स रेज करते रहो और इसमें कई साल लग सकते हैं तो कौन बेवकूफ शयरहोल्डर हो सकता है जो कि इस तरह से खर्च कर सकेगा। इसलिये गवर्नमेंट ने जो यह समझा है कि स्पीडी डिसपोजल हो, वह बहुत ठीक समझा है। यह तभी मुमकिन हो सकता है जबकि ट्रिब्यूनल इस का फैसला करने वाला हो। ट्रिब्यूनल बनाने का आब्जैक्ट क्या है? आब्जैक्ट यही है कि जल्दी फैसला हो। हमारे देश में छोटी कम्पनियां भी हैं और बड़ी भी। अगर एक ट्रिब्यूनल होता है तो इस में कोई हर्ज की बात नहीं है और अगर एक से अधिक की जरूरत महसूस होती है और एक से अधिक बनाये जाते हैं तो उसमें भी आपत्ति की कोई बात नहीं होनी चाहिये। हालात के मुताबिक जैसा मुनासिब समझा

[श्री लहरी सिंह]

जाए, किया जा सकता है। इसलिए मैं नहीं समझता कि गवर्नमेंट के हाथ इस मामले में बांध दिये जाने चाहियें। गवर्नमेंट को चाहिये कि वह हालात का देखते हुए अगर समझे कि एक से अधिक दो या तीन ट्रिब्यूनल स्थापित किये जाने चाहियें तो वैसा भी कर सके। जरूरी नहीं है कि एक ही हो। जैसे सरकमस्टांसिज हों, उसके मुताबिक काम किया जाना चाहिये, जिस में सहूलियत हो, वह काम किया जाना चाहिये। थोड़ा आब्जैक्शन होने पर एक ही ट्रिब्यूनल कायम हो सकता है।

सब से पहली बात यह है कि ट्रिब्यूनल जब कायम हो जाए तो जो चार्जेज हैं उनका जल्दी से जल्दी फैसला हो, जल्दी से जल्दी हालात को मालूम किया जाए। इस में गवर्नमेंट भी एक पार्टी होगी और ट्रिब्यूनल भी एक पार्टी होगी और सारे बैठ कर जो बातें हैं उनका जल्दी से जल्दी फैसला कर देंगे और जो चीज उसके सामने पेश होनी है, वह पेश हो जाएगी और ट्रिब्यूनल जिम्मेवारी को समझते हुए अपना फैसला दे देगा तो बहुत अच्छा होगा। ट्रिब्यूनल को समझना चाहिये कि उसको बनाया ही इसी मकसद के लिए गया है। कोर्टस् इस मकसद के लिए नहीं हैं। वहां पर बड़ी डिले होती है। टैक्नीकल प्वाइंट में वहां पर बहुत विस्तार से जाया जाता है, बहुत लम्बी लम्बी दलीलें होती हैं और फैसला होने में बहुत देरी होती है और वह पर टैक्नीकल प्वाइंट भी ऐसे उठाये जाते हैं जो नहीं आ सकते हैं। ट्रिब्यूनल को सोचना चाहिये कि जल्दी से जल्दी मामले को खत्म किया जाए, जल्दी से जल्दी फैसला दिया जाय और जल्दी से जल्दी उस फैसले पर अमल हो। इस वास्ते मैं समझता हूं कि जो ट्रिब्यूनल बनाने का फैसला किया गया है वह बिल्कुल सही किया गया है। जहां तक सोशलिस्टिक पैटर्न इत्यादि का ताल्लुक है सब कहने की बातें हैं। जब यह कहा जाता है कि हम सोसाइटी को सोशलिस्टिक बना देंगे, तो यह हम को जंचता नहीं है। यही बिल्कुल नहीं होगा। हम तो कहते हैं कि इस तरह के और भी मैजर लाय जायें ताकि जो आदमी कम्पनियों को चलाते हैं, उनको सिक्योरिटी मिले, उन में ताकत आए और साथ साथ वे तरक्की भी करें। हम यह नहीं चाहते हैं कि सारा सरमाया हिन्दुस्तान का चन्द खानदानों के हाथ में चला जाए, जो एक कम्पनी बनाता है, वह दो बनाले और तीन बना ले और इस तरह से बनाता चला जाए। शेयरहोल्डर्ज को तो मैं समझता हूं कि बहुत थोड़ी कम्पनियां हैं जो कुछ देती हैं, जैसे टाटा की है या कुछ दूसरी हैं, बाकी सब कतई सिफर के बराबर देती हैं। वे बोगस शेयरहोल्डर्ज रख लेते हैं राय लेने के लिए, वर्ना कंट्रोल हमेशा खुद करते हैं।

एक उज्र है जो मैं आपके सामने रखना चाहता हूं। हम डेमोक्रेसी में रह रहे हैं और हमारी गवर्नमेंट डेमोक्रेटिक सेटअप में विश्वास भी रखती है। हमारी समझ में यह नहीं आया है कि क्यों गवर्नमेंट जब अपील की इजाजत देती है तो कहती है कि केवल ला प्वाइंट्स पर करो। क्यों नहीं वह फैक्ट्स पर भी अपील करने की इजाजत देती है? जब अपील हाई कोर्ट में या कहीं और होगी तो वहां पर फैक्टस जरूर डिसकस होंगे। ऐसी चीज रख देना कि फैक्टस को टच न करो और ला प्वाइंट पर ही अपील करो, ठीक नहीं है। ला प्वाइंट और फैक्ट्स दोनों साथ साथ लिये जाते हैं। जब ट्रिब्यूनल फैसला करता है तो उसके सामने दोनों चीजें होती हैं। मिनिस्टर साहब ने जो यह रखा है कि अपील शैल लाई सोलली आन क्वश्चंज आफ ला, यह ठीक नहीं है। यह डेमोक्रेटिक सैट अप के अनुरूप नहीं है। जब आप ट्रिब्यूनल को पावर दे रहे हैं, सब कुछ उसे दे रहे हैं तो क्वश्चंज आफ ला के क्या मानी रह जाते हैं। जब आप अपील की इजाजत देते हैं हाई कोर्ट को या सुप्रीम कोर्ट को तो क्वेश्चन आफ ला कोई चीज नहीं रह जाती है। जहां पर क्वश्चन आफ ला होगा वहां पर क्वश्चन आफ फैक्ट्स जरूर आयेंगे, वे जरूर डिसकस होंगे और अगर ऐसा नहीं होता है तो कैसे

क्वैश्चन आफ ला को एप्रिशियेट किया जा सकेगा । यह मेरी एक छोटी सी आब्जैक्सन है जिस को मैं चाहता हूं माननीय मंत्री जी देखें । यहां पर डेमोक्रेटिक सैट अप है, डिक्टेटरशिप नहीं है और न ही एबसोल्यूटिज्म है । हो सकता है कि ट्रिब्यूनल प्रजुडिस्ड हो, उस ने फैक्ट्स को गलत जज किया हो । इस वास्ते जब आप कहते हैं कि अपील प्वाइंट्स आफ ला पर ही हो तो इस के मैं बिल्कुल खिलाफ हूं । आप ने बहुत से नेक कदम उठाये हैं । अगर आप चाहें तो आप और भी सख्त मैशर्ज़ अख्तयार कर सकते हैं लेकिन आज़ादी का तरीका अख्तयार करो । मौका दो उस कम्पनी को । सारे कुरप्ट नहीं हैं । अगर किसी को शुबहा या शिकायत हो और कोई डिटेल में जा कर ट्रिब्यूनल के खिलाफ कोई बात कहना चाहता हो तो उस को अधिकार होना चाहिये कि वह वैसा कर सके । उस को मौका दिया जाना चाहिये यह कहने का कि फैक्ट्स को एप्रिशियेट नहीं किया गया है, फ्राड साबित नहीं हुआ है । अगर वह यह चीज़ कहना चाहेगा तो ला प्वाइंट कैसे आयेगा । ला प्वाइंट तब आयेगा जब यह प्रिज्यूम करके चला जायेगा कि फैक्ट्स का आर्गू किया जाना जरूरी है । किसी भी तरह से फैक्ट्स को डिटैच नहीं किया जा सकता है, अलहदा नहीं किया जा सकता है । इसलिए यह जो एक लैकुना है, इस को दूर कर दिया जाना चाहिये ।

यह जो बोर्ड बना है यह बहुत जरूरी है । गवर्नमेंट को बहुत से काम करने हैं, बहुत सी ड्यूटीज़ निभानी हैं । बोर्ड की आवश्यकता इसलिए भी है कि यह कंट्रोल करे, देखे ट्रिब्यूनल को । मिनिस्टर साहब या उन के सैक्रट्रीज़ साहिबान के पास इतना टाइम नहीं है कि वे इन चीज़ों को देख सकें क्योंकि गवर्नमेंट मशीनरी बड़ी कम्पलिकेटिड हो चुकी है । यह बोर्ड वाला प्राविज़न बहुत अच्छा है । इस में कोई कमी नहीं होनी चाहिये ।

यह कहना कि सिलैक्ट कमेटी के पास यह जाये, मेरी समझ में नहीं आता है । वह क्या करेगी। जब पब्लिक की डिमांड हो, चारों तरफ से डिमांड हो पता लगाने की, डिसआनेस्टी हो, फ्राड हो, मिसफीजेंस हो, जहां इस किस्म की बातें हों, वहां पर इनक्वायरी हो और उस चीज़ को दूर किया जाये, यही एज्यूम कर के ला बनाया गया है । ख्वामख्वाह इस को नहीं बना दिया गया है और न ही ख्वामख्वाह किसी को पकड़ा जायेगा । जब पब्लिक की तरफ से दरख्वास्त आयेगी तो दोनों चीजें अख्तयार करनी पड़ेंगी । वर्ना गवर्नमेंट को कह दिया कि वह तलाश करती फिरे तो वह नहीं होगा ।

एक उज्र किया गया आन दी ओपिनियन आफ दी गवर्नमेंट । अगर गवर्नमेंट ने तहकीकात कर ली, सैंट्रल गवर्नमेंट ने तहकीकात कर ली तो फिर वह तहकीकात क्या करायेगा ? ओपिनियन का जो लफ्ज़ बदला गया है वह ठीक बदला गया है । ओपिनियन का मतलब है कि प्राइमा फसाई डाकुमेंट्स को देख लिया गया है, पढ़ लिया गया है, हालात को देख लिया गया है, आब्जैक्शन जो शयरहोल्डर्ज़ की तरफ से आये थे उन को समझ लिया गया है और उन में कुछ जान है । यह सब हो जाये तो ओपिनियन हो जाती है । जो इस सैक्शन में दिया हुआ है यह बिल्कुल ठीक है और इस में कोई चीज़ ऐसी नहीं है जिस को इधर उधर करने की जरूरत हो । अगर कोई कोताही की गई या सिलैक्ट कमेटी के पास इस को भेज दिया गया तो बड़ा ही मुश्किल हो जायेगा । हम देखते हैं कि गरीब आदमियों को, शयरहोल्डर्ज़ को कोई ताकत नहीं पहुंचती है कम्पनियों से, सिवाय इस के कि खानदान बसा लिये जाते हैं, खूब रुपया इकट्ठा कर लिया जाता है, दूसरी कम्पनी चलाई जाती है, वहां भी फ्राड करते हैं, तीसरी चलाते हैं, वहां भी फ्राड करते हैं और इस तरह से फ्राड करते चले जाते हैं और शयरहोल्डर्ज़ को बिल्कुल कोई हिस्सा नहीं मिलता है । अगर उन को हिस्सा नहीं मिलेगा तो कैसे कम्पनियां बढ़ेंगी, कहां से रुपया आयेगा ? ये कोई

[श्री लहरी सिंह]

कोग्रोप्रटिव्ज तो हैं नहीं कि गवर्नमेंट के खयाल में आया कोग्रोप्रेटिव, कोग्राप्रेटिव और उन को कायम कर दिया । वहां पर कितने ही डिफैक्ट हैं । रजिस्ट्रार बैठ कर के कोग्राप्रेटिव को एक दम से तोड़ देता है । कोग्राप्रेटिव्ज का जो खयाल है यह खयाल ही रहेगा । असली चीज जो है वह यह है कि कम्पनियां ही हमारे देश में आयें और उन्हें आना भी चाहिये और उन्हीं के जरिये मुल्क का डिवलेपमेंट हो सकता है । अभी तो एलीमेंटरी स्टेज है । अभी स्टील प्लांट भी पूरे नहीं हुए हैं । स्टील भी कारखानों के लिए पूरा नहीं मिलता है और काफी नहीं है, कई कारखाने लगने हैं, कितना ही हमें ट्रेड को बढ़ाना है, कितना ही एक्सपोर्ट को बढ़ाना है, इम्पोर्ट को बढ़ाना है । यह सब कैसे होगा ? कम्पनियों के जरिये ही यह होगा । कम्पनियों से आप ज्यादा से ज्यादा सख्ती करें लेकिन यह न हो कि उन के काम में रुकावटें डाली जायें या उन में फीयर क्रियेट किया जाये । यह जो कहा गया है कि हाई कोर्ट केवल क्वश्चन आफ ला को देखे और इसी पर अपील की इजाजत हो सकती है यह फीयर क्रियेट करने वाली चीज है । इस से समझा जावेगा कि खास आदमी ही क्वेश्चन आफ ला पर अपील कर सकेंगे और इसका नतीजा यह होगा कि आम पब्लिक में फीयर पैदा हो जायेगा और वह इस को महसूस करेगी ।

मैं समझता हूं कि सिलैक्ट कमेटी की जरूरत नहीं है, किसी चीज की जरूरत नहीं है । ए टू जैड एक्ट जो है, बिल्कुल करेक्ट है, बिल्कुल ठीक है । सिर्फ यह अपील का जो प्राविजन है, इस को आप ठीक कर दें और आप आइंदा के लिए विजिलेंट हो जायें । अब जो हालात बिगड़ रहे हैं, उन को अब ठीक किया जाये और आइंदा जो चीज हो, उस को तब देखा जा सकता है । जैसे जैसे कोई चीज नोटिस में आये उस को आप ठीक करते जा सकते हैं । अगर हर साल एमेंडमेंट करने की जरूरत महसूस होती है तो आप एकार्डिंग टू सर्कमस्टांसिस वैसा भी कर सकते हैं । इस में कोई बेइज्जती की बात नहीं है । गवर्नमेंट को जहां कमजोरी नजर आये, जहां पब्लिक की आवाज हो, उस को फौरन देखा जाये फौरन जो खामी है, उस को दूर किया जाये, फौरन एमेंडमेंट उस का किया जाये । वेट कर के सारे एक्ट का एमेंडमेंट करना, दुबारा सोचना और सिलैक्ट कमेटी के पास भेजना, ठीक नहीं है । सिलेक्ट कमेटी बिल्कुल कुछ नहीं कर सकेगी । यह गरीब आदमियों का मुल्क है और गरीब आदमियों को ही इस मुल्क में रहना है, उन को ही मिलजुल कर कम्पनियां बनानी हैं, मिलजुल कर देश की तरक्की करनी है । इस वास्ते जहां जहां फ्राड हो, जहां जहां मिसएप्रोप्रियेशन हो, जहां जहां एसेट्स को खराब किया जाता हो, वहां वहां तरमीम करने के सिवाय और कोई तरीका नहीं हो सकता है और अगर कोई और तरीका इस्तेमाल में लाया जायेगा तो वह फेल होगा ।

इतना कह कर मैं बैठता हूं और मिनिस्टर साहब को बधाई देता हूं ।

Shri V. B. Gandhi: Mr. Deputy-Speaker, Sir, now that we have been given an assurance by the Finance Minister that a comprehensive Bill, in which will be incorporated some of the recommendations of the Dapthari-Shastri Committee, is going to be brought before the House very soon, probably next session, I think we can leave the matter at that. This Bill is an urgent one and we can accept its urgency. The memory is fresh in this House of the many instances in which managerial personnel of many large and important companies were involved in cases of irregularities, malpractices of all kinds, defaults, frauds and event breaches of trust and so it is absolutely necessary that a measure of this kind should be considered and passed into law without undue delay. From that point of view, this Bill has not come before

the House any too soon. We know how very time-consuming some of the existing procedures can be in our effort to bring to book persons guilty of mismanagement, fraud etc. in relation to joint stock companies. Quick action is, therefore, very desirable.

Here I will enter a mild protest at the way in which these Bills are being brought before this House in such quick succession. Members should be given time to study, to deliberate and also to collect material for a fuller treatment of the subject before the House. Passing legislation hastily without properly digesting it is not a very good thing; it should be avoided.

The principal object of this Bill is two-fold; firstly, to provide for the setting up of a tribunal which will enable the Government to remove the managerial personnel of joint stock companies on the basis of the findings of that tribunal and, secondly, to provide for the constitution of a board of company law administration. It is proposed to entrust to this board most of the powers and functions of the Central Government. We accept both these objects. There is something in the point the Finance Minister made that when a matter is deliberated by a board, by more than one individual, their decisions are likely to prove more acceptable, more valuable. But I am not quite sure that kind of a board is necessary at this stage. We would like to know if there are any instances of other countries where such boards or such machinery is provided for this purpose; not that we must necessarily follow other countries and not initiate any original machinery of our own. But if quick decision is the *desideratum*, I am not yet quite sure, I am not yet convinced whether an arrangement of taking decisions through the board will be the quickest method.

Then, there are other objects too. For instance, there is the object of preventing the use of voting rights of a trustee for the personal interest of the donors. We can straightway accept that object. Lastly, there is one more object to which some reference can be made, and that is, in cases where Government has advanced loans to companies, Government would like to take power to direct conversion of such a loan into shares in that company on fair and equitable terms. This too is an object to which one cannot object. My only suggestion would be that we should carefully go into the ethics of the step, but as a general observation I will repeat that it is an acceptable proposition.

The procedure to be followed in cases that will be considered by the tribunal is going to be something like this. The Central Government will refer to the tribunal cases in which persons are involved in mismanagement, irregularities and other malpractices. The tribunal will inquire into the cases and record its finding. The finding will be a clear statement from the tribunal as to whether such a person is a fit and proper person to hold office in the management of that company. There is, of course, a provision for appeal to the High Court, but that is qualified with the proviso that it shall be only on questions of law. As I said, the principal object is to take power for Government to remove managerial personnel on the basis of the findings of the tribunal. There are certain provisions in this Bill which will have to be very carefully considered by the Select Committee, and this matter is going to a very competent Select Committee for further consideration.

Then, there is this proviso on page 10, to new section 388F, which says that if the tribunal has given any finding against any partner of the company, the Central Government may remove the management and even the managing agents of that company. Of course, there is a further provision that a reasonable opportunity to show cause against the order is to be given to the aggrieved party. But I am not quite sure whether in our reforming zeal

[Shri V. B. Gandhi]

some of these things we are not going at a rather fast pace.

There is also a provision in sub-section 3 of the new section 388F which says that the persons found guilty will not hold office in any company during the period of five years from the date of the order of removal. Here also I thought, perhaps this is a case which deserves a very careful consideration on the part of the Select Committee.

Finally, I would just make one plea. This House should remember that in the joint stock companies' world, there are a very large number of joint sock companies, a majority of which are well conducted and whose management is above board. This majority may be among the small companies or the moderately large companies, but they are well behaved and, as I said, in our zeal for reform let us not do anything, or at least we should take care to see that we do not do anything, that will make it difficult for these small companies to carry on their business with all these new and too many restrictions and with all these attitudes of suspicion. I hope, what I have said here is also the experience of the Company Law Administration in this matter.

Mr. Deputy-Speaker: Shri Sham Lal Saraf. He is not here. Shri Sonavane.

Shri Sonavane (Pandharpur): Sir, I rise to oppose the motion for referring the Bill to the Select Committe. My grounds for opposing it are simple and straightforward. I know that this amending Bill has emerged as a result of the findings of the Vivian Bose Commission. When the report of that commission was discussed, the Law Ministry and the Finance Ministry were criticized heavily for not bringing forward early legislation to plug loopholes of which the management of companies took advantage and indulged in several malpractices. The Government took time, thought over the matter and have come before this House with this amending Bill. As it was stated by the hon. Finance Minister, this Bill is of an emergent nature and a comprehensive Bill would follow later. Under these circumstances I fail to understand these delaying tactics of sending the Bill to the Select Committee and of wasting time. If my hon. friend who moved this motion wanted to correct some of the bad features which, according to him denied natural justice and also fundamental rights to some of the company mangement, he could have come forth with amendments to whatever features that existed in the Bill and placed them before the House and then we could have considered the matter. But he has not done so. He has not brought forward any amendments to the Bill. He just wants that this Bill be referred to the Select Committee and that it should come back with a report before the close of the session. I think, that is not a very happy thing to do.

There is another thing. Why has the hon. Minister not come forward with a comprehensive Bill at this time? He has taken about three or four months. He could have brought forward this Bill during the last session and could have got it through. He did not do that and has come with this amending Bill. Afterwards we will be asked to pass a comprehensive Bill. I think, this is too much and this type of delay on the part of the Ministry is not justified.

I have said that I oppose this motion and while saying so I have stated my reasons. It will be in the fitness of things that we pass this legislation without delaying the matter any further. The hon. Mover of this motion has placed some reasons before the House, but I feel that he should have come forward with the amendments to the Bill and saved the time of the House. He should have avoided the delay that would naturally be caused to the passage of this Bill. This is the view that I wanted to place before the

House. The Bill should be passed just now, it should not be sent to the Select Committee and time should be saved.

Mr. Deputy-Speaker: Shri Ranga ... He is not here. Dr. Ram Manohar Lohia.... He is not here. The hon. Minister.

Shri Dai *rose—*

Mr. Deputy Speaker: A Member from your Party has already spoken.

Shri Bade (Khargone): Four hours are allotted for this Bill.

Shri Hari Vishnu Kamath (Hoshangabad): Prof. Ranga has come.

Mr. Deputy Speaker: Prof. Ranga.

Shri Ranga (Chittoor): Mr. Deputy-Speaker, Sir, I find that this Bill seeks to confer vast powers upon the Government. The need and the advisability of placing so much power in the hands of the Government over the joint stock companies and the public enterprises have to be very carefully considered by this House at this stage and by the Select Committee also. Our willingness to give so much power will largely depend upon the confidence we have in the Government of the day. As we find that this Government is not only interested in gaining more and more power over people's enterprise as represented through these joint stock companies but also is not so efficient or competent or honest, we are naturally hesitant in agreeing to all these powers being given to the Government. It is a notorious fact and admitted by quite a number of Ministers at different times that our administration is not efficient. It is also largely admitted that our officers cannot be relied upon to discharge their duties either satisfactorily or honestly in very many cases. In addition to that, it is not quite clear that the Government is prepared to free itself from its own Party interests in coming to decisions in regard to such important matters which affect the day-to-day administration of the joint stock companies and the people's enterpirse. I agree that the Government has felt itself concerned over the manner in which quite a number of joint stock companies and their managements has themselves not conducted their affairs in the interest of the share-holders to start with and also in the interest of the public. Therefore, they have taken power from this Parliament on other occasions to interfere on suitable occasions, as they considered them necessary, in the management of these various companies, such companises as come to be adjudged as being mismanaged by the board of directors, directors and their management. Although they have taken this power for themselves for very good reasons, for a very good public purpose, unfortunately we have found that the Government itself has come up for a lot of criticism—and justifiable criticism also—at the hands of the public and also the private interests. Under these circumstances, it is difficult for me to agree with the Government in their attempt to assume so much power over the management of all these joint stock companies which are responsible for the management of a large section of people's enterprise.

Sir, we all know how these licences, controls, permits and regulations are being exercised and used by various Government officials and governmental authorities and even by persons right upto the ministerial level also who hold responsible positions in this Government. The manner in which they have used them has not been satisfactory. It has not given satisfaction to the public; it has not given satisfaction to these joint stock companies and to most of those people who are responsible for the management of the public enterprise or private enterprise. Now, under these circumstances, to try to give power to the Government to remove from the board of directors any director and also any other manager and any power of attorney, is to invest in them the controlling power over public enterprise or people's enterprise. We know how in States

[Shri Ranga]

the cooperative organisations are being interfered with for political reasons by the State Governments and also how even in the so-called *panchayati raj* the local administration is being interfered with by the Government. And now the Government wants to take power to interfere with this very important and powerful section of our industrial management and industrial leadership in our country.

Now, they want to take powers to convert their loans into shares, as one of our friends who was very happy about it said this morning, with the possibility of converting themselves into majority share-holder in as many joint stock companies as possible, either directly by themselves because they would come to own the majority shares in a company or in alliance with minority share-holders and in that way convert those companies into their agencies. They may say that when they raise any complaint against any management and place this complaint before the Tribunal, it would be open to the Tribunal alone to conduct the inquiry and then come to its conclusion whether or not the Government's complaint is justifiable or not. Government may say that all these provisions are there. But even then the mere threat of demanding an inquiry like this, placing a complaint before the Tribunal and forcing the management to go through all the ordeal of having to defend themselves before the Tribunal, and if by any chance the Tribunal's judgment goes against them, then to have to go to the High Court and there also to try to obtain justice for themselves as they deem it necessary for themselves and that too only on matters of law is to put them under so much pressure, political and economic, financial and commercial, that I am sure quite a large number of the managements will simply be shivering in their shoes and will be only too glad to agree to any conditions that may be prescribed by the Government concerned, by the Minister or the Ministers concerned, whether those conditions are prescribed in the interest of their companies only or they are prescribed not only in the interest of their companies but also in the political interest of the ruling party. It does not matter which particular Party happens to be in power. Fortunately or unfortunately, in a representative system of Government as we have, whichever Party may be in power, there would always be a temptation for the wielders of that power on the ministerial benches to try to use it as far as it is convenient, as far as it is possible and as far as it is wise for them to do so consistently with their holding the support of the electorate for their own political interests. Under such circumstances, it is indeed very dangerous to arm the Government with so much of power.

Then, there is the question of the managing agency. For a very long time, this House has been worried as to how to control this managing agency in such a way that it would serve the interests of the public as a whole and it could be freed from all the evils from which it has been suffering till now. There were very many solutions offered. Some said—and quite a number of us were included in that category—that the managing agency system should be done away with. But, some others backed by Government from time to time felt that it was not time enough to get rid of this system. In the end, anyhow, a compromise was reached, and the managing agency system was allowed to function with very many restricted powers.

Now, this Bill does not say that the managing agency system should go. If it had said that, then one would have understood it. It does not say that the managing agency should have only limited freedom; if it had said that also, then one could have understood that. It does not stipulate any other conditions in addition to what are already to be found in the Companies Act, which would go to strengthen the hold of the shareholders over

the managing agency and prevent the managing agency from playing any kind of mischief. It allows the managing agency to function as it is, and at the same time, it holds the Damocles' sword over it and frightens it with this threat that at any moment, it would be open to Government to place their own complaints against anyone of them or all of them who are included in the managing agency of any particular concern, before a tribunal, and once the complaint is placed before the tribunal, no one knows how long it is likely to take. So, during that period, all these people will be kept under duress, and they can be *'samjhaoed'*, as it is put in Hindi, and they can be made to do the bidding of Government not only in regard to the particular company concerned but in regard to various other things including politics. I consider this to be a sinister possibility, if this Bill comes to be passed in the manner in which it has been presented to us.

Then, there is the question of the appointment of the tribunal. The tenure of office of the tribunal is not stipulated here. The powers also are kept vague. All the power is kept in reserve with the Government themselves. Any moment, for any particular period, in whatsoever manner they like, they are free to appoint the tribunal. It is a draconian thing. It does not look as if they are treating this House with sufficient courtesy and respect. It is true that they should be given some latitude in order to stipulate some of these things under their rule-making power, but that does not mean that they should keep the whole thing in such a vague condition and keep all these powers in reserve in order to settle how this tribunal is to be brought into eixstence, and with what powers, and for how long the members will hold office, and other such important aspects of the activity of the tribunal.

I am glad that a board is going to be created for the administration of the Companies Act. Some of us had suggested some such thing with quasi-judicial powers, so that the Company Law Administration would not be at the mercy of the political whims and fancies of the ruling party. Therefore, I am glad that this proposal is being made. At the same time, I would like to know who the members of this board are going to be. For how long are they going to hold office? Are they going to hold office for three years? If so, are those members going to be changed after those three years? Or, are they eligible for re-appointment? What will be their qualifications? Except for one who is to be chairman of the tribunal, for all the other people, there are no definite qualifications prescribed. A number of alternatives have been given. They may have experience in the management of companies, or in trade or in commerce or in industry or they may know law or they may have any other qualifications, but no definiteness is to be seen in the provisions that have been made, as to the qualifications either of the tribunal members, except the chairman, or of the members of the board for company law administration.

Again, when Government want their loans to be converted into shares, they are completely at liberty to make their own decision, and the compnay concerned or the industrial concern affected has no power at all even to ask for a modification; it may go and beg for modification but it has no power to ask for modification. It can do so only by going to the tribunal, I suppose, in the first instance, and afterwards to the court. That kind of procedure is likely to be costly, first of all, to the shareholders and secondly to the management, and it is also likely to be very troublesome, and all these things will tend, as I have said, to minimise or restrict or diminish the freedom of choice and the freedom of action which ought to be there for the managements of these joint-stock companies. If they really are to enjoy that freedom, which alone distinguishes them from State enterprises and it gives them the necessary resilience and freedom of

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initiative and enterprise. If once you rob them of their freedom of enterprise and initiative and make them simply dance to the tune of Government, then most of the advantages that accure to public enterprises or people's enterprises as compared to State enterprises would be lost.

The hon. Minister has said that it is Government's policy to promote production and development. Development and production are to be achieved, according to the present policy of Government, not only through State enterprise but also through public enterprise or people's enterprise. We know now the evils of State enterprise. Government themselves admit that they suffer from so much of bureaucratisation and so much of rigidity and controls and inefficiency too, and we have seen also through the bitter experience of the State enterprises that they have not been able to make a good job of it either from the point of view of business principles or showing profits or from the point of view of even promoting production.

In these circumstances, it is even more dangerous and indeed even more deleterious to the industrial growth of our country if the people's enterprise is going to be saddled with such restrictions under the powers which are now sought to be given to Government.

Then, Government have brought in this question of public interest, and a number of sections of the Act are sought to be amended in order to introduce this element of public interest as an additional power in the hands of Government. Who is to decide whether any particular order given by Government or instruction given by Government or inquiry ordered by Government is entirely in the public interest? Government alone have that power. But they have not defined it, and I dare say, advisedly. But it gives them so much power that they are free to interpret it as they like. It will rob the people's enterprise of the little free which it is now enjoying. Let us make up our minds about one thing. Do we or do we not want this public or people's enterprise to enjoy more freedom than the State enterprises in making their decisions, in taking risks and in going ahead with production activities and in planning for further development?

My hon. friend, the Finance Minister, has said that today in the textile industry, as in several other industries, the people's enterprise has not been sufficiently resilient, or dynamic, and therefore, has not followed the advice of the Government in reorganising their equipment He may be right—I do not contest that. I would also like the people's enterprise to be even more adventurous than what it is today, more resilient too. But when Government take and exercise these powers, especially this arbitrary power of interpreting this 'public interest' it will rob most of this people's enterprise of the freedom that they are exercising at present. Therefore, I would like the Select Committee to go into this matter of public interest and then see whether it would not be possible for them to give some clear and definite—as definite as possible—indication of what they mean by 'public interest', and under what circumstances alone Government would be entitled to invoke this conception of 'public interest' and exercise their right flowing from that and in that way impinge upon the freedom of people's enterprise.

I would like to have some assurance to be given to Parliament as to the appointment of the Board as well as the Tribunal. In recent past, we have seen quite a large number of these High Court Judges looking forward to being appointed to such tribunals, so much so that while they are High Court Judges, they are unable to be free from this temptation—not all of them, a number of them, of trying not to displease the authorities at any centre so that their future chances of being appointed as tribunals might not

be spoiled. Adding to these temptations is also not a good thing. I would rather—I do not know whether my hon. freind would agree to this proposal, because we have, unfortunately, been following this kind of procedure in various other respects also—that this choice should be restricted to the High Court Judges only —not to the retired High Court Judges—or to lawyers of requisite length of practice which would entitle them to be appointed as High Court Judges. I would rather that the chairman of those tribunals be appointed only from the functioning High Court Judges.

May I take it that the hon. Minister is agreeing to the motion for reference to Select Committee?

The Minister of Planning (Shri B. R. Bhagat): Yes.

Shri Ranga: I hope that when it comes back from the Select Committee....

Shri Sonavane: Why does he presume that?

Shri Ranga: ....this Bill would be more acceptable to us than what it is today.

डा० राम मनोहर लोहिया (फर्रुखाबाद): सभापति महोदय, त्यागी जी ने इस कानून के हिमायती लोगों की तरफ से कहा कि इस से एकाधिकार धीरे धीरे कम होगा क्योंकि जनतंत्रीय तरीकों पर चलना है । अगर यह बात सही होती तो मुझे इस कानून के विरोध में शायद कुछ न कहना होता । अगर धीरे धीरे भी हम एकाधिकार के खिलाफ चलते तो बात कुछ ठीक होती । लेकिन मुझे लगता है कि इस कानून से कम्पनियां सरकार की मातहती में भले ही आ जायें जो हैं ही लेकिन वह मातहती और भी बढ़ेगी । जो कम्पनियां या कम्पनियों को चलाने वाले जरा भी स्वतंत्रता दिखाते हैं उन पर सरकार का कब्जा बढ़ जायेगा लेकिन जनता के हित की कसौटी पर कोई फर्क नहीं पड़ेगा ।

इसलिए सब से पहले मैं फर्क करता हूं सरकार की मातहती में और जनता के हित में । इस के लिए सब से पहला प्रमाण मैं यह देता हूं कि जब से श्री कृष्णमाचारी वित्त मंत्री बने हैं तब से हिन्दुस्तान के हिस्से बाजार दाम में बढ़ते ही चले जा रहे हैं । यह अद्भुत समाजवादी वित्त मंत्री हैं कि जिसके आ जाने के बाद से पूंजीपतियों के हिस्से बाजार बढ़ते ही चले जा रहे हों ...

श्री ब० रा० भगत : गिर रहे हैं ।

डा० राम मनोहर लोहिया : जो गिरने वाली बात है उस को मैं वक्त पर लूंगा और रहस्य खुलेंगे । लेकिन अभी तो बढ़ते हुए हिस्से बाजार रहे हैं । इस का कुछ न कुछ कृष्णमाचारी साहब स्वयं जवाब दें कि यह होता कैसे है । यों अभी हिन्दुस्तान का पूंजीवाद तीस से चालीस सैकड़ा मुनाफा किया करता है, बड़ा पूंजीवाद । मैं छोटे छोटे दूकानदारों की बात नहीं कहता हूं । तीस से चालीस सैकड़ा मुनाफा बड़ा पूंजीवाद किया करता है । मुझे ऐसा लगता है कि उस से भी ज्यादा बढ़ चढ़ कर मुनाफे की आशा हो तभी हिस्से बाजार के दाम बढ़ते हैं । अगर चालीस सैकड़ा से भी ज्यादा मुनाफा बढ़ता है तो इसमें कोई शक नहीं है कि हिन्दुस्तान जिस बात में सब से आगे है दुनिया में, उस से और भी आगे चला जायेगा, यानी यहां की आमदनी तो बहुत कम है और खाने की चीजों के दाम बहुत ज्यादा हैं । आमदनी और दामों का इतना जबर्दस्त फर्क जितना हिन्दुस्तान में है और जिन्दगी की जरूरी चीजों के दामों में है, चाहे मकान हो या दूध हो वह मैं समझता हूं, शायद ही कहीं हो । इन चीजों के दामों में जो फर्क है वह मैं समझता हूं कि कृष्णमाचारी साहब जितना ज्यादा हिस्से बाजार को बढ़ाते हैं, उतने ज्यादा वे दाम भी बढ़ते चले जायेंगे, फर्क बढ़ता चला जायेगा ।

मैं मानता हूं कि जो भी हिन्दुस्तान का वित्त मंत्री हो उसे जब तक यह पूंजीवादी

[डा० राम मनोहर लोहिया]

रहते हैं तब तक पूंजीपतियों में कुछ थोड़ा बहुत भरोसा बढ़ाना ही पड़ेगा । लेकिन अब यहां गिरने वाली बात के सिलसिले में थोड़ा सा कह दूं कि सब पूंजीपति खुश नहीं रहते हैं, कुछ पूंजीपति खुश रहते हैं । मैं जानना चाहता हूं कि ऐसी कौन सी बात है कि वित्त मंत्री साहब जब बोलते हैं, भाषण देते हैं या कोई इस तरह का कानूनी मसविदा पेश करते हैं तब कुछ हिस्से बाजार पर असर पड़ जाया करता है । अगर सब पूंजीपतियों को मुनाफा या नुक्सान हो तो मुझे कोई बहुत ज्यादा नहीं कहना होता । लेकिन कुछ पूंजीपतियों को नुक्सान होता है, कुछ को फायदा होता है । तब सब से पहले मैं हुजूर की सेवा में यही बात रखूं कि इसी बात की जांच हो जाये कि क्या यह हिस्से बाजार पर असर पड़ा करता है । कभी कोई कानूनी मसविदा आया, कभी कोई भाषण हुआ कि हिस्से बाजार नीचे आने लग जाते हैं, ऊपर जाने लग जाते हैं, नाचने लग जाते हैं, कूदने लग जाते हैं, फादने लग जाते हैं । यह सही है कि हिन्दुस्तान का वित्त मंत्री जब तक पूंजीपति रहते हैं तब तक पूंजीपतियों को जरूर कुछ न कुछ देंगे, नहीं तो सारी व्यवस्था नष्ट हो जायेगी । लेकिन कुछ को दें, चाहे जानबूझ कर न सही, तो यह भी हो सकता है कि उन के भाषण से, कुछ का फायदा हो, तो भी जरा सोचने वाली बात हो जाती है ....

श्री त्यागी : जब तक स्पेकुलेशन रहेगा तब तक यह जरूर होगा ।

डा० राम मनोहर लोहिया : सिर्फ सट्टा नहीं । अगर सट्टा ही होता तो मैं और आप भी जा कर अपनी तकदीर आजमा लेते । लेकिन श्री कृष्णमाचारी के जरिये दोस्ती हो तो शायद अपनी तकदीर आजमाने में कुछ ज्यादा सुविधा हो जायेगी । बात यह है कि टोके जाने पर मुझे आपत्ति नहीं होती और त्यागी जी तो बहुत पुराने इस बात में माहिर हैं, दोस्त हैं, शायद मुझे मौका भी दे देते हैं ठीक जवाब देने का ।

श्री बड़े (खारगोन): सच्ची बात बाहर निकाल देते हैं ।

16 hrs.

डा० राम मनोहर लोहिया : अब यह जानना पड़ेगा कि आखिर इस कानून के पास हो जाने के बाद क्या बुनियादी फर्क आयेगा । बुनियादी फर्क तो कुछ नहीं, लेकिन वास्तव में फर्क आयेगा, इस माने में कि एक तो नीम अदालती जांच के लिये ट्राइब्यूनल बन जायेगा और एक प्रशासन को ठीक करने के लिये बोर्ड बन जायेगा । बुनियादी तौर पर सिर्फ दो चीजें हैं इस कानून में, ट्राइब्यूनल और बोर्ड । अब इस ट्राइब्यूनल और बोर्ड के बन जाने के बाद भी मैं कुछ चीजें वित्त मंत्री के सामने और सदन के सामने रखना चाहता हूं कि क्या उनमें कोई फर्क पड़ेगा ।

आखिर क्या बात है कि यह कम्पनियां बदइन्तजामी करती हैं और चीजों के दाम बढ़ते हैं । इस के दो बड़े कारण मैं आप के सामने रखूंगा । एक तो है चन्दा, कानूनी चन्दा, और एक वह जो जरा छिपा कर दिया जाता है । ऐसे सब चन्दे इस का कारण हैं, चाहे उसे जिस रूप में भी रखा जाय । मैं एक कम्पनी का जिक्र करूंगा जिस का वित्त मंत्री से पहले बहुत ताल्लुक रहा है । वह कम्पनी उन के लिये जरा कुछ दुर्भाग्यपूर्ण साबित हुई । वह कानपुर वाली ब्रिटिश इंडिया कारपोरेशन है, और अब भी उस में कुछ अजीब बातें हो रही हैं । इस वक्त जो उस के मैनेजमेंट एजेंट हैं उन्होंने कांग्रेस को अपने चुनाव में कानूनी तौर पर २० या २५ लाख रुपया दिया, सिर्फ उसी कम्पनी ने नहीं, उस की जितनी कम्पनी हैं, और गैर-कानूनी तौर पर जो रुपया दिया गया वह मुझे मालूम नहीं है, हां, कुछ अन्दाज मुझे जरूर बतलाया गया । एक घटना यह हुई और दूसरी घटना हुई कि बाद में जिस के हाथ में

उस कम्पनी के हिस्से थे उन्होंने हिस्से वालों की सभा में अपना वोट इस्तेमाल कर के वजोरिया साहब को उस कम्पनी का मालिक बनवा दिया, इन्तजाम करने के लिये खड़ा कर दिया । यह दो घटनायें हैं । अब आप चाहे जितनी ट्राइब्यूनल बना दें बोर्ड बना दें, मैं आप से पूछना चाहता हूं कि इन दो घटनाओं को आप कैसे बदलेंगे । बदलेंगे भी नहीं, इच्छा भी नहीं होगी और बदल सकेंगे भी नहीं, क्योंकि पहले के लिये आप कह देंगे कि वह तो चन्दा है । कम्पनी कानून है और कानून के मुताबिक कम्पनी चन्दा दे ही सकती है, इसलिये उस ने बिल्कुल संगत या कानूनी काम किया । दूसरी तरफ कह देंगे कि जीवन बीमा निगम को पूरा अधिकार है कि वह मामले की जांच कर के जिस को वोट देना चाहें दे दें । यह दोनों घटनायें जब अलग अलग जांचेंगे तो कानून संगत हो जायेंगी, न उस में बोर्ड आयेगा न ट्राइब्यूनल आयेगा । लेकिन वास्तविकता यह है कि यह दोनों घटनायें एक दूसरे से जुड़ी हुई हैं ।

मैं खुद मानता हूं कि जब तक पूंजीवाद है, पूंजीपतियों को अधिकार है कि वे अपने मन के दल को चन्दा दिया करें, और इसलिये अगर वे सरकारी पार्टी को चन्दा देते हैं तो इस में किसी के लिये रोने गाने की कोई बात नहीं है । वह समझते हैं कि उस से हमारा पूंजीवाद पनपता है, पनप रहा है । मैं त्यागी जी से कहना चाहता हूं कि एक तरफ तो इतने अच्छे अच्छे चन्दे ले लेते हो और दूसरी तरफ अपनी पार्टी को समाजवादी पार्टी कहते हो....

श्री त्यागी : आपको पक्की खबर है कि २५ लाख रु० चन्दा लिया गया है ।

डा० राम मनोहर लोहिया : जी हां, पक्की खबर है । त्यागी जी महाराज, आप अच्छी तरह से जानते हैं कि जब मैं कोई चीज कहता हूं तो यह दावा तो नहीं कर सकता कि मैं कोई हरिश्चन्द्र की तरह से हूं ....

श्री स० मो० बनर्जी (कानपुर) : ३० लाख लिये ।

एक माननीय सदस्य : आपको बहकाया जा रहा है ।

डा० राम मनोहर लोहिया : लीजिये, बनर्जी साहब, जो कि कानपुर के हैं, ३० लाख कहते हैं । मैं कह रहा था कि पूंजीपतियों को अधिकार है कि वह अपने मन के दल को चन्दा दिया करें । पश्चिमी योरप के देशों में होता भी है ऐसा । लेकिन पश्चिमी योरप की राजनीति इतनी ईमानदार है कि वहां के पूंजीपतियों की पार्टियां अपने चरित्र को छिपाने के लिये समाजवाद की ओढ़नी नहीं ओढ़ लिया करतीं । इसी के साथ मैं एक बात और कहना चाहूंगा कि पूंजीपतियों से आप चन्दा ले सकते हैं, सब पूंजीपतियों से, लेकिन कुछ पूंजीपतियों से ऐन मौके पर चन्दा लेना, जब कि वे फंस जायें और कुछ ऐवजी की बात हो, यह बड़ी खराब बात हुआ करती है । इसलिये मैं बुनियादी तौर पर कहना चाहता हूं कि जहां कहीं चन्दे में कोई ऐवजी चीज आती हो, यानी इस हाथ लिया और उस हाथ पाया, वह चन्दा बड़ा खतरनाक हुआ करता है ।

मैं इस बात को छोड़ता हूं और एक किस्सा सुनाता हूं उसी कानपुर शहर का । वहां एक कपड़ा कमेटी है । वह छोटे पूंजीपतियों की है और मध्यम पूंजीपतियों की है । वहां एक बहुत बड़े मंत्री साहब गये थे । उस कम्पनी की कम्पनी कानून के मुताबिक ज्यादा चन्दा देने का अधिकार नहीं था, लेकिन उस ने ५० हजार रुपये का चैक जाते ही दे दिया । उस का नाम है कपड़ा कमेटी ।

श्री स० मो० बनर्जी : ५१ हजार ।

डा० राम मनोहर लोहिया : ५१ हजार । मैं एक आध हजार कम कर के बतलाता हूं बनर्जी साहब, ताकि पकड़ा न जाऊं । कहिये तो मैं उस मंत्री का नाम बतला दूं ।

एक माननीय सदस्य : नहीं, नाम मत बतलाइये ।

डा० राम मनोहर लोहिया : बतलाना अच्छा है, क्योंकि वित्त मंत्री साहब तो बेचारे फंस जाते हैं और वह बच जाते हैं ।

Mr. Chairman: It would not be proper to mention names here.

डा० राम मनोहर लोहिया : इसलिये कि वे प्रधान मंत्री स्वयम् हैं, प्रधान मंत्री गलत ढंग से रुपया लेते हैं ।

श्री स० मो० बनर्जी : ठीक है, प्रधान मंत्री हैं ।

Mr. Chairman: Order, order. He has got to preserve decorum.

डा० राम मनोहर लोहिया : प्रधान मंत्री साहब गैर कानूनी ढंग से रुपया लेते हैं चन्दे में और कम्पनी के कानून को तोड़ते हैं । कानपुर से शिकायतें आती हैं वित्त मंत्री के पास, लेकिन किस की हिम्मत है कि प्रधान मंत्री की पूंछ जा कर उमेठे । कौन सा ट्राइब्यूनल यह काम करेगा, कौन सा बोर्ड यह काम करेगा । तो सब से पहले मुझे यह कहना है कि चन्दे के मामले में इस कानून के पास हो जाने के बाद भी कोई फर्क नहीं आयेगा, और अगर ऐसी बात रही तब तो हम को जरूरी चीजों के दाम बढ़ा कर देने ही पड़ेंगे । इस तरह के सैकड़ों मामले बतला सकता हूं कि और कम्पनियों के साथ प्रधान मंत्री किस तरह से जुड़े हुए हैं, अपनी निधियों में, अपने चन्दों में और अपने ट्रस्ट्स में । यहां ट्रस्ट्स का भी बड़ा जिक्र हुआ । तो सिर्फ पूंजीपतियों के ही ट्रस्ट्स नहीं हुआ करते, समाजवादी राजनीतिज्ञों के भी ट्रस्ट्स हुआ करते हैं अपनी राजनीति को चलाने के लिये और देश के लोगों को अपने साथ करने के लिये, पैसे का इस्तेमाल कर के । उन सब का असर पड़ा करता है चीजों के दाम पर ।

इसी तरह से मैं दूसरी तरफ आप का ध्यान खींचना चाहूंगा । हो सकता है कि सेलेक्ट कमेटी इस को देखे । वित्त मंत्री खुद इस को देखें । वह है रिश्तेदारों का मामला । सब से पहले पूंजीपति खुद अपने रिश्तेदारों को कानून तोड़ कर कम्पनियों का एजेन्ट बनाते हैं अथवा बड़ी बड़ी नौकरियों पर रखते हैं । इस का कोई उपाय अब तक नहीं निकल पाया । मैं क्या, सभी लोग जानते हैं कि आज हिन्दुस्तान में ऐसा कोई पूंजीपति नहीं है, बड़ा पूंजीपति, जो अपने रिश्तेदारों को, दो दो, चार चार, पांच पांच पीढ़ियों के रिश्तेदारों को इन कम्पनियों को मार्फत जीविका नहीं दिलाता । अगर जीविका जाने दो तो कार्फ दौलत नहीं दिलाया करता, और वह भी जो कम्पनी कानून है उसके खिलाफ लेकिन वह चीज रुक नहीं पा रही है, क्योंकि रोके कौन । मंत्रियों के भी रिश्तेदार होते हैं कि नहीं । वह भी उसी के साथ गुथे होते हैं । बहुत से मंत्रियों के रिश्तेदार ऐसे हैं । मैं जानना चाहूंगा कि इस वक्त केन्द्रीय मंत्रालय में कौन ऐसा मंत्री है जिस के दो पीढ़ी तक के रिश्तेदारों में कोई किसी कम्पनी के साथ जुड़ा हुआ न हो । यह जुड़ाव इतनी खतरनाक हो गई है कि आज हिन्दुस्तान की हर एक कम्पनी की, जो कि सरकार के साथ मिल जुल कर चलना चाहती है, कसौटी यह है कि वह सरकार के मंत्रियों और उन के दो पीढ़ी तक के रिश्तेदारों को खुश कर के चलना चाहती है या नहीं, उस के खिलाफ कोई कारंवाही नहीं की जा सकती । रिश्तेदारवाला मामला एक सिद्धान्त के पीछे छिपा दिया जाता है और कह दिया जाता है कि आखिर मंत्रियों के ऊपर ही क्यों वार किया जाये । जिस तरह से सब नागरिक हैं उसी तरह से मंत्रियों के रिश्तेदारों और लड़कों को भी मौका होना चाहिये कि वे अपनी तकदीर जगह जगह आजमायें । बात सुनने में किसी हद तक ठीक लगती है, लेकिन यह बात वहां ठीक हो सकती है जहां आर्थिक व्यवस्था से कमी दूर हो गई हो, जहां कमी है, जहां साधन कम हैं, पैदावार कम है, व्यापार के ऊपर एकाधिकार है और मंत्री और सरकार अपने प्रशासन, कानून और

हुक्म से इधर या उधर चीजों को झुका सकते हैं, वहां पर मंत्रियों की दो पीढ़ियों तक के रिश्तेदारों को कभी किसी कम्पनी के पास फटकने नहीं देना चाहिये। जब तक कोई कम्पनी कानून ऐसा नहीं बनता जिस में मंत्रियों के रिश्तेदारों को कम्पनी के नजदीक नहीं फटकने दिया जाता, तब तक मैं कहूंगा कि इस कम्पनी कानून का कोई मतलब नहीं रह जाता है, और यह कहना कि सब को बराबर के नागरिक अधिकार होने चाहियें कोई मतलब ही नहीं रखता है, क्योंकि यह मामला बराबर से नहीं चलता। इस से असल में विशेषाधिकार मिल जाया करते हैं। साधारण आदमी को जो कम्पनियां हैं उन में कहां कहां वे साधन मिल पायें या अधिकार मिल पायें, जो मंत्रियों और उनके रिश्तेदारों को मिल जाया करते हैं।

और इसी तरह से मैं आप के सामने एक और विचार रखना चाहूंगा कि आज की दुनियां में संगठन, अनुभव और साधन का बड़ा जबरदस्त हाथ है। सारी दुनियां में कम्पनियां बड़ी से बड़ी होती चली जा रही हैं, चाहे वह रूस हो और चाहे वह अमरीका हो। खाली फर्क यह है कि रूस में अधिकार रहता है जनता का सरकार द्वारा और अमरीका में अधिकार रहता है कुछ बड़े बड़े लोगों का, और यह बात हिन्दुस्तान में भी होना बिल्कुल प्राकृतिक है, इसे कोई रोक नहीं सकता चाहे जो भी कानून लाइए। मुझे बताया गया कि शायद उमा नाथ जी ने कहा, और बिल्कुल सही भी कहा, कि आप चाहे जितने भी कानून बनाते चले जाइए, इनका कोई असर नहीं पड़ सकता क्योंकि इनमें गुर हैं बड़े बड़े संगठन। अनुभव, संगठन और साधन के द्वारा ये सब अपने संगठनों को बढ़ाते चले जा रहे हैं।

क्या बात है कि बिड़ला साहब को सब चीजें मिलती चली जाती हैं? उसका कारण है कि इनके पास संगठन है, ये बड़े बड़े लोगों को नौकर रख लेते हैं। सब अनुभव और साधन इनके पास हैं। इस लिए सब चीजें उनके कब्जे में चली जाती हैं। इसको आप रोक नहीं सकते।

और इसके अलावा, दूसरी बात मैंने बताई, सरकार के साथ नजदीकी रिश्तों का मामला। जितना वह चला सकते हैं उतना कोई छोटा मोटा पूंजीपति नहीं चला सकता।

जितनी संगठनों और साधनों के कारण सुविधाएं मिलती जाती हैं, वैसे वैसे बड़े बड़े निगम, बड़े बड़े कारपोरेशन और निजी व्यापार बनते जा रहे हैं। और मैं कहना चाहता हूं कि इनको भी आप रोक नहीं सकते, इनको आप खत्म नहीं कर सकते। अमरीका ने तो न जाने कितने ट्रस्ट विरोधी कानून बनाए, लेकिन ट्रस्ट मिटते नहीं, ट्रस्ट बढ़ते ही चले गए, केवल कागज पर उनका रूप कुछ इधर उधर हो गया, जैसे कुछ कम्पनियों के नाम इस रूप के रख दिए गए जैसे स्टेनवाक, स्टेंडर्ड आइल कम्पनी, स्टेंडर्ड वेक्यूम आयल कम्पनी आदि। तो कागज पर कुछ बदलाव हो गया लेकिन वह ट्रस्ट चलते ही रहे। इसलिए मैं यह सुझाव देना चाहता हूं, और इस सुझाव के पीछे सारी सरकार का बदलाव जरूरी है। मैं भी कुछ थोड़ा सा नादान आदमी हूं। इस सरकार से मैं बोल रहा हूं। वह तो क्या बदलेगी, लेकिन जनता को कहना चाहता हूं कि जब तक यह सरकार नहीं बदलती और वह जनता के हितों का प्रतिनिधित्व नहीं करती, तब तक यह नामुमकिन होगा कि बड़े बड़े संगठनों को जनता के नियंत्रण में या जनतंत्रीय मातहती में लाया जा सके। ये संगठन बढ़ते चले जाएंगे। कागज पर जो कुछ भी हो, ये अपना काम करते चले जाएंगे, उनको कोई रोक नहीं सकता। इनको रोकने का

[श्री राममनोहर लोहिया]

एकमात्र उपाय यही है कि हिन्दुस्तान में ऐसी सरकार बने जो एक दृढ़ निश्चय कर ले और एक मर्यादा बना ले और उस मर्यादा के बाद जीवन स्तर या आमदनी को न बढ़ने दे जब तक आप अपनी आमदनी और जीवन स्तर को बनाए रखेंगे और बढ़ने देंगे तब तक कम्पनी और सरकार की एक बढ़िया गुत्थी चलती रहेगी और बहुत सुदृढ़ होगी क्योंकि वह स्वार्थ की और दल के परमार्थ की गुत्थी होगी ।

आप कानून बहुत बनाते चले जा रहे हैं लेकिन उनका परिणाम कुछ नहीं होता इसलिए में आप से निवेदन करूंगा कि इस पर जो कमेटी विचार करे वह पूरे बुनियादी तौर से सोचे ।

Shri T. T. Krishnamachari: Mr. Deputy-Speaker, Sir, I have listened with care to the several speeches made and I do not know if I may be permitted to say that quite a number of remarks were perhaps wide of the mark of this particular Bill. Undoubtedly they referred to the administration of companies. But this measure, as I said in my opening remarks, has a limited application to something which in the view of Government has to be enacted as quickly as possible in order to prevent abuses growing.

My hon. friend Shri Morarka who opened the discussion and who is a very keen student of company law made certain observations.

Many of them were valid from his point of view. Some of them unfortunately are not so quite valid. He took occasion to highlight a possible lapse perhaps in the language of the Bill which might indicate that there might be a Bench over which an accountant member might be presiding. I would like to give the assurance that there is no intention of having an accountant member deciding on this matter by himself.

He also made a great point in regard to the character of the tribunal. Speaking for myself, if I may in this hon. House, I am a great believer in our judiciary. I am also a great believer in our Constitution which has given a definite place to the judiciary in this country. If I have anything to do with any measure that I bring before this House, whether this one or something else, I would like the final decision in any matter concerning people's rights to be made by the judiciary. I held that view for a long time. If hon. Members of this House would permit me to say so, I believe that many administrative decisions which are quasi-legal, which are now being taken by the executive, should be transferred to an administrative Bench, the control of which will vest in the supreme judiciary of the land.

While on the one hand it is imperative that with the growing burdens on the State, the State has to have powers, it is equally imperative that we should put checks on the State's use of powers. If anybody makes any suggestions that there should be some kind of judicial review of executive action, I for one in my individual capacity will certainly support it. So, I would like to assure Shri Morarka that with his help—I propose to accept his motion for reference to the Select Committee—we might be able to make suitable amendments in the Select Committee so as to ensure that the tribunal has a judicial character. Short-circuiting of normal procedures is necessary if we want to avoid delays.

May I mention an instance which I know? In January, 1956, at a time when I was not the Finance Minister, and when Shri Deshmukh was the Finance Minister, the income-tax and the excise people raided the premises of a particular group of firms and took over certain documents. There was some horse-trading

going on. The income-tax people felt that they were on to a job which meant an evasion of nearly Rs. 3 crores of taxes. I think the party was willing to compound on the basis of Rs. 1 crore, but in the meantime, the matter went to court and the court said the incometax people shall not look into the books. I think it is going through the process of law, still, and I think the State has been denied this sum; whether it is Rs. 3 crores or Rs. 1 crore, nothing has been realised yet. I do not say it is the fault of the judiciary. No. It is quite easy to see that certain postings do not appear before the judges. You cannot hold the Chief Justice of the high court responsible for that; things can be managed; it is managed economy in another sphere. So, that is why sometimes we have to find short-circuited procedures, like the one that is mentioned in this Bill. Admittedly, it might give room for abuses. But I think the checks have got to be devised. After all this Constitution of ours might give room for abuses here and there, but checks have been provided. Is his House not the greatest check on the use of powers by the executive? Is it not possible for my hon. friend from Farrukhabad, whose language I could not quite comprehend but the threads of which I could, to criticise anybody and we have to stand up and answer him? I think the Constitution is a good one. We have checks and balances. Public opinion, as represented in this House, is doing a good task, notwithstanding the sceptical beliefs of my hon. friend from Chittoor. Therefore, such amendments as are necessary in order to tighten the provisions and in order to make it look as though every individual case is getting the best scrutiny by competent hands, I should certainly be prepared to examine with a bias in their favour. The other details mentioned by my hon. friend, Mr. Morarka, do not need detailing here for the reason that his knowledge will be available for the Select Committee to go into those matters and minor variations could be made.

But on the major question, some doubts have been expressed. The motive power behind this effort of the Government is undoubtedly the revelations made by the Vivian Bose Commission's report and also the subsequent opinions expressed on that report by the Daphtary-Shastri Committee. It is convincing that other methods have to be devised within the four corners of law in order to be able to check abuses such as the one we saw revealed in the Vivian Bose Commission's report. Possibly, Sir, what we have read in the Vivian Bose Commission's report is just the top of an iceberg. In the iceberg, we only see the top. There must be a fair amount underneath in water. Therefore, the man who is anti-social has got to be caught at.

I have mentioned in my opening remarks that I do not want to scare anybody away. I am really not interested in the share market, where there are no shares. I am interested in in newspapers giving prices, because that is a thing which I want to watch. Somethimes I go a little further and see the price of sugar in the London market, hoping that I will get a little more foreign exchange. Otherwise I am not interested in seeing them except generally. My hon. friend from Farrukhabad mentioned something about the Finance Minister being responsible for the share market going up. If that is a responsibility, that is a responsibility about which I can do nothing.

I may tell my hon. friend, if he would pardon my using the personal pronoun, very foolishly I put in my nomination for the Lok Sabha....

डा० राम मनोहर लोहिया : यहां पर भी यही बात हुई।

Shri T. T. Krishnamachari: ....and I was told that the share market went

[Shri T. T. Krishnamachari]

down. Again, I think pretty foolishly, I got myself elected and again I was told the share market went down. I had no part or lot in the going down. I had no part or lot in the going down of the share market, nor do I have anything to do with the going up of the share market. My hon. friend says, the Finance Minister speaks; the Finance Minister writes. I may say again with all respect to this House that I have been a Finance Minister before and I used to speak a lot. Now I do not. I suppose I am putting a constraint on myself to an extent where perhaps the bonds will burst. (*Interruption*). I do not propose to make a beginning and maybe sometimes one will have to speak. But one does not do these things merely because somebody is going to do something else about which I am unconnected. Of course, I should not cause a scare. A scare has various repercussions. It probably has wider repercussions than the prices going up or coming down in the share market. So, no responsible Minister ever tries to create a scare. Other than that, naturally one has to be circumspect. I have enough work to do. So, I cannot afford to go about here and there and speak. Sometimes it is inevitable—I am going to a function in regard to an old dead friend of mine. These are things which one cannot escape. But unless a Finance Minister is going to be a dumb person, completely dumb and even deaf—because sometimes he hears words of abuse hurled at him and so it is better for him to be deaf a'so—I am afraid he cannot function in the manner in which my hon. friend wants him to function.

Well, there have been two people, at any rate, in this House, my hon. friend Shri Sonavane and my hon. friend from Punjab, Ch. Lahri Singh, who felt that a Select Committee was not necessary. That was also my feeling. My feeling was that for a Bill of this nature there is enough wisdom in this House to correct the mistakes and then push it through, because I do not think except on the grounds of principle about which the Opposition and we disagree there is anything very much to do in this particular measure. But still, Sir, I have myself moved several motions for putting Government Bills into Select Committees. I cannot forget my old days. Therefore, I bow to the wishes of the House and I accept the motion for referring the Bill to a Select Committee.

I would not like to take up the time of the House because there is nothing much to say. My hon. friend from Farukhabad spoke about companies. It may be that what he says is true or it may be that what he says is not true. He is speaking about cerain rumours that he hears. We sometimes have to look into facts as we see them.

डा० राम मनोहर लोहिया : उपाध्यक्ष महोदय, यह सही नहीं है। मैं कोई अफवाहों पर नहीं बोला करता बल्कि काफी अध्ययन कर के बोलता हूं, इसलिये वित्त मंत्री साहब जरा समझ कर बोलें।

Shri T. T. Krishnamachari: Well, I am inclined to envy him. I am inclined to envy the hon. Member for the facility with which he speaks, for the complete sense of lack of restraint with which he is able to speak and for being able to be sure of his facts. I am a *persona nonest*. I do not know if I exist at all (*Interruption*). I have my doubts about it. Anyway, he talked about a number of things for which I am not in a position to give any answer because they are generalisations and do not have anything to do with this Bill. If anything wrong has been done in the manner he suggested, no doubt, if they are true they ought to be corrected. Well, there may be a difference of opinion between him and myself. He says that in western countries these companies give donations for political purposes and it should not be done here. I do not know. So far as I am concerned, where we have been connected with collections of money, we get them by cheques and we always tell them that they will not get any favours.

डा० राम मनोहर लोहिया : उपाध्यक्ष महोदय , वित्त मंत्री महोदय मेरी बात को बिलकुल ग़लत समझे हैं, ज़रा उन को बतला तो दीजिये कि मैं ने क्या कहा था ।

उपाध्यक्ष महोदय : अब आप सुन लीजिये ।

डा० राम मनोहर लोहिया: मैं नहीं कहता कि यहां चंदा न दिया जाय अलबत्ता ऐवजी चंदा न हो । मैं चाहूंगा कि उसका वह जबाब दें ।

Shri T. T. Krishnamachari: Anyway, I shall not provoke my hon. friend. for the mere reason that I am not able to reply to him. Therefore, I will accept his admonition and so far as he is concerned the Finance Minister would be silent.

डा० राम मनोहर लोहिया : ठोकर खाकर ठंडे पड़े हैं । मुझे कोई ठोकर नहीं लगी है ।

श्री स० मो० बनर्जी : और न कभी लगेगी ।

Shri T. T. Krishnamachari: Sir, there is not much that I can say about the other remarks. I shall carefully study the suggestions made by hon. friends. My hon. friend Shri Gandhi felt that this may not be necessary. We think it is necessary.

Some doubts were raised about the manner of administration. It is merely a matter of administrative convenience whether we should have a Secretary. The same Company Law Administration can function under a Secretary as it is functioning under me. But I have felt that it is much better for them to function on their own as a Board, two or three people sitting together, and my Secretary should be responsible for policy and he should bring the matter to me. In fact, in one sense, we do not want to be tied up in the day-today administration of the Company Law Board. And, as I stated in my opening remarks, I would like them also to look after the Stock Exchange for which there is a special officer. The two things are inter-related and we can have a wider coverage because of the Company Law Administration. This is a matter of administrative convenience for which I will not plead any outstanding merit. That is a thing that we have to do to administer the Company Law better.

The other two provisions do not seem to have evoked very much of criticism. Therefore, Sir, I can leave it at that, with the assurance that I study all the remarks that have been put forward. My hon. friend, Shri Gandhi, said that it is a very impressive Select Committee. It is so. I do hope that, with the cooperation of the members of the Select Committee, we shall be able to bring before the House on the appointed date a measure which would be better than what I have presented to the House today.

Mr. Deputy-Speaker: I will now put the substitute motion of Shri Morarka to the vote of the House. The question is:

> "That the Bill be referred to a Select Committee consisting of 18 members, namely, Shri S. V. Krishnamoorthy Rao, Shri Ramchandra Vithal Bade, Shri S. M. Banerjee, Shri Rajendranath Barua, Shri P. C. Borooah, Shri Sachindra Chaudhuri, Shri Indrajit Gupta, Shri R. K. Khadilkar, Shri T. T. Krishnamachari, Shrimati T. Lakshmikanthamma, Shri M. R. Masani, Shri P. Muthiah, Shri C. R. Raja, Shri Sideshwar Prasad, Shri G. G. Swell, Shri Mavavir Tyagi, Shri Amar Nath Vidyalankar and Shri R. R. Morarka with instructions to report by the 9th December, 1963."

The motion was adopted.